OCTOBER 2016

PROMOTING EQUALITY:

City and State Policy to Ensure Immigrant Safety and Inclusion

POPULAR DEMOCRACY IN ACTION

ACKNOWLEDGMENTS

First and foremost, CPD thanks the immigrant communities that have been fighting for generations to make the cities they live in stronger and more just. With the help of organizers and advocates, and the support of allies in elected government, they imagined, demanded, and made real the innovative pro-immigrant policies described in this report. The report benefited from prior research and analysis conducted by a wide range of state, local and national organizations especially the National Immigration Law Center, that National Immigrant Justice Center, and the Migration Policy Institute. Finally we are grateful to Pooja Shethji and Olena Savytska for research support and early drafting.

ABOUT THE AUTHOR

Popular Democracy in Action and its affiliates know that everyday people have the power to change the world. We upend politics as usual to forge a representative, multiracial government and society where we all thrive, no exceptions.

www.populardemocracyinaction.org twitter: @popdemocinaction

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Executive Summary

In June of 2016, the United States Supreme Court issued a decision affirming a lower court decision blocking implementation of two programs—an enhanced Deferred Action for Childhood Arrivals (DACA) program and Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) program—that would have provided temporary relief from deportation for millions of undocumented immigrants. The decision was the latest in a series of major setbacks immigrants and organizers have faced in recent years at the federal level—from Congress's repeated failure to pass the Development, Relief, and Education for Alien Minors (DREAM) Act, which would have provided young undocumented immigrants with a pathway to citizenship, to the stalled effort to enact comprehensive immigration reform.

Despite these disappointments at the federal level, there have been major strides to protect and include immigrant families at the state and local level. Grassroots organizations led by immigrants have built relationships with local elected officials and policy makers. Working together they have envisioned, enacted, and implemented an exciting range of initiatives that step in where the federal government has failed and that promote inclusion, equity, access to vital benefits, and access to justice.

Local legislators and the constituents they serve have come to realize that denying basic rights to large numbers of people is not only unethical, but has a negative impact on the economic, cultural and social health of cities. Over the last decade, immigrants, their allies, and city and state governments have advanced innovative policies designed to promote opportunities for immigrants, to eliminate discrimination against immigrants in a wide range of contexts—from law enforcement to education, and to make it possible for immigrant communities to access the services and benefits to which they are entitled.

This report offers a survey of the state and local immigrant rights policy landscape, describes the variety of policies and programs now in place in different jurisdictions, outlines the benefits these policies bring, and identifies key considerations in each case. The policies highlighted fall into two categories.

1) Policies that promote greater inclusion and confer extensive social and economic benefits for immigrants and the broader community. These include:

- Municipal identification cards (p. 5)
- Driver's licenses (p. 8)
- Education equity (p. 10)
- Language access (p. 12)
- Citizenship support (p. 15)
- Non-citizen voting (p. 16)

2) Policies to help keep local immigrant families together in the face of overly aggressive deportation practices. These include:

- Access to counsel programs for immigrants in detention (p. 18)
- Preventing the co-optation of local law enforcement by federal immigration enforcement (p. 20)
- Refusing to host detention centers (p. 23)
- Criminal law reforms (p. 24)

The report concludes with case studies highlighting cities and states that have put these policies in place. The report aims to inspire communities, advocates, and local and state lawmakers to promote creative, bold, innovative policies that create welcoming and inclusive cities for immigrants and the broader communities where they live. The need for these policies is particularly acute, given the rise in anti-immigrant sentiment and xenophobia in recent years. Cities and states have the opportunity to influence immigration policy at the federal level by setting an example at the local level.

Introduction

On June 23, 2016, the United States Supreme Court issued a ruling affirming a lower court decision blocking the implementation of two programs, an enhanced Deferred Action for Childhood Arrivals (DACA) and Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA). The DACA and DAPA programs would have provided over 5 million immigrants with temporary deportation relief. The ruling, which has left millions of families in limbo, put in sharp relief Congress's failure to enact comprehensive immigration reform and provide a meaningful pathway to citizenship for millions of undocumented immigrants.

Unfortunately, the decision is the latest in a series of setbacks immigrants and organizers have faced in recent years. When President Obama was elected in 2008, immigrant communities had new hope for long awaited, desperately needed reforms to our immigration system. Given the more than 11 million people without legal status who make their home in the United States, live in fear of deportation, and struggle to support themselves and their families, many hoped that Congress and the new administration would work together to overhaul the inhumane and ineffective set of immigration laws and policies.

Despite the tremendous organizing efforts of immigrants demanding legislative action in Washington, advocates and communities have faced painful disappointments. These include Congress's repeated failure to pass the Development, Relief, and Education for Alien Minors (DREAM) Act, which would have provided young immigrants with a pathway to citizenship, the stalled effort to enact comprehensive immigration reform, and the recent blocking of President Obama's plan to extend administrative relief to immigrant families.

As efforts to create change at the federal level have been thwarted, there has been progress and innovation at the state and local level. Increasingly, immigrants and the cities and states where they live, have been making the case that policies that empower and protect immigrants are good public policy. Supporting naturalization yields tangible economic benefits, not only for immigrants, but also for the cities where they live. Educating immigrant children allows them to meet their full potential and contribute to our society. Expanding access to driver's licenses means safer roads for everyone.

Local legislators, and the constituents they serve, have come to realize that denying basic rights to large numbers of people is not only unethical, but also has a negative impact on the economic, cultural and social health of cities. Over the last decade, immigrants, their allies, and city and state governments have advanced innovative policies that promote opportunities for immigrants, eliminate discrimination against immigrants in a wide range of contexts—from law enforcement to education, and make it possible for immigrant communities to access the services and benefits to which they are entitled.

As of mid-2016:

- 16 states have laws allowing undocumented residents to access the same tuition benefits that their U.S. Citizen counterparts have at state colleges and universities;
- 12 states issue driver's licenses to undocumented residents;
- 2 states, and more than 300 cities and counties, have policies limiting the co-optation of local law enforcement agencies by Immigration and Customs Enforcement;

- Over a dozen cities now have some form of local municipal identification (muni-ID) cards, available to all residents regardless of immigration status;
- New York City is home to the nation's first publicly funded universal representation program for immigrants in detention; and
- Takoma Park, Maryland, allows non-citizens to vote in local elections.

Campaigns are underway all over the country to replicate and improve upon these inclusive policy measures, many of which would have seemed unthinkable a decade ago.

The strides that cities and states are making towards immigrant equality are powerful and inspiring. Not only are these new local laws and policies making life better in concrete ways for immigrants and the communities in which they live, but they are also helping to shift the national conversation on immigration away from a fear-driven debate about who to exclude, towards a real conversation that acknowledges immigrants as equal members of our society. This is incredibly important because the most significant aspects of the immigration system can still only be changed by federal policy makers. Without large-scale reforms to our federal immigration system, we will not achieve full inclusion and opportunity for all immigrants.

This report describes in-depth a wide range of city, county and state level policies that work to promote equity by supporting immigrants. Section One focuses on policies that states and cities have adopted to promote opportunities for immigrants—from municipal-ID programs to driver's licenses to language access policies. Section Two focuses on efforts by states and localities to mitigate the impact on local communities of punitive enforcement efforts at the federal level. This includes efforts to provide universal free representation to immigrants in detention proceedings as well as efforts to limit co-optation of local law enforcement by federal immigration enforcement. Using case studies, the report also highlights states and cities that have implemented policies with far reaching impacts on immigrants and others who have been marginalized.

We hope that the possibility of improving the lives of immigrant families through state and local policy-making will inspire communities and elected officials to implement bold and creative new strategies for promoting justice and opportunity for immigrants, which will also have far reaching implications for immigration policy at the federal level.

Section One:
Policies to Promote Opportunity for Immigrants

Across the country, cities and states working hand-in-hand with immigrant communities and advocates have enacted policies that increase opportunity and access to a range of services for immigrants. At their core, these policies are designed to include and empower immigrants by giving them access to existing institutions and power structures. They also promote effective governance generally. These policies, which range from municipal identification programs to driver's licenses to language access policies, have the added advantage of improving access and opportunity not only to immigrants but also to other historically marginalized communities. They are policies that promote greater civic engagement and participation, safer communities, and help ensure that immigrants and others are able to live their lives to their fullest potential. Cities and states realize tangible economic and other benefits from greater participation, making enactment of these policies a win-win proposition for both immigrants and the communities where they live.

Municipal Identification Cards

The ability to provide proof of identity is a basic necessity that many Americans take for granted. Increasingly, almost every aspect of daily life requires proper identification. Without the right form of identification a person may not be able to open a bank account or cash a check, see a doctor at a hospital, register a child for school, apply for public benefits, file a complaint with the police department, borrow a book from a library, vote in an election, or even collect a package from the post office. Ironically, the very people who are most in need of such basic services are also those who have the most difficulty obtaining the proof of identity that will allow them to access those services. Immigrants—especially but not exclusively undocumented immigrants—are one of the biggest groups impacted by the barriers to obtaining official government identification.

Municipal identification (muni-ID) cards, a form of government-backed or issued identification cards, are designed to meet this need. Muni-IDs provide immigrants—regardless of immigration status—a form of official city identification that enables them to access to a range of services and benefits. Municipal ID card programs can also reach many other communities– the homeless, the elderly, those returning from a period of incarceration—that face obstacles to obtaining ID.

In 2007 New Haven became the first city in the country to offer municipal ID cards to all residents regardless of immigration status. This was spurred by a series of robberies targeting unbanked immigrants and general fear by immigrants in their interactions with local law enforcement. Since the introduction of muni-ID in New Haven, at least 15 additional cities have launched their own municipal ID cards, and campaigns are underway in at least a dozen other jurisdictions.

Cities and Counties with Municipal ID Programs that Include Undocumented Immigrants:[1]

New Haven, CT
Hartford, CT
New York City, NY
Mercer County, NJ
Newark, NJ
Roselle, NJ
Richmond, CA
San Francisco, CA
Oakland, CA
Johnson County, IA
Ann Arbor, MI
Greensboro, NC
Kansas City, MO
Washtenaw County, MI
Los Angeles, CA*
Bridgeport, CT*

**These cities have approved but not yet launched their ID card programs.*

In addition to serving practical urgencies, identification cards also have a symbolic importance as a sign of membership in the community. Cities that offer muni-ID cards to their residents regardless of immigration status are making a powerful statement about the importance of immigrants to our shared social, economic, and political life.

Most municipal ID card programs share certain common elements. First and foremost, the list of documents city programs accept as proof of residency and identity is longer and more flexible than the list accepted for state or federal identification. Second, muni-IDs are accepted by a wide range of local institutions and agencies, in both the public and private sector. Finally, in administering the program, the local government or non-profit administering the program prohibits or severely restricts the retention of underlying application documents in order to protect the privacy of card applicants. This also helps assuage fears of racial profiling and law enforcement targeting vulnerable residents.

The success of local muni-ID programs depends on how well they are tailored to meet the needs of the local community. The best programs are designed and implemented through a process of constant consultation between policy makers and those the program is intended to serve. The current range of municipal ID programs reflects the diverse needs and challenges different cities face. For example:

- New York City, home to over 3 million immigrants, faced the unique challenge of scale when creating IDNYC, a program which as of this publication has an enrollment of over 860,000 people. To reach New York's diverse and sizable immigrant population, Mayor de Blasio's administration invested heavily in outreach and education to ensure awareness of the program in all five boroughs, and ensured that application sites were numerous and accessible.
- In San Francisco, the community wanted an ID that its transgender population could feel comfortable using. In response to these concerns, the city created a card that does not display the cardholder's gender.
- While it is usually ideal for muni-IDs to be issued by the local government itself, it is not always politically possible to establish such programs. Therefore, in places like Greensboro, NC and Kansas City, MO, non-profit organizations are issuing cards and then working with individual government agencies to have the cards accepted.[2]

The vast majority of these municipal ID initiatives passed with surprisingly little political backlash. However, that may change as local campaigns spread to jurisdictions that are traditionally less immigrant-friendly. For example, the North Carolina state legislature passed a bill, known as HB318, at the end of its 2015 session that would prohibit state government officials from accepting municipal identification cards.[3] The law still allows local law enforcement officials to accept privately issued ID cards if they are the only form of identification available. This carve-out turns any city or county ID card into a law enforcement tool exclusively and defeats the original purpose of municipal ID card programs—to open up access to a range of services and benefits.

Despite these new challenges, muni-IDs still provide one of the best ways for cities across the country to dramatically improve the range of services and opportunities available to immigrants. It also sends a strong message of inclusion and acknowledgement of the many contributions of immigrants to our society.

Municipal ID Case Studies

IDNYC—New York, NY

During his 2013 mayoral campaign, Bill de Blasio promised to create a city ID card that would be accessible to all New Yorkers, regardless of immigration status. Shortly after his election, Mayor de Blasio began working with a broad coalition of local community organizations representing immigrants, young people, the transgender community, formerly incarcerated people, and privacy advocates, to develop a program that would enable all New Yorkers to take advantage of everything the city has to offer—from public services and benefits to cultural and entertainment institutions. **Officially launched in January 2014, IDNYC is the largest municipal ID program in the country, with nearly a million participants and new applicants every day.**

The success of IDNYC is the result of the combined efforts of advocacy organizations, such as Make the Road New York, Picture the Homeless, and the Center for Popular Democracy, the New York City Council and Mayor de Blasio's deep engagement of the community in designing the program, and of a wide range of city institutions in implementing the program. IDNYC is accepted as proof of residency and identity by all city agencies and offices, including the New York City Police Department. Dozens of museums and cultural venues offer benefits to cardholders, and a growing number of financial institutions accept the card for the purposes of opening new accounts. IDNYC also comes with discounts on entertainment and recreation, and is fully integrated with a range of city programs, including the libraries, the park system, and BigAppleRX, the city's prescription drug discount card. There are IDNYC enrollment centers in all five boroughs, and the Mayor's Office of Immigrant Affairs, which oversees the administration of IDNYC, is constantly working to update the application process to include as many New Yorkers as possible.

FaithAction ID—Greensboro, NC

FaithAction is a local non-profit organization that works to welcome and serve immigrants and their families in Greensboro, North Carolina. The FaithAction ID was launched in 2013, providing identification for any resident who does not have access to government issued forms of ID, and for those who support the mission and work of FaithAction. The FaithAction ID grew out of a series of dialogues that the organization hosted between the Greensboro Police Department (GPD) and the local immigrant community to build communication and trust. The card was endorsed, and relied upon by the GPD, as well as a range of other city departments and offices, including the public schools.

The FaithAction ID had been operating smoothly, and growing steadily, for two years when the North Carolina State legislature passed HB 318 in October of 2015. While early drafts of the bill blocked law enforcement's ability to accept the FaithAction ID, the primary draw for immigrants to get the card, a last minute Senate amendment removed that clause because of intense pressure from supporters of the program. Interestingly, the passage of HB 318 led to an explosion of interest in the FaithAction model and organizations across the state formed a network to implement the local ID model in their communities.

While HB 318 did block the use of a non-governmental ID in certain contexts, network members have been able to gain acceptance for the FaithAction ID with police and sheriff's departments, hospitals, health centers, banks and other local businesses.

Since the program's launch FaithAction—the national United We Dream network—helped to expand the program, leading work in 3 rural counties. All told, the program has held 20 ID drives and has issued over 5,000 FaithAction identification cards. Alamance, Forsyth, Moore, Montgomery, Durham, Orange and Mecklenburg Counties as well as the city of Asheboro have also joined the FaithAction ID network.

Several cities including Cincinnati, OH, and Houston, TX are considering modeling their own programs on the FaithAction ID. The FaithAction model is especially promising for cities where an official city ID is not politically possible in the short term. Even without a legislative mandate, executives, government offices and law enforcement agencies can work with the local community to establish an ID program that addresses their needs and supports good governance.

Driver's Licenses

In many places in the United States, driving is key to daily life. To get to work, take kids to school, shop for groceries, attend doctors' appointments, or visit friends and family, a person needs to able to drive. Most states do not grant driver's licenses to people without legal immigration status. This leads many undocumented immigrants, who need to drive, to do so without a license and without the protection of insurance. Driving to school or work without a license can mean risking deportation, which results in daily anxiety.[4] Lack of access to driver's licenses for undocumented immigrants is problematic not only for unlicensed immigrant drivers, but also for everyone else with whom they share the road. Each year accidents caused by uninsured drivers result in over $4.1 billion in insurance losses.[5]

Given this reality, allowing people to obtain driver's licenses, regardless of their immigration status, is common sense. Doing so improves road safety and reduces the number of uninsured motorists which reduces insurance rates for everyone.[6]

In addition, immigrants who can legally drive are more likely to work and experience increased earning potential as a result which, in turn, increases state tax revenue and boosts economic activity.[7] States also generate additional revenue through driver's license application and registration fees.

Recognizing the ways that restricting access to driver's licenses hurts undocumented residents and makes the roads more dangerous for all drivers, twelve states plus the District of Columbia have passed laws allowing individuals to access driver's licenses regardless of immigration status. These states include:

California
Colorado
Connecticut
Delaware
Washington, DC
Hawaii
Illinois
Maryland
New Mexico
Nevada
Utah
Vermont
Washington

States' ability to issue licenses to undocumented people is complicated by the federal REAL ID Act (REAL ID), a 2005 law that established a set of national standards that state driver's licenses must meet in order to be used for federal identification purposes. REAL ID authorizes states to provide licenses to unauthorized immigrants, as long as those licenses are distinct in specific ways.[8] In order to comply with REAL ID, most states granting driver's licenses to undocumented immigrants display explicit language on a license that it is "not valid for federal purposes." States like Colorado and Connecticut include language on the license indicating that it is not acceptable for voting or claiming public benefits. Other states like Maryland require by law that the driver's licenses issued to undocumented individuals be distinguishable in color or design from other licenses.

REAL ID has been a controversial and heavily litigated statute since its initial passage due in large part to privacy concerns and potential constitutional violations.[9] The question of whether and how to comply with REAL ID has therefore been a key point of negotiation in most of the campaigns to extend driver's licenses to immigrants. Two states—Washington and New Mexico—currently provide uniform licenses to all drivers, in direct defiance of REAL ID. Of the states that provide licenses to undocumented drivers, four states—Colorado, New Mexico, Washington, and Utah—have passed laws or resolutions affirmatively rejecting REAL ID (in total 25 states have done so). Nevada's law

has a provision requiring that the license issued to undocumented drivers be designed to minimize differences with the regular Nevada license. The undocumented license contains only the minimum number of design changes necessary to comply with the REAL ID Act.[10]

In all states, undocumented applicants are required to prove both their residency and identity. In establishing the list of documents accepted for this purpose, states must strike a careful balance between access and security. Ideally, states should both expand the list of accepted documents and create more flexibility in the ways an individual can combine documents to prove their residency and identity. Consultation with community members is key to this process. California, for example, requires the DMV to consult with labor unions, immigrants rights' advocates, and other stakeholders to identify the proof of identity and residency that applicants are most likely to be able to obtain.

As the implementation of state laws extending driving privileges to the undocumented has unfolded, the importance of including privacy protections and anti-discrimination provisions in enacting legislation has become clear. The Department of Homeland Security is currently litigating a Freedom of Information Act lawsuit that seeks to obtain information about its use of the DMV databases in states that provide licenses to the undocumented. The lawsuit was filed in response to the discovery that Immigration and Customs Enforcement (ICE) had used information obtained from Maryland's DMV database to target several individuals for deportation.[11] Currently only California, Delaware, Hawaii, Nevada and D.C. incorporate privacy and confidentiality protections into their driver's license legislation. This limits the discretion of the DMV to disclose information related to an individual's driver's license application to outside entities.

Through deep consultation with key stakeholders, as well as careful consideration of the implications of the REAL ID Act and the importance of privacy and anti-discrimination protections, states can enact driver's license legislation that both promotes safer roads for everyone and exposes undocumented immigrants to the least risk possible.

Driver's Licenses Case Studies

Washington State

Washington is one of only two states (the other is New Mexico) that does not require driver's license applicants to disclose their citizenship status or provide a social security number. This means that the licenses held by undocumented drivers are indistinguishable from those held by everyone else. For states invested in preventing discrimination against undocumented drivers, a policy that ensures all driver's licenses appear uniform is ideal.

While many states that issue driver's licenses to undocumented people have only done so in the last several years, following sustained pressure from local communities, Washington's driver's license policy has been in effect since 1993. Washington's policy faced growing scrutiny in 2013, as the fight to extend driving privileges to undocumented people started to gain momentum in states all over the country. Fortunately, the immigrant community successfully prevented attempts to make the law more restrictive.

Washington, DC

Many states that issue visually distinct licenses to undocumented drivers have taken steps to mitigate against the potential for the licenses to be used in a discriminatory manner while working to ensure that information about undocumented drivers is not used for immigration enforcement. For example, in 2013, Washington DC extended driving privileges to individuals who had resided in DC for more than 6 months, had not been assigned or were ineligible for a Social Security Number, and who could provide proof of identity, date of birth, and residency.

continued...

Driver's Licenses Case Studies *continued...*

Although community organizations advocated for a uniform license, concerns about compliance with the REAL ID Act (see page 8-9) eventually led the coalition to accept a differentiated license. Working closely with stakeholders, the DC DMV designed an ID that is visually similar to its primary licenses, and deviates only as minimally necessary in order to meet DHS's requirements. Currently the only difference between the two types of DC licenses is that the phrase "Not valid for official federal purposes" appears on the face of the card. The current law requires that this phrase be printed in the smallest font size used elsewhere on the card.

DC's legislation also included strong privacy protections for license applicants. The law states that: "Information relating to legal presence shall not be disclosed to any person, and shall not be disclosed to any federal, state, or local governmental entity except as necessary to comply with a legally issued warrant or subpoena." Information relating to legal presence is defined quite broadly to include "any information that may reveal whether a person is legally present in the United States, including whether a person's driver's license or identification card [...] and the documentation provided by an applicant to prove identity, date of birth, and residence in connection with an application for a driver's license or identification card."[12]

Education Equity

There are approximately 1.8 million undocumented youth living the United States.[13] Many have lived in the U.S. for most of their lives, attended primary and secondary schools here, and even excelled academically.[14] But they are often prevented from pursuing opportunities for post-secondary education because of their immigration status. Each year, of the roughly 65,000 undocumented students who have lived in the United States for five years or longer and have graduated from high school, less than ten percent enroll in college.[15] Though undocumented students are permitted to attend public and private colleges and universities,[16] the rising cost of tuition and related fees pose a significant barrier.[17] Undocumented students are ineligible for federal financial aid—which is restricted to U.S. citizens or select non-citizens (namely green card holders)—as well as most state financial aid and private scholarships.[18] In addition, in many states, undocumented students do not qualify for in-state tuition discounts and must pay higher out-of-state rates. At four-year public colleges, out-of-state-tuition and fees can cost up to three times more than in-state rates, with the difference averaging $15,000 per year.[19] For a typical eligible household, out-of-state tuition, even at a community college, constitutes a significant portion of household income when coupled with transportation, living, and supplemental educational expenses.

For the past fifteen years, federal lawmakers have attempted to remedy the inequities in higher education faced by undocumented youth. The federal Development, Relief, and Education for Alien Minors (DREAM) Act, first introduced in 2001, would have provided young undocumented immigrants with a pathway to citizenship.[20] Under the legislation, immigrants who arrived in the United States before the age of sixteen and lived in the country for at least five years, would have been eligible for renewable conditional legal permanent resident status.[21] Upon completing two years of either college of military service, they would have been granted unrestricted legal permanent residency.[22]

Unfortunately, federal relief for undocumented youth has repeatedly been delayed. The initial bill failed to pass in 2001 and subsequent introductions of some version of the bill met similar fates.[23] As federal legislation stalls, young immigrants continue to struggle and college degrees remain out of reach for many undocumented immigrants who are denied the right to develop their full potential.

In the face of Congressional inaction, states working alongside immigrant rights advocates and community-based organizations have increasingly taken steps to address the needs of undocumented youth. While students and immigrant rights organizations have been at the forefront of many of the state DREAM Act campaigns, higher education officials, business representatives, and religious organizations have also been strong advocates for state DREAM Acts. Making higher education more affordable encourages undocumented young adults to complete high school and pursue (and complete) postsecondary degrees.[24] Students with college degrees can move into better paying jobs which lowers the relatively high poverty rates in their communities. They can consequently contribute more in tax revenue and support the economy by spending more money.

To date, twenty-four states expressly allow at least some undocumented students to pay in-state tuition. The following sixteen states have passed legislation (often called state DREAM Acts) extending in-state tuition eligibility to undocumented students at state colleges and universities:[25]

California	Illinois	Nebraska	Oregon
Colorado	Kansas	New Jersey	Texas
Connecticut	Maryland	New Mexico	Utah
Florida	Minnesota	New York	Washington

In addition, the Boards of Regents of state universities have made undocumented students eligible for in-state tuition in:[26]

Arizona	Michigan	Rhode Island
Hawaii	Oklahoma	

Massachusetts and Virginia interpreted existing in-state tuition policies to include those covered by President Obama's 2012 Deferred Action for Childhood Arrivals program.[27]

In order for a student to qualify for DREAM benefits, states typically require (1) attendance at a high school in the state for a specified number of years, (2) graduation from a high school in the state or completion of a GED, and (3) an affidavit declaring the student's intention to file for legal status.[28] States differ in their legislative approach. Some states redefine residency so that undocumented students are included, while others carve out exemptions from out-of-state tuition payments for qualified students.[29]

Six states with tuition equity policies also allow qualified undocumented students to access state financial aid pools, including:[30]

California	New Mexico	Texas
Minnesota	Oregon	Washington

Expanding access to state financial aid is crucial for state DREAM acts to benefit a wide cross section of the undocumented population. Even with in-state tuition discounts, students may hold off on pursuing college degrees without financial aid. Although DACA recipients with work authorization may be able to work to support their education, the type of part-time employment available to college students will usually be insufficient to fully cover tuition costs. Working more than fifteen hours a week and enrolling part-time have also been linked to lower graduation rates.[31]

Once state legislation is enacted, it is essential for governments to work with educational institutions to make sure that the new policies are understood and implemented, and with the local community to make sure that people are aware of the opportunity. Some immigrants may fear that taking advantage of in-state tuition will put them at greater risk of deportation. In addition to spreading awareness about the new policy, outreach programs should assuage community fears and provide support to families in navigating the institutional bureaucracy.[32]

Equal Access to Education Case Study

Texas

In 2001, Texas became the first state to pass legislation allowing undocumented students to pay in-state tuition rates at public universities. To participate in the program, students must have graduated from high school or received a GED in Texas, lived in the state for three years, and signed an affidavit affirming that they were seeking legal residency. For many immigrant youth, the difference between paying in-state tuition and out of state tuition can mean the difference between attending college and not. In 2015, out of state tuition in Texas cost an average of $19,070 per year while in-state an average of $7,973 at public universities.[33]

Tens of thousands of students take advantage of Texas's policy every year. According to the Texas Higher Education Coordinating Board's latest available data, in 2013, 24,770 students (or 1.9% of all students in the state's public colleges and universities), benefited from the program.[34]

Although the law passed by an overwhelming majority in 2001 (only 4 of the legislature's 181 members voted against it), there have been several repeal attempts. So far the repeal bill remains stalled in the Texas Senate. Governor Rick Perry, who signed Texas's DREAM Act into law in 2001, took no official position on its attempted repeal.

Language Access

While the majority of immigrants in the United States are proficient in English, for those who are not, the lack of adequate translation and interpretation services at government agencies is a major obstacle. The Census Bureau estimates that 25 million people, nine percent of the population, are Limited English Proficient (LEP). This means they do not speak English as their primary language and have a limited ability to read, speak, write, or understand English.[35] Without strong translation and interpretation support, this language barrier prevents governments from communicating effectively with a significant portion of the population they serve.

For a LEP person, navigating the many systems that organize daily life—applying for public benefits, seeking health care, interacting with the public school system—is not just mildly frustrating; it's all but impossible. All too often, these individuals arrive at government agencies to find that interpreters are overwhelmed or unavailable and translated materials are not on hand.[36] Frequently, they must recruit untrained friends and relatives—in many cases English-speaking children—to help them communicate.[37] The lack of effective language assistance services has serious and far-reaching consequences. A failed encounter with a government agency can prevent an individual from securing a driver's license that she desperately needs to commute to work, health benefits that will make critical care more accessible and income supports that will make it possible for her family to make ends meet. Language barriers that make it difficult for people to report crime, cite workplace violations, take

advantage of health care that prevents the spread of disease, or prepare for natural disasters and other emergencies also directly threaten the health and safety of the larger community.[38]

Fortunately, strong language access policies can be enacted at either the state or the municipal level. California state, New York City, San Francisco, and Washington DC all have language access provisions.

A basic language access policy has the following components:

1) interpretation (conversion of language during oral communication);
2) translation (conversion of language in written communication);
3) notification to LEP individuals of their rights to free language services;
4) strong enforcement mechanisms; and
5) the creation of a language access plan/policy within the regulated entity.

Both interpretation and translation services are required to ensure that LEP individuals are able to access the full range of city or health services, such as application materials, hotlines, counseling services, and consent forms. It is essential that these services be provided free of charge. Notification typically takes place through posted signs and multilingual taglines on printed materials.

Language access policies for government agencies frequently focus on those agencies that provide direct service to the public—e.g. human services, police, housing, or transportation. San Francisco's ordinance further separates agencies into "Tier 1" and "Tier 2" agencies, with the former having enhanced notification, translation and staffing requirements. Some policies, such as the ordinance in Washington, DC, also impose language access requirements on sub-contracted entities. With respect to pharmacies, New York City opted to cover only chain pharmacies (groups of four or more). Additional options for coverage could include mail order pharmacies and independent pharmacies.

Most language access policies in both the government and health care sectors require that interpretation services be provided to Limited English Proficient persons regardless of language spoken. If an agency or health care provider does not have bilingual staff, telephone or in-person translation services should be readily available. Translation is more complicated because of the need to balance time, cost, and access. Some city policies, such as the New York City Executive Order, provide for translation in the top LEP languages spoken in the city, whereas others set a population threshold above which translation should occur (for example, Oakland sets a threshold of 10,000 or above).

While there are federal laws and regulations laying out requirements that governments must meet in providing services to Limited English Proficient individuals,[39] this framework has proven insufficient and has been weakly enforced at the local level. State and municipal governments are beginning to step up to fill that gap by enacting laws and policies to ensure that everyone is able to avail themselves of the full range of services and benefits that their tax and consumer dollars support.

Most states have passed some language access legislation. California has, by far, the largest number of legislative provisions relating to language access, the majority of them in the health care context. The cities of San Francisco, Oakland, and Washington, DC, all have statutes requiring city agencies to provide comprehensive and free language assistance services to LEP residents. New York City enacted a language access ordinance covering human services in 2003 and a mayoral Executive Order covering other city agencies in 2008. The city of Chicago's Office of New Americans is responsible for the administration of a centralized language access policy.

While many cities and states with a long history of receiving new immigrants have had robust language access services for decades, as the demographics of the country are shifting, language access is becoming essential in many more parts of the country. The Southeast and Southwest now have the highest rate of growth in the LEP population.[40] In some states (for example, Connecticut and Rhode Island), nearly one out of every ten residents is LEP, the majority concentrated in cities.[41] Reflecting these demographic shifts, and as a result of significant pressure from immigrant community organizing, the county executives of Suffolk and Nassau counties in Long Island, NY, signed Executive Orders in 2012 and 2013 respectively, requiring interpretation and translation at their public-serving agencies. These were the first suburban counties in the country to take such action.

Language access policies, particularly those tailored to meet the needs of their immigrant population, can play a critical role in ensuring that immigrants are able to access a wide range of opportunities and services.

Language Access Case Study

New York City/New York State

In response to robust community organizing by groups including Make the Road New York, the New York Immigration Coalition, and New York Lawyers for the Public Interest, New York State and New York City have worked for over a decade to establish an infrastructure that provides comprehensive language access services to LEP New Yorkers.

Enacted in December 2003, New York City's Local Law 73 (The Equal Access to Human Services Act) requires the city's Human Resource Administration (HRA) to ensure language assistance services for limited-English-proficient individuals who want to enroll in critical safety-net programs, such as Medicaid and food stamps. The law requires prompt language assistance services at all HRA sites through in-person bilingual interpretation or telephonic language-line assistance. It also requires the translation of key documents and notices into Arabic, Chinese, Haitian Creole, Korean, Russian, and Spanish.

In July 2008, then Mayor Michael Bloomberg signed Executive Order 120, establishing uniform standards for translation and interpretation services for city agencies that have direct interaction with New Yorkers. Executive Order 120 mandates that all city agencies that provide direct public services, create a language access implementation plan that ensures meaningful access to their services for all New Yorkers. EO 120 requires interpretation services, including the use of telephonic interpretation, oral or written translation services, and translation of essential public documents into the top six languages, in addition to English, most commonly spoken by New Yorkers (Spanish, Chinese, Russian, Korean, Italian and French Creole). Each agency designates a Language Access Coordinator who is responsible for developing a departmental Language Access policy and implementation plan.

New York City's Department of Education must also comply with Chancellor's Regulation A-663, which sets out procedures to ensure that LEP parents have a meaningful opportunity to participate in programs and services critical to their child's education. Regulation A-663 requires language services in the nine most common languages other than English spoken by parents of New York City school children.

There has also been significant leadership on language access at the state level. In October 2011, Governor Cuomo's signed Executive Order 26, the first of its kind at the state level. The Executive Order requires the state's direct service agencies to translate vital documents into the top six languages spoken by LEP residents of New York State, provide interpretation for LEP individuals in their primary language to enable the provision of services or benefits, publish a language access plan every two years that includes plans for ensuring compliance and progress, and designate a Language Access Coordinator responsible for data collection on the provision of services. In its 2012 budget, New York State strengthened its language access policies even further with the passage of the "Safe RX" regulations, requiring that chain and mail order pharmacies statewide provide comprehensive translation and interpretation services for limited English proficient New Yorkers.

Citizenship Support

There are over 8.8 million immigrants in the United States who are currently eligible to become citizens—52% of whom are low-income.[42] Faced with high naturalization fees and a complicated application process, many choose to put off citizenship in favor of the simpler and cheaper option of renewing legal permanent resident (LPR) status. This hurts both immigrants and the cities where they live. For immigrants, naturalization provides access to better paying jobs (up to an 11% increase to their personal earnings), academic scholarships, and a myriad of other benefits.[43] For cities, naturalization promotes increased voting and political participation, improved connections between communities and local services, reduced deportation rates, and stronger local economies due to new citizens' increased earning potential.[44]

Although naturalization policy is set at the federal level, cities and states can promote naturalization efforts locally. In order to support naturalization, and the integration of immigrant communities more generally, several states including California, Illinois, Maryland, Michigan, and New York, have established an "Office of New Americans." While the duties of these administrative bodies vary from state to state, they typically include the coordination of a range of services related to the naturalization process—from English as a Second Language (ESL) and citizenship classes to employment and business resources. In some states, the Office of New Americans issues grants to local community-based organizations already engaged in education and outreach and in providing legal and social services to the immigrant community.

In recent years, there has also been exciting movement in citizenship support at the municipal level. In September of 2014, Mayor Rahm Emanuel of Chicago, Mayor Eric Garcetti of Los Angeles, and Mayor Bill de Blasio of New York, with support provided by the National Partnership for New Americans and the Center for Popular Democracy, launched the Cities for Citizenship Initiative (C4C). C4C is a large-scale 5-year naturalization campaign which aims to use local political power to assist LPR immigrants through the often challenging process of becoming U.S. citizens. C4C helps mayors and municipal governments initiate and enhance citizenship programs in their cities by reaching out to their eligible residents about the benefits of citizenship, providing support to local organizations assisting immigrants with the application process, and connecting people with the range of local institutions and organizations that offer support to immigrants before, during, and after naturalization. As of this writing, 26 cities and counties have signed up to participate in the initiative, including:

Atlanta, GA
Baltimore, MD
Boston, MA
Chattanooga, TN
Chicago, IL
Denver, CO
Jersey City, NJ
Kansas City, KS
Long Beach, CA
Los Angeles, CA
Madison, WI
Miami-Dade County, FL
Milwaukee, WI
Nashville, TN
New Haven, CT
New York, NY
Philadelphia, PA
Pittsburgh, PA
Reading, PA
San Francisco, CA
San Jose, CA
Seattle, WA
South Gate, CA
Suffolk County, NY
Tucson, AZ

Naturalization workshops are another important tool of any successful citizenship initiative. Using workshops as the central mechanism, over the last six years Chicago's New American's Initiative has helped over 90,000 immigrants and their children become citizens. As part of C4C, Chicago has committed to helping one-third of all eligible immigrants become citizens through the expansion of the New American's Initiative.

In addition to implementing the initiatives described above, cities can also use their influence at the federal level to argue for system-wide changes that will benefit their constituents. In 2012, for example, then Los Angeles Mayor Antonio Villaraigosa signed a letter of agreement with United States Citizenship and Immigration Services (USCIS) Director Alejandro Mayorkas to coordinate outreach efforts to the city's 2.5 million eligible residents.

The most effective local naturalization initiatives combine resources for programs that guide people through the naturalization process with public relations campaigns to encourage and celebrate citizenship. Municipal level programs that support naturalization programs are beneficial not only to immigrants, but also to the communities where they live. Naturalized immigrants enjoy higher earning potential and increased civic participation, both of which benefit cities.

Naturalization Case Study

Los Angeles, CA

Los Angeles is one of the founding cities of Cities for Citizenship and Mayor Garcetti has made naturalization support for LA's 350,000 legal permanent residents a high priority. Since the launch of Cities for Citizenship in 2014, LA's programs have helped nearly 3,000 immigrants to naturalize. The city partnered with U.S. Citizenship and Immigration Services in 2013 to develop civic education workshops to promote citizenship in Los Angeles. The city also worked with several community-based organizations to offer educational materials on immigration integration and financial education in "Citizenship Corners" located in all 73 public library branches throughout the city. Local non-profit organizations offer citizenship workshops and classes like basic ESL classes, civics classes, citizenship application assistance, financial literacy workshops. The Mayor's Office is also working with these organizations to increase access to micro-loans and savings for the city's immigrant community.

Building on these resources, in 2016 Mayor Garcetti announced the launch of Citizenshipworks, a website and mobile app, which provides lawful permanent residents step-by-step guidance through their naturalization applications. Four library branches have teamed up with the Mayor's Office of Immigrant Affairs to dedicate space, trained staff, computers, and other resources to promote the use of Citizenshipworks.

Non-citizen Voting

There is no more essential feature of representative democracy that the right of those governed to vote for those who govern them. And yet, in the United States today, the millions of non-citizens who live, work, and raise families here cannot decide who will represent them on school boards, city councils, state legislatures, or in Congress. To address this inequity, organizers and community based organizations in several cities are launching campaigns to expand the right to vote in local elections to include all residents, regardless of immigration status.

Allowing all residents to vote is not a new idea. In 40 states, noncitizen residents voted and even held office for the first 150 years of US history.[45] Internationally, 45 countries around the world allow all residents the right to vote in local elections.[46]

Today there are six towns, all in Maryland, which allow non-citizens to vote in local elections (see page 17 for case study on Takoma Park). Another dozen jurisdictions have considered restoring immigrant voting rights to one degree or another over the last 25 years. In some cases, the proposed

legislation would have extended voting rights only to legal permanent residents (e.g. Burlington, VT in 2014 and Washington, DC, in 2015), while other campaigns would have included all noncitizens regardless of status (e.g., Amherst, MA in 2014). Some measures have been narrowly tailored to focus on school board elections (e.g. San Francisco, CA in 2004, 2010 and again in 2016), while others have included all municipal elections (New York City in multiple years, most recently 2013). Some proposals have taken the form of ballot measures while others have been voted on by elected representatives as local laws. To date, none of these measures has succeeded.

Non-Citizen Voting Case Studies

Takoma Park, MD

Takoma Park has allowed non-citizens to vote in local elections since 1992. Lawyer-activist Jamin Raskin, now a Maryland state senator running for Congress, built a grassroots coalition of unions, immigrant rights groups to campaign for the change. On November 5, 1991, after heated public debate, the town held a non-binding citizen referendum asking, "Should the Takoma Park City Charter be changed to permit residents of Takoma Park who are not United States Citizens to vote in Takoma Park elections?" The measure passed by a margin of 1,199 to 1,107.[47] On February 10, 1992 the City Council amended the Charter to remove the requirement that voters and candidates for public office in Takoma Park be citizens.[48]

In order to protect their immigrant residents, Takoma Park decided not to distinguish between documented and undocumented noncitizens for voting purposes. Potential voters need only confirm verbally that they are not U.S. citizens, and the city then verifies identity with a driver's license, U.S. state ID, or foreign ID, such as a passport. Non-citizens must also prove residency using one of several standard documents, such as a utility bill. Takoma Park does not have a required period of residency before voting, and all voters may register the day of the election. Voter turnout varies across different wards: as few as 15 noncitizen voters have participated in some wards, whereas the number is roughly equal to citizen voters in other wards.[49]

To avoid confusion in the administration of elections with different voter pools, the city holds local elections on off-years or holds separate elections for local ballot measures. The Board of Elections separates local ballots from state and federal ballots to prevent non-citizens from unwittingly voting in federal elections, and merges voter rolls for local elections so that it is not possible for any third party to distinguish non-citizen voters from the rest of the voting pool. The city clerk also regularly writes official letters on behalf of immigrants to prevent misunderstandings with federal authorities. Based on an analysis of noncitizen voting in Takoma Park conducted by the non-partisan election reform organization FairVote, noncitizen voting "is not hard to administer and does not cause controversy."[50]

San Francisco, CA

In June 2016, the San Francisco Board of Supervisors introduced for the third time a proposed amendment to the city charter that would allow the noncitizen parents, legal guardians or caregivers of students 18 and younger who are enrolled in San Francisco public schools to vote in local school board elections. The proposal, sponsored by Supervisor Eric Mar, would include all non-citizen parents, whether they have a green card, a temporary work visa, or are living in the country without documentation. In July 2016, the Board of Supervisors voted 10-1 to include the charter amendment on the ballot in the November 2016 election.

San Francisco voters rejected similar ballot measures twice before. In 2004, voters narrowly rejected the amendment 49 to 51 percent, and in 2010 it failed by a larger margin of 46 to 54 percent. Advocates and community based organizations are hopeful about the initiative's chances this time around, as the city's progressive groups rally against the extreme anti-immigrant rhetoric of the 2016 election cycle. Were the measure to pass, it would have a huge impact on the voter pool for school board elections. About one-third of San Francisco's 60,000 public school students have an immigrant parent or guardian, the majority of whom are not citizens.

Section Two:
Policies to Fight Back Against Harsh Federal Enforcement Policies

In 2014 alone, the federal government deported over 400,000 people, separating countless families and causing immeasurable suffering in the lives of individuals and communities.[51] In recent years, Immigration and Customs Enforcement (ICE) has depended more and more heavily on local law enforcement to carry out its mass deportation program—by deputizing local police to act as immigration officials, asking that immigrants be kept in jail on ICE's behalf when local authorities would otherwise release them, and by requiring that local law enforcement share fingerprints with ICE. These practices, which drain the already limited resources of local law enforcement agencies, ultimately make communities less safe—as undocumented immigrants and their families become less likely to report crime or seek police assistance for fear of being deported. While the federal government ultimately controls immigration policy and deportation priorities, state and local governments, in partnership with immigrant rights advocates, can play an integral role in adopting policies that limit this harmful collaboration and foster safe and trusting communities.

Access to Counsel

Deportation is a traumatic event in the lives of individuals and families. It is a penalty more severe than most of the punishments handed down through our criminal justice system. Yet, the hundreds of thousands of immigrants who find themselves in removal proceedings every year are deprived of the due process rights constitutionally guaranteed to every person who faces criminal charges because these proceedings are technically civil matters. These immigrants include asylum seekers; victims of domestic violence, trafficking or torture; people who have overstayed their visas or entered without authorization; and lawful permanent residents. Some have lived in the United States almost their entire lives, and many have few or no ties to their country of origin. Some do not even speak the language of the country to which they are facing deportation. Regardless of their individual circumstances, they all face court proceedings that may result in permanent exile, and they are all doing so without the right to a court-appointed lawyer.[52]

Without a lawyer, many immigrants who are eligible to stay in the U.S. end up in prolonged detention that not only increases their chances of deportation, but can also result in loss of employment, loss of custody of their children, and severe consequences for their physical and mental health.

Many of those caught up in the mass deportation machinery have meritorious legal claims which—were they able to assert them in court—could allow them to remain in the United States, regularize their status, obtain work authorization, and start on the path to citizenship. But because there is no right to legal counsel in civil immigration court, very few people in removal proceedings have lawyers to help them navigate the process. The lack of counsel is especially dire for those detained by the Department of Homeland Security. Taken together these two factors—whether an individual is detained during her immigration proceedings and whether or not she has a lawyer—more reliably predict the outcome of a given case than any other variable.

The ideal solution to the current situation would be a federally mandated right of access to counsel to *all* individuals in removal proceedings. Given that this right does not yet exist at the federal level,

a number of municipalities, most notably New York City, have developed policies that help guarantee access to counsel for individuals detained by immigration authorities who face possible deportation and who cannot afford to hire a private attorney.[53]

Launched in 2013, the New York Immigrant Family Unity Project (NYIFUP) is the nation's first ever universal representation program for immigrants in detention. The difference in outcomes for immigrants who are represented by a lawyer in immigration court is staggering. Data which eventually formed the impetus for NYIFUP demonstrated that, without counsel, it is virtually impossible for detained immigrants to avoid deportation even when they have a viable defense or strong claim for relief. While non-detained immigrants with lawyers achieved successful outcomes 74 percent of the time, those immigrants who were detained and without counsel prevailed a mere 3 percent of the time.[54] Supporting these figures, based on early data, NYIFUP is projected to increase the percentage of immigrants who will win the right to remain in the United States by 1000%, compared with prior success rates for detained, unrepresented immigrants.[55]

After the successful city-level pilot, advocates were able to secure additional funding from the New York State legislature to expand NYIFUP to upstate New York. Two pilots have since launched—one at Batavia Detention Center and one at Ulster County. Following New York City's lead, Boston, Chicago, Los Angeles and San Francisco are exploring developing similar programs, as is California's Alameda County.[56]

While NYIFUP's model involves universal publicly funded representation, other local access to counsel programs vary in scope and parameters. For example San Francisco has launched a program to provide counsel to unaccompanied minors. In New Jersey, the American Friends Service Committee has launched a pilot program providing representation to all detained immigrants who appear before the Elizabeth, NJ Immigration court two and a half days a week, which represents a little more than half of the detained immigrants that come to court in a given week. All detained individuals who appear at court on the designated days are eligible for a free attorney from the program if they do not have an attorney, are unable to afford an attorney (assessed at 250% of the federal poverty guideline), and consent to representation. The New Jersey pilot is supported by a private grant, and the hope is that its success will help advocates argue for public funds to sustain it over the long term.

These state and city initiated programs not only make a powerful difference in the lives of immigrant families, but they also help to make the case for a federal level change that will begin to ensure true due process for immigrants in removal proceedings.

Naturalization Case Study

New York Immigrant Family Unity Project

The New York Immigrant Family Unity Project (NYIFUP) was created as a collaborative of the Northern Manhattan Coalition for Immigrant Rights, The Center for Popular Democracy, Make the Road New York, and the Immigration Justice Clinic of Cardozo Law School. The idea for NYIFUP grew out of the Study Group on Immigrant Representation, which was a group of academics, community based organizations, and advocates convened by Judge Robert Katzman of the U.S. Court of Appeals for the Second Circuit. NYIFUP launched in 2013 as a city-council funded $500,000 pilot program—providing representation to 189 detainees whose income fell within 200% of the poverty line. After a successful test run,

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Naturalization Case Study *continued...*

and sustained community organizing to lift up the experiences of clients served by the pilot program, the city approved expanded funding in June 2014, enabling it to serve any income qualified New York City resident detained and facing immigration proceedings in court in New York City, Newark, or Elizabeth, NJ.[57] In 2015 and 2016 the city renewed full funding for NYIFUP of $4.9 million.

NYIFUP is staffed by attorneys from three of the city's public defender offices—the Bronx Defenders, Brooklyn Defender Services, and the Legal Aid Society—with deep expertise in deportation defense. Based on data collected by the program so far, NYIFUP clients are approximately 1000% more likely to win their immigration cases than those who do not have representation. NYIFUP attorneys have won 69% of their trials and reunited 47% of clients with their families.[58]

Because NYIFUP attorneys are some of the nation's most highly skilled in immigration law, they are not only winning victories for individual clients in complex cases, but are also helping to set new legal precedent creating system wide change in the way immigration law is interpreted. For example, in 2015, the United States Court of Appeals for the Second Circuit heard an appeal of a case that originated within the NYIFUP program, and handed down a groundbreaking decision establishing that an immigrant is constitutionally entitled to a bond hearing within six months of being detained and must be released on bond unless the government provides compelling evidence that he or she is a flight risk or danger to the community.

Limits on ICE Co-optation of Local Law Enforcement

In 2014, the federal government deported over 300,000 people, separating countless families and causing immeasurable suffering in the lives of individuals and communities. Prior to 2008, immigration enforcement tactics focused on home and workplace raids; however, in the last seven years, Immigration and Customs Enforcement has increasingly relied on the resources, personnel and infrastructure of the local criminal justice system both to justify and to carry out these deportations. Under the 287(g) program, ICE deputizes local police officers with the power to act as immigration officers. Under the Criminal Alien Program, ICE sends its agents into local jails to interview individuals about their immigration status. Through the Secure Communities Program—now rebranded the Priority Enforcement Program—ICE receives extensive information about individuals in criminal custody which it then uses to identify people to prosecute. ICE also uses detainers, or "ICE holds" which require local jails to keep individuals in custody past their release time. This enables ICE to then arrest and transport individuals into immigration detention.

As ICE has increased its dependence on the cooperation of local law enforcement agencies to carry out its mass deportation program, cities have felt the impact of excessively punitive immigration enforcement in their communities. Collaboration between local law enforcement and immigration authorities erodes trust between immigrant communities and the police, meaning families are less likely to report crime or to cooperate in police investigations. In addition, revenue-strapped cities often spend millions of dollars a year holding immigrants for ICE.

In the last several years, immigrant communities have begun to fight back against these harms and have had considerable success in securing the protection of their local governments. In 2011, Cook County, IL (which encompasses the city of Chicago), became the first jurisdiction to pass an ordinance limiting collaboration between local police and ICE. Over the next several years, a dozen

new jurisdictions followed suit, including two states—Connecticut and California—which passed state level legislation (called TRUST Acts). The tipping point came in 2014, when a federal court held a county in Oregon liable, under the 4th Amendment, for holding an individual solely on the authority of an ICE hold.[59] Fearing the costs of similar litigation following that decision, cities and counties across the country began instituting limits on police-ICE collaboration. Many local sheriffs adopted limited detainer policies unilaterally with very little pressure from communities or advocates. Prompted by a letter from the state American Civil Liberties Union, every single county in Colorado adopted a policy limiting ICE collaboration. Today, more than 300 jurisdictions around the country have such policies.

Partly in response to these developments, in November 2014 President Obama announced changes to his immigration enforcement priorities as part of his plans for broad executive action on immigration. DHS officially ended the controversial Secure Communities Program but subsequently re-launched the same information-sharing program under a different name, calling it the Priority Enforcement Program (PEP). Under PEP, ICE requests cooperation from local law enforcement agencies in three ways: hold requests, notification requests, and catchall custody requests. An ICE hold—mentioned above—is a request to hold and individual for 48 hours past the time they would have been released for criminal justice purposes (for example, on bail, after dismissed charges, or at the completion of a jail sentence). A request for notification asks law enforcement to provide ICE with an individual's release date (and possibly other information) so that ICE can be on site to take the person into custody. A catchall request includes a hold request and a request for notification.

Because many of the local policies limiting collaboration with ICE focused on ICE hold requests, it is not yet clear to what extent they will be effective in limiting local cooperation with requests for notification and other information sharing under the new PEP regime. For this reason, it is important that new local policies to push back on collaboration with ICE and address other kinds of cooperation in addition to arrest and detention. For example, some jurisdictions, like New York City, have policies that explicitly limit information sharing with ICE, in addition to prohibiting arrest and detention for on ICE's behalf. Other localities—such as New Orleans and Santa Clara County in California—prohibit ICE from entering jail facilities at all. Some policies, like the original Cook County policy, phrase the limitation on collaboration with ICE in terms of the expenditure of local resources (including any county personnel time) on the enforcement of federal immigration law. This framing is especially effective as it encompasses the whole range of tactics by which ICE tries to secure support from local law enforcement for deportation.

In spite of current federal enforcement priorities, states and localities can play a key role in limiting collaboration between their local law enforcement agencies and ICE, as well as information shared about undocumented immigrants in custody. This helps to ensure that precious and limited local resources actually go towards creating safer communities.

Police & ICE Collaboration Case Studies

California TRUST Act

Though there are hundreds of cities and counties that have passed policies limiting collaboration between ICE and local law enforcement, California is one of only two states (the other is Connecticut) to have done so. A broad coalition of immigrant rights organizations had been fighting for the legislation for years before Governor Jerry Brown signed the California TRUST Act into law in October of 2013. In 2012, a version of the same bill passed both houses of the legislature before the Governor vetoed it. In order to win his support, the organizing coalition agreed to allow for cooperation with ICE in cases of individuals with certain criminal convictions.

The CA TRUST Act is less strict in the limitations that it places on collaboration between ICE and law enforcement than many local level policies. Dozens of cities within California have opted to enact more comprehensive policies to prevent local police and local jails from being co-opted for the purposes of federal immigration enforcement. For example, Santa Clara County prohibits local police from complying with requests to hold an individual in custody for ICE without full reimbursement from the federal government. And even in the case of reimbursement, the policy limits compliance with hold requests to a narrow category of people. In practice, this has meant that Santa Clara County no longer honors any ICE hold requests. Although the CA TRUST ACT does not go that far, the state law establishes a floor—not a ceiling—on protections for immigrants targeted for deportation, leaving stronger policies like Santa Clara's intact.

After the TRUST Act was implemented, deportations from California plummeted. Within the first two months of 2014, deportations dropped by 44 percent in the fifteen counties that reported data.[60] Advocates and community based organizations monitor compliance with the current version of TRUST, while continuing to push for stronger local policies and even stronger state level protections. In 2016, the TRUTH Act was introduced in the State Assembly, a bill which, if passed, will institute new transparency and oversight provisions to ensure that localities are not holding individuals in custody in violation of state law.

Philadelphia Detainer Policy

In 2014, then Mayor Michael Nutter signed an Executive Order prohibiting local police from holding any individual on behalf of ICE without a judicial warrant. The policy's warrant requirement was an innovation on earlier detainer discretion policies in other cities. It responded to the 2014 federal court decision (see p __) finding that ICE holds are not supported by probable cause, and setting the precedent for 4th Amendment liability in cases where local governments detain an individual on the basis of an ICE hold alone. The Philadelphia policy became a model for dozens of other warrant-based policies across the country in cities eager to avoid expensive litigation and payouts for civil rights violations. Mayor Nutter's Executive Order was one of the strongest detainer discretion policies in the country. Not only did it require warrants, but even with a warrant it allowed for cooperation only in cases where the individual had been convicted of a first or second degree felony. In practice, no detainers were actually honored in Philadelphia under this policy.

In the summer of 2015, after an undocumented man with mental illness shot and killed a woman in San Francisco, cities with policies protecting their immigrant constituents came under fire from the media and some state and federal lawmakers. Mayor Nutter, with just weeks left in his term, repealed his Executive Order and agreed to implement DHS's new Priority Enforcement Program in Philadelphia. After leaving office, Mayor Nutter was appointed to the DHS's advisory council. Fortunately, the city's new mayor, Jim Kenney, reinstated the pro-immigrant anti-PEP policy within hours of taking office.

Shutting Down & Refusing to Host Detention Centers

One of the most powerful ways for cities, states, and immigrant rights organizations to combat punitive immigration policy is to target the facilities where immigrants in detention are physically being held. ICE currently maintains over two hundred immigration detention centers across the country, holding as many as 33,000 immigrants each day, often without due process. Detention centers are no different from regular prisons and jails (and in many cases are simply a separate section of an existing prison or jail). They are typically located far from urban areas, overcrowded, with substandard healthcare. Detained immigrants generally lack access to counsel and receive limited visitation rights. Detainees in these facilities regularly report physical, verbal and sexual abuse, and there is no independent oversight of conditions or detainee treatment. More than half of all detention beds are owned or managed by private prison companies, which lobby the federal government as well as state lawmakers to pass policies that will pull more immigrants into detention.[61] Recently, the plight of immigrants in detention has become more visible, as DHS has resorted to locking up children and families as a way of dealing with the influx of refugees from Central America.

Most of the local fights against detention facilities have focused on one of these two angles—privatization or family detention. Private prisons, in particular, have proven to be a target that brings together community members across the political spectrum. The message that corporate profit motive should not influence or benefit from detention policy has resonated widely. Illinois has had a ban on private prisons since 1990, and in 2012 in response to demands from local immigrant groups, the state legislature expanded the ban to include immigration facilities. The ban was passed shortly after the successful community driven fight against a proposal by GEO Group, the second largest prison company in the US, to build a new detention center in a Chicago suburb. California introduced a similar piece of legislation in the spring of 2016, and former presidential candidate Bernie Sanders campaigned for a federal moratorium on private prisons in campaign speeches.

The campaigns currently being waged against particular facilities focus on the new family detention centers where DHS detain young children and their parents. Local immigrant groups in Pennsylvania are on the verge of winning their fight to close the Berks County Residential Facility, after convincing state officials not to renew the operating license for the facility.[62] The win came after months of protest and advocacy by grassroots groups and lawyers for the detained families, as well as a hunger strike by women detained at Berks.[63]

Detention Center Fights Case Studies

Berks County, PA

In 2014, after intense public pressure to respond to an increase in the number of unaccompanied children entering the United States at the southern border, the Department of Homeland Security announced plans to significantly increase its capacity to detain families. At the time, DHS had fewer than one hundred family detention beds, all at the Berks County detention center in Pennsylvania. As DHS opened new facilities and expanded existing facilities to accommodate the growing population of mothers, fathers and children in its custody, immigrant organizations and advocacy groups began to push back on the practice of family detention generally, and on conditions at each of the family detention centers specifically.

In December 2015, mothers at the Berks facility submitted a series of complaints to ICE, expressing concern over their prolonged detention and the negative impact on their children's health and

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Detention Center Fights Case Studies *continued...*

wellbeing. Several of the mothers escalated their protest by going on hunger strike. In addition to poor facility conditions, medical neglect, the lack of educational services, and the absence of due process in their legal cases, the mothers also exposed abuse by detention center personnel. An eight year-old girl witnessed a Berks caseworker sexually assault a 19-year-old mother, and the perpetrator was convicted and sentenced in a Pennsylvania court in early 2016. Local community organizations, including Make the Road Pennsylvania and Juntos, began organizing to support the families detained at Berks and to demand the closure of the facility. Thanks to their efforts, in January 2016 the Pennsylvania Department of Human Services announced that it would not renew the facility's license. The county is appealing the decision, but community groups are continuing to build pressure through direct action. At the 2016 Democratic National Convention in Philadelphia, local groups marched to demand the closure of Berks and a moratorium on all deportations.

Southwest Ranches, Florida

In 2012, the town of Southwest Ranches, FL, launched a campaign against a new immigration detention center that the Corrections Corporation of America (CCA), the biggest private prison corporation in the United States, planned to build on a 24 acre parcel in the town. The $75 million 1500-bed facility would have been one of the largest detention centers in the country.[64]

Local immigrant rights groups, led by the Florida Immigrant Coalition (FLIC), began organizing to educate community members about CCA's track record of human and civil rights violations in its facilities, and about negative impact of prisons on local economies. They quickly built a strong coalition to oppose the project from among the residents of both Southwest Ranches and neighboring Pembroke Pines, which would be responsible for supplying the facility with utilities. The campaign against the facility targeted, among other individuals, U.S. Representative and Democratic Party Chair Debbie Wasserman Schultz, who had written letters of support for the facility and who refused to meet with concerned constituents about the project.

After a year of unrelenting organizing—including protests, picketing, and lobbying—Pembroke Pines voted not to provide water, sewer, fire and emergency medical services to the facility. This caused ICE to pull out of its contract with CCA, and the facility was never built.

Criminal Law Reforms

Although much of the immigration policy conversation revolves around those who entered the country without legal process or who overstayed their status, there are thousands of legal residents, even green card holders and legal permanent residents, who lose legal status because of criminal convictions. Convictions for a wide range of criminal offenses can subject legal residents to mandatory detention and mandatory deportation. This means that judges have little to no discretion to grant relief or to release the individual from custody while they fight their case. The majority of deportations triggered by criminal convictions come from low-level offenses, in particular drug-related offenses. While federal law names some of the triggering offenses explicitly, it also lists triggering offenses that are defined in terms of state law.

One of the most sweeping categories includes any conviction for which the maximum sentence is one year or more, and such convictions trigger deportation regardless of what sentence is actually imposed. This has meant that many people lose their legal status and end up being deported because of misdemeanor convictions for which they don't spend any time in jail.

The good news is that states have some power to mitigate the immigration consequences of low level criminal offenses by amending their state criminal code. California set the first such precedent in

2014, by passing a law changing the maximum sentence for misdemeanors to 364 days.[65] In practice, this ensures that misdemeanor convictions will not trigger mandatory detention and deportation proceedings. The law not only saves thousands of California residents from deportation every year, it allows those individuals to remain on a path to full citizenship. While California is the only state to pass such a law to date, there are coalitions proposing similar legislation in other states, such as New York.

As national pressure to overhaul our criminal justice system builds, there is an important opportunity for immigrant rights advocates and state and local lawmakers to address the particular impacts of that system on immigrant communities. Targeted reforms to criminal statutes that trigger deportation consequences in each state could save tens of thousands of people from deportation every year.

Conclusion

Our nation became what it is today by embracing, supporting, and depending upon the contributions of immigrants. With millions of immigrants now living in fear of deportation, without access to basic benefits and services, we are failing to live up to our own values and commitments. While immigration law and policy is set at the federal level, states and local governments have considerable authority to pass local policies that foster welcoming and inclusive communities for immigrants and other groups that may lack access to opportunities and services. These policies, described in detail in this report, are not only good for immigrants but for the social, economic and political well-being of the entire community. In light of the 2016 Supreme Court decision blocking implementation of President Obama's administrative relief program and Congress' failure to enact comprehensive immigration reform, the need for states and local governments to act is more pressing than ever. States and cities have the opportunity to set an important example for other localities and the federal government while making life better for their immigrant constituents and ensuring society is more equitable for everyone.

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