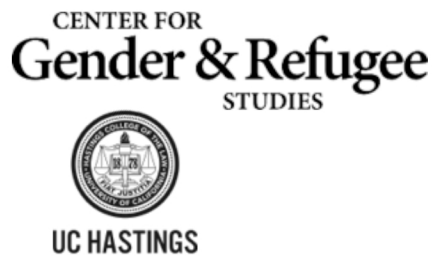


Childhood and Migration in Central and North America: Causes, Policies, Practices and Challenges

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Preface

On November 20, 2014, as this study was going to press, President Obama announced several components of an executive action to provide temporary deferral of deportation and relief to immigrants who meet certain eligibility requirements.¹ This executive action, issued through a series of Department of Homeland Security (DHS) memoranda, has the potential to impact millions of undocumented immigrants in the United States. These directives have not yet been formally implemented, and many questions remain over what their impact will actually be. However, key provisions include prosecutorial discretion to use deferred action, providing temporary relief from threat of deportation, for two categories of immigrants in irregular status:

Implementation of **Deferred Action for Parental Accountability (DAPA)**, providing relief to immigrants who are parents to a U.S. citizen or legal permanent resident child as of the date of the memos, with five years of continuous presence in the United States;

An expansion of the **Deferred Action for Childhood Arrivals (DACA)** program for immigrants who entered the United States before the age of 16 (also commonly known as DREAMers); while the old directive had an age limit of 31 at the time of application, the executive action removes the age limit.

In addition to these deferred action programs, the executive action will also affect individuals who would be eligible to apply for legal status but for bars due to being in the United States without documentation. It further expands authority to certify visas for victims of crime or trafficking. The action also eliminates the highly controversial Secure Communities program, under which anyone in local law enforcement custody whose fingerprints trigger a match in immigration databases may be held beyond the expiration of lawful local custody on a “detainer” to facilitate transfer to immigration custody. The action replaces Secure Communities with a Priority Enforcement Program (PEP), under which immigration authorities request only notification from (rather than detention by) local authorities, and only with regard to individuals who pose a national security risk or have certain criminal convictions.

Finally, the action clarifies enforcement priorities, directing that border and immigration officials focus on those with criminal convictions and those apprehended after recently crossing the border (though the government’s interpretation of “recent border crosser” can include areas up to 100 miles inland from a border and years after a post-July 21, 2014 entry). A memo focusing on enforcement specifically outlines primary caretakers and nursing or pregnant women as a category of individuals who should *not* be detained.

Despite the positive developments in the executive action, which intersect directly with many of the issues outlined throughout the chapters on the United States, the Administration’s memoranda also contain directives that fail to address core issues or that negatively impact immigrant children

¹American Immigration Council, Immigration Policy Center. (2014, December). A Guide to the Immigration Accountability Executive Action. Retrieved from <http://www.immigrationpolicy.org/special-reports/guide-immigration-accountability-executive-action#enforcement>.

and families. Many millions of children and families will be excluded from the benefits of this executive action. For example, children who entered the U.S. after January 1, 2010—including as part of the 2014 influx—and undocumented immigrants who have non-U.S. citizen or permanent resident children will not be eligible for deferred action. Moreover, the DAPA program applies only to the parent-child relationship, excluding other caretaker relationships. The high prioritization of recent border crossers for immigration enforcement will certainly include children and families attempting to reunite with others already in the country, or fleeing violence and persecution and seeking protection in the United States. This prioritization may override due consideration of vulnerabilities that should result in protection rather than enforcement and deportation. In addition, oversight and accountability will remain key to implementing the new directives, enforcement priorities, and the Priority Enforcement Program.

Finally, above all else, executive action via deferred action remains a limited and temporary measure. It is a policy of the administrative branch and not formal law, and thus fails to regularize status or confer citizenship. President Obama directed that the protection offered by deferred action for youth or parents be valid for up to three years. We cannot know what will happen to these individuals after three years, or whether a new administration will choose to reverse or end the protection offered by this temporary measure. Ultimately, only legislative immigration reform can truly solve the uncertainty and trauma faced by so many immigrant children and families in the United States today. Until then, even where executive action offers a temporary reprieve, the concerns outlined throughout the U.S. chapters will continue to be relevant and in need of a solution.

Recommendations are included in full at the end of this book. For the full set of recommendations, please visit <http://cgrs.uchastings.edu/Childhood-Migration-HumanRights>.