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Occupy Movement Protest at the Port of Oakland

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PREGNANT BEHIND BARS: EXAMINING THE CALIFORNIA PRISON SYSTEM THROUGH A REPRODUCTIVE JUSTICE FRAMEWORK

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PROVOCATION

Within the mainstream reproductive rights movement, the challenges faced by women behind bars are often overlooked. This paper will provide background on the soaring rates of incarceration of women in the U.S. and in California and explore the issues faced by pregnant prisoners from a reproductive justice framework (described below) by examining access to abortion, the rights of mothers to prenatal care and to parenting, and how the prison system acts as a tool of reproductive oppression. Although access to abortion is a right held by all women in the U.S., including prisoners, there are many cases in which the prison system disrupts a woman's right to choose.¹ California has a mixed report card on the rights of mothers to prenatal care and parenting. This paper will provide some policy recommendations related to medical care, the practice of shackling, pregnancy and addiction, and prison nurseries. The final section of this paper will address the ways in which the prison system itself acts as a tool of reproductive oppression through coercive and constructive sterilization. Concluding remarks will address the limits of corrections reform in protecting the health of mothers and their children.

THE REPRODUCTIVE JUSTICE FRAMEWORK

The reproductive justice framework holds equal the right to have—and not to have—a child and the necessary enabling conditions to parenthood. This theoretical framework encompasses both the right to safe abortion services and to the contraceptive of one's choice for women who do not wish to have children. In addition, it establishes the right to access prenatal care and achieve the enabling conditions to have and raise children if one so chooses. Reproductive justice also focuses on intersecting forms of oppression, including racism, classism, sexism, homophobia, and transphobia, all of which can impair a person's ability to parent. This paper will demonstrate how this plays out in the prison system. This framework also represents a shift from women advocating for control of their bodies and from a narrower focus on legal access and individual choice to a broader analysis of economic, cultural, and structural constraints on women's power. Being sent to prison negatively impacts women's reproductive rights under this framework, in some cases by making it more difficult or impossible to have an abortion, and in other cases by limiting or denying a woman's ability to have children.

BACKGROUND: INCARCERATION OF WOMEN

The U.S. has the highest female incarceration rate in the world, with about one million women and girls in correctional control in prison, jail, probation, or parole. Since the introduction of

mandatory sentencing for federal drug laws in the mid-1980s, the number of women in prison nationwide grew by 400 percent. In California, the number of incarcerated women grew from 1,232 in 1979 to 10,812 in 2009, representing 877 percent growth in a generation. Despite the similarly alarming growth of male incarceration rates, women and girls are actually the fastest growing segment of the prison population. The reproductive rights of these women are a major public policy concern, as 75 percent of them are mothers and as many as 10,000 may be pregnant.²

Estimates of the number of women who enter prison pregnant vary, but most estimates range between 4 percent and 10 percent of the intake population.³ The numbers are hard to ascertain because there are no standard reporting requirements and no mandatory pregnancy test upon intake. According to the Center for Prison Health and Human Rights, women in prison have a disproportionately high need for healthcare services, with higher rates of drug addiction, mental illness, sexual and physical abuse, HIV and other infectious diseases than among the general population.

Many women in prison were victims of violence who did not have access to mental health services, and as a result, turned to drugs to self-medicate.⁴ Instead of being treated for trauma and addiction, many of these women have ended up in the prison system. Another reason for the growth of the prison population is a lack of access to educational opportunities



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and well-paying jobs. Only 43 percent of women in prison have a high school degree or GED⁵ and 65 percent of women are incarcerated for non-violent crimes, like theft and drug possession.⁶ A declining social safety net and strict drug enforcement policies have put women behind bars, disrupting communities and separating women from their children.

As is the case in the prison system in general, incarcerated women are disproportionately women of color. In 2005 the national rate of incarceration per 10,000 was 88 for Caucasians, 144 for Hispanics, and 347 for African Americans.⁷ Women who suffer from mental health issues have been failed by our educational and healthcare systems, and these women, who are predominantly people of color, suffer not only the loss of their personal freedoms but also the right to make decisions about their reproductive health. Since there are a disproportionately large number of people of color in prison, it follows that the reproductive capacity of this population is greatly impaired.

THE RIGHT TO A SAFE ABORTION

This section will outline the rights of pregnant women in jail and prison to access abortion services. The issue of reproductive choice when behind bars is not as straightforward as when outside of prison walls. Prisoners do not choose when to get up or what to eat, and medical choices are similarly limited by availability. “Constrained choice” is a better term for decisions made in prison because these choices are saturated in power. When the people who are providing care (guards, prison healthcare staff, and prison officials) have the ability to affect a prisoner’s quality of life and chance of release, they certainly have the power to influence a prisoner’s decisions. Prison staff can potentially put inmates in solitary confinement, give better work assignments, provide or withhold favors, and provide behavior evaluations that ultimately affect a person’s chance of parole. This power can be used to coerce women into making certain choices about reproductive decisions, which is one reason why health privacy is so important in the prison setting.

HOW ABORTION LAW APPLIES TO PRISONERS

The right to an abortion as guaranteed by the U.S. Supreme Court in *Roe v. Wade* (1973) is based on the right to privacy under the due process clause of the Fourteenth Amendment.⁸ The Court ruled that states cannot interfere with this right unless there is a compelling state interest in doing so. This decision also held that the right to an abortion has to be balanced against the state’s interest in protecting prenatal life and a woman’s health. In addition, some courts have ruled that limitations on access to abortion in prison violate the cruel and unusual punishment clause of the Eighth Amendment.⁹

In 1992, *Planned Parenthood v. Casey* lowered the standard for analyzing restrictions on the right to abortion.¹⁰ *Casey* created an undue burden test for limiting access to abortion, which establishes that laws must not create a “substantial obstacle in the path of a woman seeking an abortion of a non-viable fetus.” This decision also set forth a legal framework whereby abortion would be permitted only until ‘viability’, the point at which the fetus could survive outside of the womb (rather than the third trimester, which was the previous standard). These standards and rights outlined in *Roe* and *Casey* should apply inside the prison in the same way they do outside prison, but are not always adhered to in a prison context.

In several cases, the U.S. Supreme Court has allowed certain permissible restrictions to be imposed on a prisoner’s constitutional rights. In *Turner v. Safely* (1987), the Court decided that prison regulations that curtail constitutional rights are valid if they are “reasonably related to penological interests.”¹¹ Those interests include deterring crime, rehabilitating prisoners, and ensuring prison safety. Other decisions have found that limiting access to abortion serves none of these purposes. In *Johnson v. California* (2005), the Court decided that in cases where the fundamental right in question is retained by prisoners despite their incarceration, any violation of that right should be judged by the same legal standard as applied outside of the prison context.¹² In this case, a prisoner challenged a policy that segregated inmates on the basis of race. The Court held that prisoners still hold the right to be free from racial discrimination even when incarcerated, and that such discrimination would be held to strict scrutiny just as if it had occurred outside of prison. It has been argued that curtailing a prisoner’s right to an abortion, like racial discrimination in *Johnson*, does not serve a penological interest and therefore should not be permitted under the Constitution.¹³

ACCESS TO ABORTION VARIES BY STATE

Although courts have consistently held that the right to have an abortion applies even within prison walls, in practice women have often faced challenges to receiving an abortion through outright denial, requirement of a court order (which can create time-sensitive pressures), or requirement of private payment from the woman for the procedure and any associated transportation and staff costs.¹⁴ Empirical data about the access to abortion in the actual prison context is hard to come by, but we do know that abortion services are highly variable and follow state trends in abortion politics, where more socially-conservative states tend to limit abortions and more socially-progressive states tend to provide better access to both abortion and contraceptives.¹⁵

Women in prison often face the added burden of having to pay for transportation costs and the wages for the accompaniment guards the prison requires.¹⁶ These costs, which may be in the



thousands of dollars, effectively make abortion financially impossible in many cases. In other cases, based on the interventions of prison officials, some women face pressure to end a pregnancy and experience an infringement on their reproductive rights by being coerced into having an abortion that they do not want to have.

A woman's right to an abortion is violated if she is pressured one way or another about her reproductive decisions or if her access to abortion (based on that state's laws) is hindered. These rights are the same for medically-necessary abortions or elective abortions. Unfortunately, many women and prison staff members are not aware of these rights and constitutional violations go unchecked.¹⁷

RIGHTS OF MOTHERS TO QUALITY PRENATAL CARE AND TO PARENTING

This section will address issues related to prenatal care in prison, legal challenges in addressing poor healthcare, the practice of shackling, pregnancy and addiction, postpartum separation, and the right to parent non-infant children. Although each of these issues come with related health concerns, it is important to note that women in prison actually have better childbirth outcomes on average. Compared with women of the same socioeconomic standard outside of prison, women in prison have lower stillbirth rates and children born to these women have a higher average birth weight.¹⁸ This data, however, can be attributed to grossly deficient prenatal healthcare for poor women in society, rather than the true quality of healthcare in California prisons. Additionally, these studies only measure biomedical and not psychosocial indicators. There is research that pregnant women in prisons are more anxious, stressed, and depressed than their counterparts outside of prison.¹⁹ It is important for clinicians providing prenatal care to understand the special needs of this population, who, as noted above, have higher rates of sexually transmitted infections, substance abuse, and histories of sexual and physical violence.²⁰

PRENATAL CARE IN CALIFORNIA

When compared to the overall general population of pregnant women, in California, one study reported that the miscarriage and stillbirth rate is fifty times higher for women in prison.²¹ Some explanations could be that prison overcrowding exposes women to communicable disease and prenatal vitamins are not routinely provided. Most jails do not transfer women to a hospital until labor begins. Because many prisons are far from major cities, women report giving birth in police cars, in the prison health center, and in some cases, even in their cells.²²

Since there are no federal standards for the proper care of female prisoners, each state has a different protocol for managing the health of pregnant women, perhaps leading to uneven outcomes across states. The Rebecca Project for

Human Rights and the National Women's Health Center released a state-by-state report card in 2011 in which California received a C for prenatal care.²³ The issues cited include poor medical examinations, prenatal nutrition, counseling, and a lack of availability of HIV testing, as well as poor delivery planning and reporting.

CHALLENGES IN ADDRESSING POOR HEALTHCARE

In *Estelle v. Gamble* (1976), the Court ruled on the right to medical care in prison by holding that the state is required "to provide medical care for those whom it is punishing by incarceration."²⁴ Furthermore, the Court concluded that "deliberate indifference to serious medical needs of prisoners constitutes the 'unnecessary and wanton infliction of pain' proscribed by the Eighth Amendment." In other words, the Court established a standard for assessing whether harms to people in prison that result from inadequate healthcare rise to the level of cruel and unusual punishment prohibited by the Constitution. This standard holds that negligence is not enough, and that the actions by prison staff that harm inmate health must be deliberate. It also requires proof of subjective knowledge of risk and the failure to take measures to address that risk. This high standard puts a heavy burden on the prisoner, making it much more challenging to seek relief than it would be outside of prison.

The Prison Litigation Reform Act of 1996 (PLRA) also makes it harder for prisoners to bring legal challenges against their treatment. The Act was meant to reduce prison litigation by making it harder to file lawsuits and placing limits on attorney's fees. The Act states that people in prison are not eligible to sue unless they have first exhausted all administrative grievance procedures and can show that they have suffered physical injury. In California, the grievance process is extraordinarily difficult, regardless of the claim's merits, and all requirements must be completed properly and on time in order for a person in prison to file suit.²⁵

Medical malpractice claims against prison doctors, when available under state tort law, are infrequently utilized for a number of reasons. California has state laws similar to those created by PRLA that create obstacles for prisoners who wish to bring a medical malpractice lawsuit by requiring the prisoner to exhaust the administrative grievance process before filing. California also has laws that provide immunity from liability for medical malpractice by state actors. In addition, state tort laws often disallow or limit recovery of attorney's fees and punitive damages in lawsuits brought by people in prison, making it difficult for such clients to attract counsel. Medical malpractice suits can be expensive and prisoners may not have the means to even bring a lawsuit in the first place.

It is also important to note that individual tort lawsuits do little to promote systemic change because only one person's

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situation may be remedied. Broad-based improvements to the failing reproductive and gynecological healthcare system—not to mention the general healthcare system—will not come from tort law in the form of medical malpractice. Some improvements to the healthcare system have been seen as a result of rulings such as *Plata v. Schwarzenegger* (2011) in which the Court found the medical services of the California Department of Corrections to be inadequate and in violation of the Eighth Amendment and the Americans with Disabilities Act, and eventually placed the California Department of Corrections under receivership.²⁶ Despite some improvements, inadequacies still persist. These failures can mean the difference between life and death for prisoners.

SHACKLING

Shackling, or the practice of using restraints such as hand and leg cuffs, on women in labor (and some late-term pregnant women) has been deemed unnecessary and harmful to a woman and her pregnancy by national corrections and medical associations.²⁷ International bodies including the United Nations Human Rights Committee and the Committee Against Torture have repeatedly expressed concerns regarding the practice. Any claims about the security needs of a prison have to be weighed against the safety of the mother and child. Shackling is dangerous due to the risk of falls when a woman is unable to catch herself or to protect her abdomen. During labor, shackles limit a mother's ability to change positions and medical staff can lose precious time if they have to unshackle a mother to perform a Cesarean section. After birth it is difficult for a mother to hold or breastfeed a baby when her hands are restrained. Each state has different policies on shackling, and some states have no explicit policy at all.

In 2005, California passed a law that prohibits women from being shackled during labor. Although the law was a success, there have been issues with how it has been implemented by the counties. A report conducted by Legal Services for Prisoners with Children in 2010 found that only fourteen of California's counties have incorporated the law into their own protocol.²⁸ Apart from addressing the issue of non-compliance, California should pass comprehensive safety measures for pregnant women by prohibiting shackling pregnant inmates except under extreme circumstances. Without better state legislation, the law we now have is only a minimum standard and counties should be lobbied for more far-reaching safety measures.

PREGNANCY AND ADDICTION

Although there is no law that makes it illegal for women to use drugs while pregnant, at least forty states have prosecuted women for "fetal abuse" and for homicide in the case of stillbirth.²⁹ Some courts have terminated parental rights, including the right to ever contact the child, upon a positive drug test at birth.³⁰ While it is widely known that drug use

has negative health consequences on both the mother and the baby, the central question is what methods are best to address the problem.

Policies related to pregnancy and drug addiction are all too often designed to punish rather than provide assistance. Using public health interventions and treatment, rather than investing in prisons, is a better use of state dollars as incarceration often does little to end drug dependency. Mothers without drug treatment often fail to effectively end their addiction. Like many U.S. correctional policies, incarcerating women with drug problems places the blame on individual behavior rather than looking for collective solutions to what should be viewed as a larger social problem.³¹ Pregnant women will not seek out help if they know they will be prosecuted or have their child taken away. Mothers who already have children are often turned away from treatment centers if they are in custody of their children, a clear disincentive to access treatment. When taken to their logical conclusion, the implication of these laws is that having an abortion might be the only way to avoid being prosecuted for harming a fetus. The legal steps used by those in favor of these laws and building the rights of the fetus might in some cases actually encourage abortion.³²

Women are arrested and incarcerated for drug use during pregnancy, but a more effective approach would be to modify drug laws and improve access to healthcare and drug treatment. Continuing pregnancy behind bars often means that a mother loses her support networks and may have higher stress levels. For women who are dependent on drugs, acute opiate withdrawal can be dangerous for the health of the mother and baby and in addition can increase the risk of miscarriage, which is why there is a need for medical drug treatment in prison. Some judges may think that they are helping drug-addicted women by putting them in an environment where drugs are not available. However, since the use of illegal drugs in prison is widely reported and drug treatment programs are often not available or efficacious, putting drug-addicted women in prison, especially those that are pregnant, hardly seems like an ameliorative intervention.³³

POST-PARTUM SEPARATION AND THE CALIFORNIA MOTHER INFANT PRISON PROGRAMS

Many women are not granted access to their child upon discharge from the hospital; infants are often placed in the custody of family or friends. When these options do not exist, states often place the infant in foster care. The Adoption and Safe Families Act of 1997 requires that if a child spends more than fifteen months out of a twenty-two month period in foster care, the termination of parental rights will be initiated. For women who deliver babies in prison, this means that the last time a mother sees her child, especially if she is serving a long-term sentence, may be at the hospital doors.



There are a few states in the U.S. where prisons have nurseries and women are permitted to care for their children for anywhere from one month to one year. In these cases, women have to meet stringent criteria to be allowed to participate in the nursery program, and most programs have empty beds despite the fact that many women apply for the space.³⁴ California runs prison nurseries through a program called the Mother Infant Prison Program, which operates five facilities that let women parent from jail. They have sites in San Diego, Santa Fe Springs, Fresno, Bakersfield, and Pomona. An additional site in Oakland was not maintained after its contract expired due to budget constraints. Unfortunately, there are only about 100 beds in these programs, far below demand for these services.

Much like in the general prison environment, in the California Mother Infant Prison Program, healthcare lacks proper resources, adequate support for offender re-entry, and child-friendly spaces.³⁵ In addition, there are clear racial disparities in quality among the five sites. The sites that mostly serve Caucasian women and children are better resourced and managed than those that mostly house women and children of color.³⁶ Despite these issues, the California Department of Corrections showed that the recidivism rate for women in these programs is lower than for non-participants. Although prison nurseries are better than post-partum separation, they should not be the only or the main goal for reform. Community-based alternative sentencing is a better way to both shrink the prison population and address the issues faced by pregnant women and mothers.

RIGHT TO PARENT NON-INFANT CHILDREN

Apart from caring for infants, prisoners' rights to parent from jail are limited. After a 1995 law, all prisons are required to have some kind of parenting program, which could take the form of classes or a child-visiting center. But the issue remains that many prisons are far from the homes of prisoner's children, which makes visitation difficult. Women in California end up at one of three prisons, all of which are in rural areas that are difficult to access. At the federal level, prisons for women are only located in 12 states, so the likelihood that a woman is even placed in the same state as her children is slim. Not only is being able to see your children important for promoting family cohesiveness, it is also important in order to demonstrate to the court that there is a continued relationship with one's children.³⁷ Therefore, limiting family visitation rights has legal implications for the rights of mothers, even upon release.

THE PRISON SYSTEM AS A TOOL OF REPRODUCTIVE OPPRESSION

This section examines how the prison system has limited or denied women the right to parent through coercive

sterilization, infertility due to deficient healthcare, constructive sterilization though incarceration during childbearing years, and the policing of transgender bodies. A person who enters the prison system in her twenties faces significant risk of being unable to have children due to these reasons.³⁸ Undertones of social engineering—the use of overt social control to limit the reproduction of women based on discriminatory notions regarding who is 'unfit' for motherhood—can be seen today in our prison system. The U.S. has a sordid history of reproductive control both inside and outside of prison. Even if the corrections systems claims not to directly target people of color, the fact that people of color are overrepresented in the prison population means that they will be disproportionately affected by limits placed on the reproductive rights of inmates.

LEGAL HISTORY OF STERILIZATION IN PRISON

It was not until 1942, in *Skinner v. Oklahoma*, that the Supreme Court ruled that an Oklahoma compulsory eugenic sterilization law was unconstitutional under the equal protection clause of the Fourteenth Amendment.³⁹ The Court also established procreation as a fundamental civil right and therefore that any limitations on that right must pass strict scrutiny analysis. The case involved an Oklahoma law that required sterilization of some people sentenced to state prison according to the crime they committed. The law applied to individuals convicted of larceny but, for example, did not apply those convicted of embezzlement. The Court found that this distinction based on crime committed did not withstand strict scrutiny and therefore violated the equal protection clause. The Court did not address the question of cruel and unusual punishment, procedural due process, or substantive due process questions that had been raised in other lower court cases. As a result, the Court's refusal to condemn compulsory eugenic sterilization statutes as facially invalid allowed sterilizations to continue until the enactment of federal legislation in 1974.⁴⁰

Mentioned above, *Turner v. Safely* (1987) ruled that rights of prisoners could be infringed upon in prison if there is a valid state interest.⁴¹ This decision effectively removed the strict scrutiny analysis required by *Skinner* and instead provides a precedent of deference for the regulations of the corrections system to impose compulsory, coerced, or constructive sterilization on people in prison.⁴²

COERCIVE STERILIZATION CONTINUES TODAY

Although sterilization sentences are no longer legal, prisoners are still coerced into sterilization by prison staff. Just as the choice to have an abortion is "constrained," the choice to become sterilized is also influenced by the prison context and there is antidotal evidence of lack of consent for post-partum sterilizations.⁴³ In addition, prisoners might not make the choice to be sterilized if they had access to less permanent alternatives that would allow them reproductive autonomy. There is also evidence of the overuse of nonconsensual



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hysterectomy and oophorectomy (surgical removal of the uterus or one or both ovaries respectively) in California prisons.⁴⁴ There are various international conventions that recognize forced sterilization of women as gendered racial violence and as a violation of human rights. However, the U.S. is not a signatory. More complete information on the procedures that are conducted in prisons is needed, including data on the number of hysterectomies, oophorectomies, and tubal ligations performed. In order to make sure that these procedures are not coercive or overused, information about the race of the patients, reasons for the procedure, and documentation of the counseling that was provided to these women is essential.

INFERTILITY DUE TO DEFICIENT GYNECOLOGICAL HEALTHCARE

Aside from sterilization procedures in prison, some women may become infertile due to poor women's healthcare services. One clear example is the provision of pap smears, which are necessary to prevent cervical cancer, a major cause of infertility. Unfortunately, the provision of pap smears is not required or consistent across prisons. Because of the high rate of sexual abuse among patients in prison, performing pap smears in a respectful manner and by a woman or with a woman present is particularly important. Reports suggest that even when it is available, women often do not access necessary care because of the poor treatment they receive, which is sometimes characterized by humiliation, rough and painful treatment, and a lack of privacy.⁴⁵ Another barrier is cost; some prisons charge a five-dollar co-pay for a pap smear, which may be prohibitive for people who are not receiving financial support from friends or family outside the prison. Prisoners in California who are working make thirty to ninety-five cents per hour, so to pay for a pap smear could take over 14 hours of work. Given that wages can be garnished as punishment for behavioral infractions and that other expenses must be paid from this small income, charging women for their health treatment puts additional strain on their already meager finances.⁴⁶

CONSTRUCTIVE STERILIZATION THROUGH INCARCERATION DURING CHILDBEARING YEARS

Constructive sterilization occurs when a person is imprisoned for a life term or during his or her reproductive years. One way to mitigate this problem would be to provide inmates with the opportunity to become parents through in vitro fertilization or other means. However, in light of all of the problems faced by pregnant and parenting women in prison laid out in the previous two chapters, a better response is decarceration.

Prisoners are becoming more likely to serve long sentences due to determinative sentencing, the three strikes law, and the trend toward high denial rates of parole. Again, these issues disproportionately impact people of color, who are

incarcerated at much higher rates. Determinative sentences are laws that require a specified minimum sentence, overriding judicial discretion. In California, determinative sentencing laws have mostly been created through direct democracy (voter lead ballot initiatives) and have continually been ratcheted up, exacerbating prison overcrowding and funding problems.

California also has a three strikes law whereby on the third felony charge a person receives, they are sentenced to life, even if the last crime committed was a minor offense. This law is an example of what was probably meant to be a gender-neutral law, but ended up having a disparate familial impact when women are incarcerated for life. When these laws were passed, policy makers may not have foreseen the impact on mothers who are caring for minor children and the challenges that would arise in finding homes or alternative placements for the children. If not for the three strikes laws, women would usually be placed on probation if their crimes were non-violent. Most fathers who are sentenced under the three strikes law or other determinative sentencing schemes are non-custodial parents, or have family who can take on parenting duties. For women, this is less often the case. Three strikes for many women is a sentence not to have children or to lose the ones they have.

The systematic denial of parole by the California Department of Corrections and recent California governors (who appoint the Board of Parole Hearings) represents another way in which reproductive choice is limited.⁴⁷ Even when prisoners are recommended for parole, very few requests are granted due to the political need to appear tough on crime. By suppressing the number of parolees, essentially, the state has retained many inmates in prison who could be released back into the general population, thereby keeping more women in prison than could be there given different correctional policies. Keeping them in prison, as discussed above, significantly constrains their reproductive options.

HARM FROM THE POLICING OF GENDER

The prison system does not recognize people by their gender identity and will only house people who have male anatomy in men's prisons and those with female anatomy in women's prisons. Transgender people who have female anatomy who wish to be housed in a prison that houses men may only do so if they have had gender confirmation surgery (also referred to as a sex change). Some transgender people do not want to change their reproductive organs and lose their ability to have children. When analyzed within a reproductive justice framework, the prison system, in determining who is a man and who is a woman based on anatomy alone, violates the human right to be recognized by your gender identity, compromises the safety of transgender people, and may unduly influence a person's reproductive choices. Without the ability to freely choose one's gender, many lose the ability to



choose whether to have or not to have a child. In this way, gender identity-based discrimination in prison can lead to the destruction of reproductive functioning.

CONCLUSION: PRISONS VERSUS HEALTHCARE AND EDUCATION

The mainstream reproductive rights movement has for the most part ignored the issue of reproductive justice in prison and this omission has done harm to its goals. Conservative policy makers tend to focus on individuals and their bad behavior rather than looking at social structures. The mainstream reproductive rights movement, by similarly focusing on individual choice rather than social structures, has limited its reach. If the movement broadened its goals to include the underlying issues of social inequality that limit a woman's ability to have children if she chooses, the rights of women prisoners would become a major issue in the fight for reproductive justice. Reproductive rights advocates should care about the right of a woman to have an abortion in prison, and thus should be addressing how the prison system denies the right to true reproductive choice.

Fixing the problems faced by pregnant women in prison will take significant and complex social, economic, and political reform. It is important to find ways to reform the prison system without growing its budgetary demands. More money to build or improve prisons takes away funds that could be used to build healthier communities and address the social problems like drug use that drive a significant portion of

skyrocketing incarceration rates. Thus, Californians should look towards community-based strategies and sentencing alternatives instead of growing our prisons. We should move away from the paradigm of imprisonment by addressing the health problem of addiction with health solutions like community treatment facilities. In addition, our state should address the underlying economic problems of unemployment and employment discrimination with economic solutions, not by growing the prison system, which exacerbates barriers to employment and stability for ex-offenders.

At its root, analyzing the prison problem in California within the reproductive justice framework leads to important questions about how we should be prioritizing spending. Should spending be allocated to fix social problems (i.e. education, employment and health) or treat the symptoms with an expensive and unproductive remedy (i.e. prison)? California leads the nation in prison spending, yet comes in forty-sixth in education spending, which highlights the deep commitments the state has made in punishing individuals, rather than ameliorating social problems, especially those relating to women's health.⁴⁸ The corrections system not only limits the reproductive and personal freedom of its inmates, and disaffirms the humanity of women, it also breaks apart families and communities and deteriorates the mental and physical health of women. While improving services for pregnant women and mothers behind bars is needed, California should more seriously consider effective and less costly community-based alternatives to incarceration in order to build a safer and more just society.

Corrin Buchanan is a second-year MPP student at the Goldman School of Public Policy. Her primary work and research experience has been in equitable urban development and local economic development, and she hopes to continue to work on issues of community health and family economic success after she graduates in May 2012.

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PROVOCATION

PREGNANT BEHIND BARS

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[31] *Ibid.*

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[33] Hieno Stover, and Ingo Michels, “Drug Use and Opioid Substitution Treatment for Prisoners,” *Harm Reduction Journal* 7 no. 17 (2010).

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[35] Legal Services for Prisoners with Children, “California’s Mother-Infant Programs: An Investigation,” 2010, http://fcnetwork.org/wp/wp-content/uploads/Complete-CPMP-report_resources_2011.pdf

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[38] Human Rights Program at Justice Now, “Prisons as a Tool of Reproductive Oppression.”

[39] *Skinner v Oklahoma*, 316 U.S. 535 (1942).

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[42] Human Rights Program at Justice Now, “Prisons as a Tool of Reproductive Oppression.”

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SURVEYING OCCUPY OAKLAND'S DECEMBER PORT SHUTDOWN

Demographics of Survey Participants, compared with Oakland, the Bay Area, and California ⁱ				
	Occupy	Oakland	Bay Area	California
Female	42.4%	51.5%	50.4%	50.3%
Male	49.3%	48.5%	49.6%	
Other (Gender)	5.4%	-	-	-
White	60.5%	34.5%	42.4%	57.6%
Black	7.4%	28.0%	6.4%	6.2%
American Indian and Alaska Native	1.2%	0.8%	0.3%	1.0%
Asian	4.0%	16.8%	23.0%	13.0%
Native Hawaiian and Other Pacific Islander	1.4%	0.6%	0.6%	0.4%
Biracial/multiracial	8.6%	5.6%	3.5%	4.9%
Hispanic or Latino*	6.3%	25.4%	23.5%	37.6%
Median household income	\$25,000 -\$50,000	\$49,721	-	\$60,883
Unemployment rate	15.5%	~9.6%	~8.7%	10.9%
* Hispanics may be of any race, so also are included in applicable race categories				

ⁱ U.S. Bureau of Labor Statistics, "Economy at a Glance," http://www.bls.gov/eag/eag.ca_oakland_md.htm, (accessed April 12, 2012); U.S. Census Bureau, "Oakland (city) Quick Facts," <http://quickfacts.census.gov/qfd/states/06/0653000.html>, (accessed April 12, 2012); Bay Area Census, <http://www.bayareacensus.ca.gov>, (accessed April 12, 2012).

do present an interesting picture of the composition of the Occupy Movement in the Bay Area that is worth considering.

DEMOGRAPHICS

Critics have pointed to a possible discrepancy in the Occupy Movement's representation of different populations across geography, race and class. While Oakland residents represented 33 percent of the 349 participants surveyed, the remainder were from outside the area. In this instance, the discrepancy can be explained by the scope of the Port Shutdown, which was advertised as a West Coast action for all ports, thus drawing activists locally, and beyond. In contrast to the general population, those surveyed were disproportionately white, have completed higher levels of education, and earn less than the average Californian adult. The average age of those surveyed was thirty-nine years old.

CLASS IDENTITY

Although income is often assumed to be a strong indicator of class identity, survey results from the Occupy Movement found that members of higher income brackets did not uniformly identify with upper social classes. Of those with an income of \$125,000 or more, 21 percent identified as "working class," 28 percent identified as "middle class," 21 percent identified as "upper-middle class" and only 5 percent

identified as "upper class." The variation may be explained by considering a more nuanced perspective on total wealth and net worth, and acknowledging the possibility that a lack of assets or significant debt could impact the link individuals often make between their income and social standing. In addition, the high cost of living in the Bay Area may have driven some local survey respondents to consider themselves less socially privileged than if they lived elsewhere, holding their income constant. Conversationally, surveyors found people often reported the class identity of their families while growing up instead of the class they felt corresponded to their present income.

POLITICAL VIEWPOINTS

Our sample of the Occupy Movement clearly reflects the much-heralded national polarization of American society along political and ideological fault lines. Survey participants were asked to identify their political viewpoint or identity on a standard seven-point scale, ranging from extremely conservative to extremely liberal. Survey results indicated that this standard measurement has failed to capture reliable data with respect to political identity: 41 percent of those surveyed refused to respond within the scale. Moving beyond the standard scale, some alternate responses included "progressive," "radical," "anarchist," and "leftist."



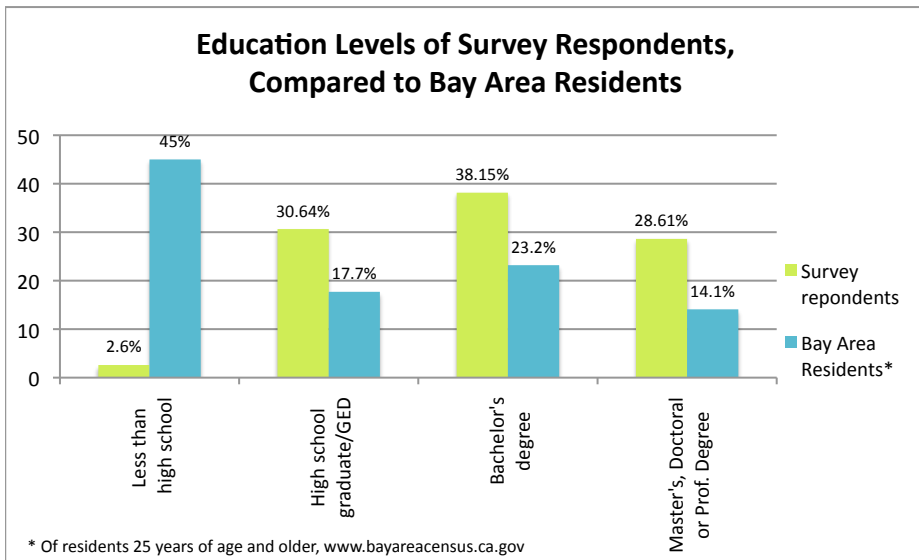
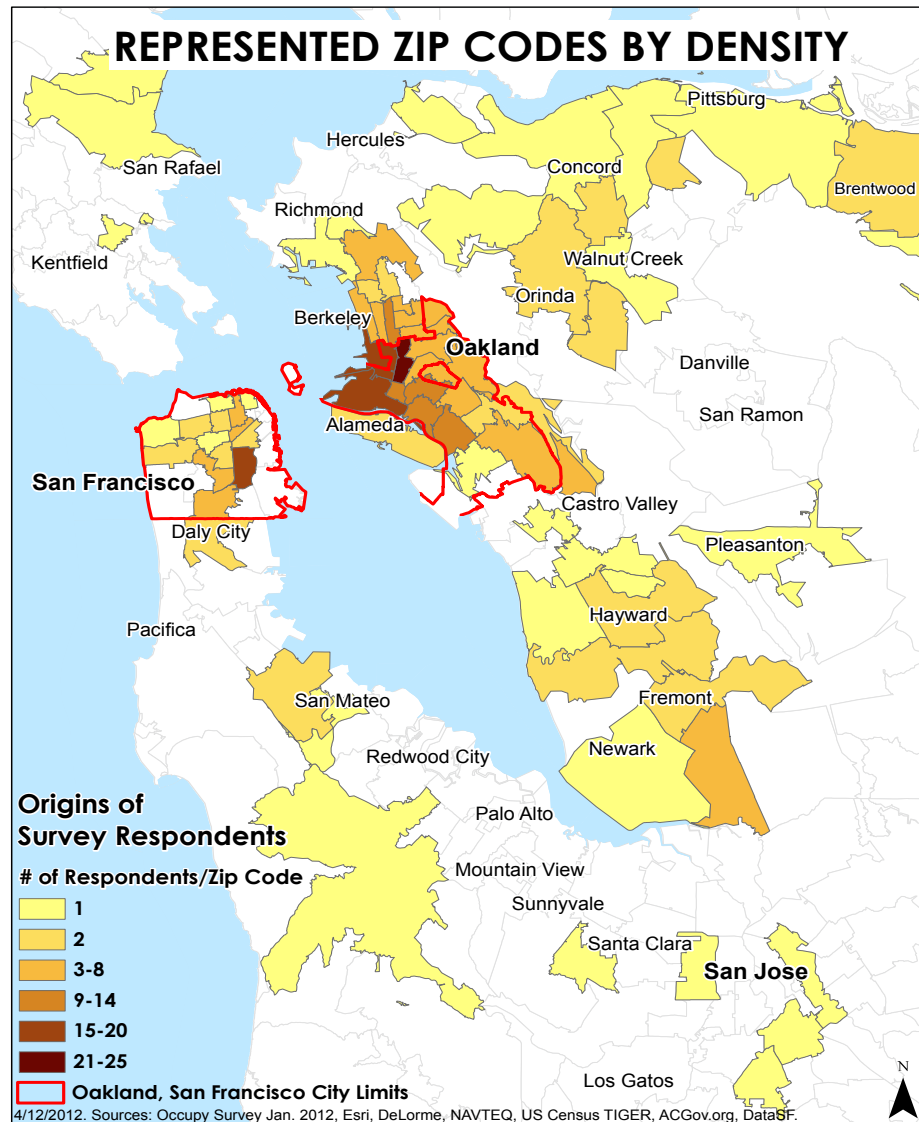
LESSONS LEARNED

This spring, many plans for an Occupy resurgence are in the works, including an "Occupy Our Homes" campaign to target abandoned and foreclosed homes, and a "99% Spring" campaign driven by unions and left-leaning liberal organizations.

As the most widespread collective response to policy failure in recent years, the Occupy Movement is an important source of information for public policy analysis and decision-making. How do tools for measuring political ideology need to be updated to better reflect the current spectrum of political viewpoints? How has the movement changed the debate on issues related to economic equality? What types of messages will appeal to Americans who are similarly dissatisfied with the current economic situation? Our analysis suggests that media portrayals of Occupy Movement participants and their goals may not be accurate.

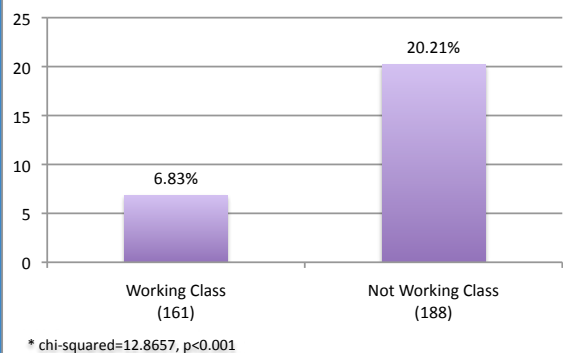
We hope that these results inspire further analysis and investigation into the movement by analysts, researchers, and decision-makers in order to better understand what this international uprising tells us about our current policies.

OCCUPY MOVEMENT



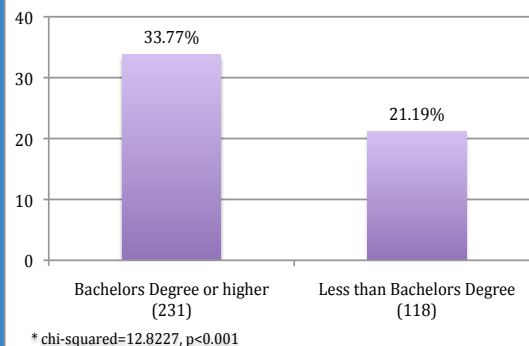
What change do you hope to see as a result of the Occupy Movement?⁴

Participants who mentioned equality/rights by class affiliation



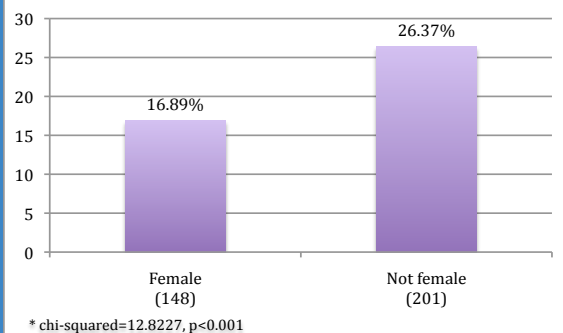
Middle and upper class participants made a general call for equality and rights. This may be due to class differences in expectations, which have recently been highlighted by the recent economic downturn.

Participants who mentioned systemic economic changes, by education level



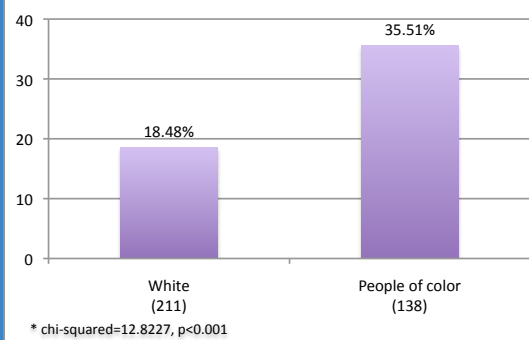
One third of participants with a Bachelor's degree or higher mentioned changes that include "end to capitalism," "tax the rich," "redistribute wealth," and "people over profits."

Participants who mentioned increased democracy/political system reforms by sex



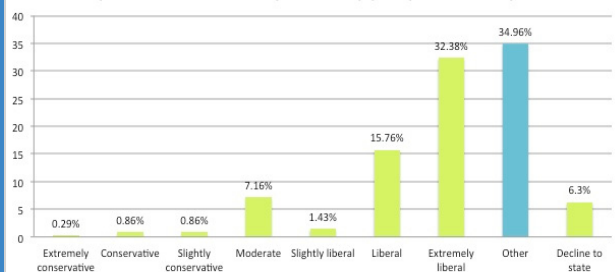
A higher proportion of male participants indicated their desire to reform the American political system.

Participants who mentioned a specific issue, by whiteness

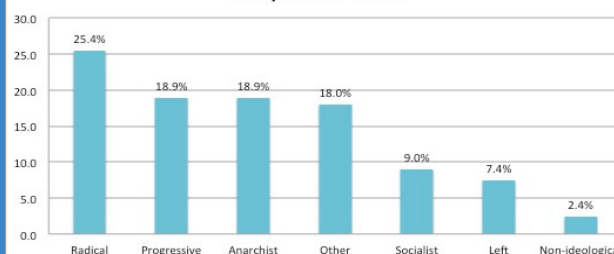


When asked what they would like to see as a result of the Occupy Movement, people of color mentioned specific issues more consistently than white respondents. Most commonly mentioned are "Healthcare," "Education," "Jobs," "Housing," "End to War," "Police Brutality," and "Prisons."

Responses to "how would you identify your political viewpoint"



Political identity of those who defined their political viewpoint as "other"





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OCCUPY MOVEMENT

Class Identification, by Income						
	Less than \$25,000	\$25,000 - \$50,000	\$50,000 - \$75,000	\$75,000 - \$100,000	Over \$100,000	
Working class (158)	73	49	22	4	10	
Lower middle class (60)	26	15	11	4	4	
Middle Class (73)	14	19	15	17	8	
Upper middle/ Upper class (26)	7	7	1	4	7	
Total (317)	120	90	49	29	29	

Sarah Thomason, Anna Johnson, and Florence Chien are each Master's in Public Policy students at the Goldman School of Public Policy. They would like to acknowledge the following people for contributing to the survey project: Andrew Abordonado, Angel Alvarado, Nate Cavaleri, Sheetal Dhir, Jocelyn Everroad, Sara Fewer, Medhi Fichtali, Matt Fidanque, Eileen Hays, Matthias Jaime, Shelley Jiang, Janine Kaiser, Ali Knox, Isaac Menashe, Anne Paprocki, Hope Richardson, Valerie Rosenberg, Anna Rubin, Jacob Schak, Dave Schwantes, Chris Simi, Lisa White, and Tara Zhang.

ENDNOTES

[1] We asked survey participants what change they hope to see as a result of the movement. The more times a word was mentioned in these answers, the larger the size of the word in this word cloud graphic.

[2] A chi-squared test revealed a significant difference between surveyors and who they surveyed based on gender (chi2 = 107.6836 with Pr = 0.010) and ethnicity (chi2 = 38.5355 with Pr = 0.005).

[3] U.S. Bureau of Labor Statistics, "Economy

at a Glance," http://www.bls.gov/eag/eag_ca_oakland_md.htm, (accessed April 12, 2012); U.S. Census Bureau, "Oakland (city) Quick Facts," <http://quickfacts.census.gov/qfd/states/06/0653000.html>, (accessed April 12, 2012); Bay Area Census, <http://www.bayareacensus.ca.gov>, (accessed April 12, 2012).

[4] This was an open ended question, and responses to this question were coded into the following categories: 1) systemic economic changes (end to capitalism, tax the rich, redistribute wealth, people over profits); 2) bank/finance/corporate reform (bank accountability, financial regulation,

end corporate personhood); 3) fairness, justice, rights, freedom, equality; 4) increase democracy and government reform (new political parties, decision making, freedom to protest, money out of politics, direct democracy); 5) specific issues (education, health, home foreclosures, police brutality, abolish prisons, etc.); 6) unification, community, mobilization, movement building, organizing; 7) end to oppression, racism, sexism, power to the disempowered; 8) revolution, liberation, anarchy, decolonize; 9) consciousness, political education, awareness; 10) dialogue; 11) peace, love, spiritual, cultural, non-violence; and, 12) other.





REACTIONS TO THE OCCUPY MOVEMENT: A CONVERSATION WITH FORMER U.S. SECRETARY OF LABOR ROBERT REICH

INTERVIEW BY ANDREW ABORDONADO AND SARAH THOMASON



Robert B. Reich has served in three national administrations, most recently as U.S. Secretary of Labor under President Bill Clinton. He also served on President-elect Obama's transition advisory board. He has written twelve books, including *The Work of Nations*. His newest book is called *Beyond Outrage: What Has Gone Wrong with Our Economy and Our Democracy, and How to Fix It*. His commentaries can be heard weekly on public radio's "Marketplace." In 2003, Reich was awarded the prestigious Vaclav Havel Vision Foundation Prize, by the former Czech president, for his pioneering work in economic and social thought. In 2008, *Time Magazine* named him one of the ten most successful cabinet secretaries of the century. He received his B.A. from Dartmouth College, his M.A. from Oxford University where he was a Rhodes Scholar, and his J.D. from Yale Law School.

PolicyMatters Journal (PMJ): *What circumstances do you feel inspired the Occupy Movement?*

Secretary Reich: There are two large and interlocking issues, the first being widening inequality, with regard to concentrated gains in the top 1 percent. Secondly, there is the consequence of that lopsided economy for democratic decision-making.

There is no doubt that the problem is worsening, and the median wage adjusted for inflation has been going nowhere. Almost all of the gains from growth since the great recession have gone straight to the top 1 percent.

The Supreme Court's *Citizens' United* decision, coupled with an older Supreme Court decision, *Buckley v. Vallejo*, have solidified the notion that the First Amendment protects moneyed speech--- that money is speech and that corporations are people.

This nation, historically, has dealt with widening inequality. We did it in the Progressive Era in the first decade of the 21st century, again in the 1930s, and the three decades after World War II.

In the 30 years following World War II, there was a highly progressive tax system plus public investments in education, infrastructure, and basic research and development, and the expansion of rights against discrimination based on gender, disability, and race. The Civil Rights Act widened the circle of prosperity to those who had been kept out of it. Eventually, hopefully sexual orientation will be included in that circle.

PMJ: *What kind of impact has the Occupy Movement had?*

Reich: It has legitimized a discussion about inequality and income, wealth, and political power. Even the President is using some of the framework that the Occupy Movement has come up with to describe what is happening to this country and to shape his campaign. It has garnered several front-page stories in major media outlets about growing inequality with respect to concentration of wealth in America. The story of inequality isn't new, but the demonstrations made it newsworthy.

PMJ: *For further sustained impact, what policy changes must be made to address some of the concerns brought up by the Occupy Movement?*

Reich: As for policies needed to reverse these problems, there are many policies that have bearing on widening





inequality, beginning with education and the stratification of education. There needs to be access to affordable higher education or good technical education.

Labor unions or other devices that increase the bargaining power of the lower two-thirds in terms of getting a larger share of the gains of economic growth should be strengthened.

Macroeconomic policy should be tipped toward fighting unemployment and focused on high growth rather than fighting inflation.

Safety nets that serve as springboards for new jobs, including job retraining, should be more widely provided. There should be wage insurance. Minimum wage should be linked to inflation and should be at least half the median wage.

We could have a constitutional amendment that gives Congress the authority to set limits on campaigns and on campaign spending.

The list is very long. The point is that there is not a magic bullet. I have no doubt that we will move in this direction. Current trends are simply not sustainable.

PMJ: *What about the political feasibility of these ideas?*

Reich: Political viability is not the will of the majority. If polls are to be believed, people want taxes to increase on the wealthy and most Americans do not want vital social services for the middle class and poor to be cut. However, democracy is overwhelmed with big money. Contrary to what is often alleged, money is not coming in any significant way from labor unions. Most of that money is coming from Wall Street and big corporations.

PMJ: *There are spring plans for the Occupy Movement to occupy unoccupied houses to bring attention to the fact that there are more empty homes in America than those that are occupied. What do you think about this idea?*

Reich: Any movement has got to be very careful to continue to win over the public. Any action that is viewed by the majority of the public to be illegitimate or socially dangerous is going to lose support. So, it has got to be viewed through those lenses. If an action leads to violence, it can lead the average American to view the movement as at odds with American values.

PMJ: *Do you have any recommendations for the Occupy Movement?*

Reich: I have many in my book. One, for example, is a voluntary corporate pledge of allegiance. Corporations would make a pledge of allegiance to the United States that outlines certain things they have to do for the United States and its people. Based on that pledge, consumers can decide whether to patronize those corporations. The Occupy Movement could be at the forefront of something like that.

“[The Occupy Movement] has legitimized a discussion about inequality and income, wealth, and political power. Even the President is using some of the framework . . . to describe what is happening to this country.”

There are also many legislative goals such as increasing taxes on the wealthy, capping the size of Wall Street banks and breaking them up, and so forth are issues that the Occupy Movement could get in front of.

All of these ideas are significant and are supported by the majority of Americans, but do not have the political power to get in place, so there is a political void that the Occupy Movement could be filling.



ACHIEVING DIVERSITY GOALS IN HIGHER EDUCATION: THE EFFECTS OF AUTOMATIC ADMISSIONS POLICIES

JACOB O. SCHAK

EDITED BY HOLLY AXE, SEAN LA GUARDIA, AND KATHERINE MURTHA

This article explains the history, development, and variations of Automatic Admissions Policies (AAPs) at universities. An AAP is an admission system in which the university automatically admits every applicant who satisfies a particular set of requirements, and they are often implemented in an attempt to increase enrollment of underrepresented minorities at universities. The article reviews frequently cited literature to evaluate and analyze the efficacy of AAPs, examining whether AAPs do in fact achieve as much racial and ethnic diversity as affirmative action. Cases in Texas, California, and Florida are explained and unintended consequences of AAPs are explored. The author makes several recommendations to adjust AAPs in ways that may make these programs more effective at increasing racial/ethnic diversity at universities.

INTRODUCTION

Until the Civil Rights Movement of the 1950s and 1960s, African-Americans and other minorities experienced separate and unequal opportunities in employment, voting, and education. Because of this system of discrimination, relatively few minorities were able to attend institutions of higher education. In fact, even after the end of official discrimination in the 1960s, disproportionately few minorities enrolled in college or gained economic success more broadly. Racial and ethnic inequality persisted in part because overt forms of discrimination were often replaced by more subtle actions, which still inhibited the success of minorities. Also, even in the absence of any discrimination, the legacy of racism continued to perpetuate inequality because minority children were born into families with fewer resources for social mobility and educational success. In order to remedy this inequity, some policymakers proposed that businesses and other institutions should not only discontinue discrimination, but also take affirmative action to increase the economic opportunities of underrepresented minorities.¹ For this reason, many universities have adopted affirmative action policies in order to include more underrepresented minorities at their campuses.²

As a key component of affirmative action, universities have afforded underrepresented minorities preferential treatment through race-conscious admissions policies.³ Under these policies, an African-American or Hispanic/Latino applicant is more likely to be admitted to a university than a Caucasian

or Asian applicant, holding all other factors equal.⁴ Hence, race-conscious admissions have bolstered the enrollment of minorities at universities.⁵ However, because these policies are not equitable across various races and ethnicities, opponents of affirmative action have made two substantive objections to race-conscious admissions. First, they assert that the preferential treatment of minorities is anti-meritocratic, and that less qualified minorities are unjustly admitted over more qualified candidates. Second, they note that a race-conscious admissions process is discriminatory, violating the notion that individuals should be treated equally before the law. These objections have led to a decline in public support for affirmative action.⁶ As a result, a series of judicial decisions and legislative initiatives have forced most public universities to abandon the use of explicit affirmative action during the admissions process.⁷

AUTOMATIC ADMISSIONS POLICIES

As an alternative to affirmative action, many public universities have opted instead for automatic admissions policies (AAPs). An AAP is an admission system in which the university automatically admits every applicant who satisfies a particular set of requirements. (After all eligible applicants are admitted, the remaining admission slots are awarded according to the university's normal admission process.) The principal difference between AAPs and traditional admission mechanisms is that AAPs follow strict formulas in selecting which students to admit. These formulas are limited to quantitative criteria such as GPA, class rank, and test scores, rather than qualitative considerations, such as extracurricular



activities and teacher recommendations. For instance, in the 2000s, the University of Texas (U.T.) adopted a “10 percent plan,” which automatically admitted any student who was ranked in the top 10 percent of his or her high school graduating class. Under this plan, a student who earned a GPA in the top 10 percent of their class was admitted, even if the other aspects of his or her application were relatively weak. In this sense, AAPs are less flexible than traditional admission procedures, which weigh a broader set of criteria.⁸

AAPs also have some properties that make them potentially suitable replacements for race-conscious admissions. First, AAPs avoid the legal and political difficulties of affirmative action because they do not grant preferences to applicants on the basis of race. Instead, AAPs use objective criteria (e.g., class rank) that are not closely linked to race/ethnicity. Second, AAPs may produce many of the same outcomes as race-conscious admissions. For example, policymakers in Texas expected the “10 percent plan” to increase racial diversity because Texas high schools were (and are) highly racially segregated. Thus, a subset of students (i.e., the top 10 percent) from predominantly African-American or Hispanic/Latino high schools would be automatically admitted—effectively guaranteeing the admission of some underrepresented minorities.⁹

The purpose of this article is to examine whether AAPs do in fact achieve as much racial and ethnic diversity as affirmative action. Although AAPs may exist for other reasons (such as increasing the diversity of nonracial characteristics among students), AAPs are primarily intended to increase or sustain racial diversity in the absence of race-conscious admissions. Therefore, in its examination of AAPs, this article focuses on the effectiveness of AAPs in increasing racial diversity at public universities. This paper reviews relevant literature from economics, education studies, and sociology in order to investigate whether AAPs increase racial and ethnic diversity. According to the most cited scholarship on the topic, AAPs do increase diversity when compared to no diversity policy at all, but do not enhance diversity as much as race-conscious admissions. Moreover, research on the institutional effects of AAPs show that some AAPs negatively impact high schools and universities. AAPs may exacerbate the level of segregation in high schools and undermine the competitiveness of flagship universities. Based on its review of the literature, this article recommends several improvements to AAPs that will (hopefully) allow universities to adequately promote ethnic diversity and fully replace race-conscious admissions, without negatively impacting each institution’s core academic mission.

THE ADVENT OF AUTOMATIC ADMISSIONS POLICIES

Up until the 1960s, de jure discrimination and segregation created vast disparities in education and earnings among racial groups in the United States. As a remedy to this inequality,

President Lyndon Johnson signed Executive Order 11246 in 1965, which required private firms to take affirmative action to ensure that employees are treated equally with respect to race and national origin.¹⁰ Soon, the nation’s largest public universities adopted their own affirmative action policies.¹¹ In addition to the preferential treatment of minorities in admission decisions, affirmative action included measures such as the targeted recruitment of minority students and the provision of support services for minority enrollees. These latter forms of affirmative action were relatively uncontroversial and remain in place at most postsecondary institutions to this day.¹²

However, race-conscious admissions policies faced mounting legal and political constraints. In *Regents of the University of California v. Bakke* (1978), the Supreme Court banned the use of racial quotas as a means to achieve diversity in public higher education. In response, some universities shifted to point-based admission systems in which African-Americans and Hispanics/Latinos were awarded extra points as a result of their race/ethnicity.¹³ In 2003, however, the Supreme Court prohibited this arrangement (*Gratz v. Bollinger; Grutter v. Bollinger*). The Court ruled that universities could use race/ethnicity as a “plus factor” as part of a comprehensive review of each application, but that universities could not add points to admission scores on the basis of race/ethnicity. Because of the large size of applicant pools at most public universities, this decision made race-conscious admissions infeasible. Making matters worse, several states banned affirmative action in higher education altogether. For example, in 1996, California voters passed Proposition 209, which prohibited the University of California (U.C.) from applying any race-based preferences (including “plus factors”) in admissions.¹⁴ As a result, most public universities have eliminated race-conscious admission policies.

Following this decline in affirmative action, public universities began to implement AAPs in order to increase racial/ethnic diversity. Large public universities favored AAPs over other alternatives to affirmative action, citing cost concerns about other diversity-enhancing procedures. For instance, comprehensive review—in which admissions officers weigh extra-curricular activities, personal statements, and other qualitative considerations—is far too labor intensive for most large public universities to implement.¹⁵ Hence, universities have generally opted for either race-based admissions or AAPs.¹⁶ The first AAPs emerged in 1997, when the Texas legislature approved a plan in which state residents who ranked in the top 10 percent of their high school class would be automatically admitted. Soon, AAPs were approved in Florida (1999), California (1999), and ten other states (as of fall 2011).¹⁷

Table 1 categorizes these states among the three major types of AAPs. Five states use a “percent plan” (first column).

ACHIEVING DIVERSITY GOALS IN HIGHER EDUCATION

Under this AAP, students who rank in the top X percent of their high school class (according to GPA) are admitted. Six states grant admission based on a minimum threshold of high school GPA and test scores (second column). Meanwhile, five states calculate an index score of each applicant's qualifications on the basis of grades, test scores, and/or courses completed (third column). Applicants who have an index score that exceeds a certain threshold are admitted. Finally, some states use a hybrid process. For instance, in California, applicants are admitted if they either rank in the top nine percent of their graduating class or if they rank in the top nine percent of all California applicants, according to the admission index.¹⁸

AUTOMATIC ADMISSIONS POLICIES AND RACIAL DIVERSITY

Given that AAPs are now in place in more than a dozen states, it is important to consider how effective these policies have been at increasing racial/ethnic diversity at public universities. Researchers have primarily studied outcomes in California, Florida, and Texas because these states have large student populations and contain the most selective public universities that use an AAP.²⁰ In all three cases, African-American and Hispanic/Latino enrollment decreased sharply without the presence of race-conscious admissions or AAPs. For example, at U.C.L.A., African-American enrollment decreased from 7.4 percent of all freshmen in 1995 to 3.5 percent in 1998, while

Hispanic/Latino enrollment decreased from 22.4 percent to 11.0 percent during the same period.²¹ This decrease in enrollment was mainly due to a decrease in both minority acceptance and application rates, which occurred immediately after the end of traditional affirmative action.

Without race-conscious admissions, minority acceptance rates fell and many African-American and Hispanic/Latino students became discouraged from applying to state universities. A longer-term decline in minority yield rates (the percent of admitted students who enroll) further reduced diversity because, as state universities became less diverse, they also became less desirable for underrepresented minorities.²² In order to reverse these effects, California, Florida, and Texas quickly implemented AAPs.

Before proceeding with an analysis of the outcomes in these three states, two important caveats merit further discussion. First, without a high level of segregation at high schools, most AAPs will (by design) have little positive effect on campus diversity. This limitation exists because the strategy of most AAPs is to select top minority students from predominantly minority high schools. If predominantly minority high schools do not exist, then underrepresented minorities will only be eligible for automatic admission if they have better grades (or test scores) than their Caucasian and Asian class-

Table 1. State University Systems with Automatic Admissions¹⁹

State	One of the following needed for eligibility:			Additionally requires completion of college preparatory courses	Eligibility guarantees admission to:	
	High school rank threshold	GPA and test score threshold	Admissions index threshold*		Every campus within state university system	At least one campus within state university system
Alaska	X			X		X
Arkansas		X		X		X
California	X		X	X		X
Colorado	X		X	X		X
Florida	X			X		X
Iowa			X			X
Kansas		X		X		X
Louisiana**		X		X	X	X
Missouri		X	X	X		X
North Dakota			X	X		X
Oklahoma		X		X	X	
Oregon**		X			X	X
Texas	X				X	

* Index score based on the student's high school rank, GPA, test scores, and/or number of preparatory high school courses completed.

** Each campus has its own AAP with its own separate requirements. Hence, students with high enough grades and test scores can be automatically admitted to every campus, while other students may only be eligible for specific campuses.



mates, in which case they will probably be admitted without any AAP at all. Hence, due to a greater degree of racial integration in California, the California system can be expected to be less effective than the AAPs of Texas and Florida from the outset. Second, because automatic admission mechanisms vary substantially across states, the data from California, Florida, and Texas may not be generalizable to the entire country. However, the AAPs used by these three states still provide some well-documented natural experiments regarding the effect of automatic admission on racial diversity, at least for states with similar demographic and educational characteristics. Outcomes from these programs offer considerable insight in terms of how AAPs can be improved, given that explicit race-conscious admissions policies have not withstood legal challenges.

TEXAS

Most evidence indicates that AAPs were not as effective as race-conscious affirmative action in increasing racial/ethnic diversity in Texas. Dickson employs an analysis of ACT and SAT completion rates in order to measure the impact of Texas' 10 percent plan on minority application rates.²³ According to the paper, African-American and Hispanic/Latino high school students were less likely to apply to any public or private university after the 10 percent plan was adopted. Dickson suggests that this decrease was due to the fact that nearly all African-American and Hispanic/Latino high school students were ineligible for automatic admission.²⁴ Since the AAP signaled a high likelihood of rejection for most minorities, many of these students were discouraged from applying to college altogether. Harris and Tienda corroborate this finding. They use data from the Texas Education Agency to measure the effects of three policy regimes—affirmative action, no diversity policy, and the 10 percent plan—on application behavior, admission, and enrollment. Although the 10 percent plan increased diversity relative to no policy at all, Texas's AAP was less effective than affirmative action. Harris and Tienda estimate that, in an average year, 204 fewer Hispanics/Latinos were admitted to U.T. at Austin than would have been admitted under affirmative action, and go on to note that minority application and yield rates declined significantly during the 10 percent regime.²⁵

On the other hand, a few studies suggest that the 10 percent plan acted as an effective alternative to race-conscious admissions. Niu and Tienda estimate how much the AAP increased the probability that a top high school student would enroll at the University of Texas. They report that Texas's AAP significantly increased this probability for a top 10 percent student from a predominately minority high school.²⁶ This policy increased the enrollment probability for such a student by 12 percent, compared to a student ranked just below the top 10 percent at the same high school.²⁷ Niu and Tienda caution that this finding does not demonstrate an

increase in university diversity, rather the results imply that the Texas plan encouraged high achieving minorities to enroll at a state university. The study offers no evidence on whether the AAP boosted the total enrollment of underrepresented minorities. In fact, the 10 percent plan had the largest positive effect (by far) on already well-represented Asian applicants, rather than African-Americans or Hispanics/Latinos.²⁸ Thus, the data bolster the hypothesis that percent plans provide little benefit for underrepresented minorities.

In contrast, Alon and Tienda assert that AAPs enhance racial diversity. The authors argue in favor of the “shifting meritocracy” hypothesis, which argues that postsecondary institutions have become increasingly reliant on test scores to screen applicants. Since minority students tend to underperform on high-stakes tests, this shift has made it more difficult for universities to achieve diversity without the use of race-conscious admissions. Public universities can counter these adverse effects by implementing percent plans, which effectively decrease the weight given to test scores. That is, under percent plans, some minorities may be admitted to public institutions without any consideration of their test scores, which in theory should improve racial diversity. In verifying this hypothesis, Alon and Tienda estimate that the Texas AAP boosted the probability of admission for minorities to the same level present in 1996—the last year of race-conscious admissions.²⁹ Although this evidence seems to support the efficacy of the Texas plan, other studies have indicated that the percentage of minority applicants offered admission rebounded due to a decline in the number of minority applicants, rather than an increase in the number of minorities accepted. The AAP probably discouraged less-qualified African-American and Hispanic/Latino students from applying to the state system, raising the overall quality of the minority applicant pool.³⁰

FLORIDA AND CALIFORNIA

AAPs in Florida and California were even less effective in promoting racial diversity. In 2000, Florida implemented a percent plan called the “Talented 20 Program,” in which in-state applicants who ranked in the top 20 percent of their high school class were admitted to at least one state university. While the plan guaranteed Talented 20 applicants admission to the university system as a whole, applicants still needed to apply to each campus separately. Based on administrative data, 87 percent of Talented 20 students were accepted through the regular admissions process, and by implication, would have been admitted in lieu of the percent plan. More importantly, 95 percent of blacks and 85 percent of Hispanics/Latinos would have been admitted under the usual process.³¹ As a consequence, the AAP had little impact on the racial diversity at the University of Florida.



ACHIEVING DIVERSITY GOALS IN HIGHER EDUCATION

In California, the AAP produced similar results. The California Master Plan for Higher Education specifies that the U.C. system should admit all in-state applicants who fall in the top 12.5 percent of the state's high school student population. Until recently, the U.C. system followed this mandate by admitting every applicant who ranked in the top four percent of her high school class or who satisfied a minimum threshold on the statewide admission index. The four percent plan—known as Eligible in Local Context (ELC)—was aimed at increasing racial/ethnic and geographic diversity. Nevertheless, data available from the first year of the policy, 2001, indicate that ELC had little effect on racial diversity within the U.C. system (see Figure 1 and Figure 2). According to a U.C. report, ELC only applied to an elite group of high school students (the top four percent) so that virtually all students who were accepted under ELC would have been admitted through the statewide index anyway.³² Also, because ELC did not guarantee admission to specific campuses, the racial/ethnic composition at the flagship campuses (i.e., U.C. Berkeley and U.C.L.A.) remained unchanged.³³ Therefore,

according to the 2001 data, the AAP in California did not enhance racial diversity in the U.C. system.

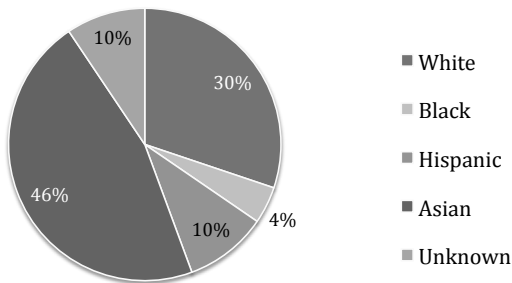
Beginning with the admissions cycle for Fall 2012, California expanded ELC to admit any high school student who is in the top nine percent of her graduating class.³⁶ This policy has not existed for a long enough period of time to be able to ascertain its effects on diversity. However, this new version of ELC is unlikely to improve racial/ethnic diversity for two reasons. First, only a small fraction of African-American and Hispanic/Latino high school students meet the course requirements necessary to be eligible for ELC.³⁷ According to a U.C. report, about two-thirds of high schools with majority African-American and Hispanic/Latino populations do not offer enough courses to satisfy eligibility requirements.³⁸ Thus, even with the expansion of ELC, few underrepresented minorities will benefit from the mechanism. Second, although many California high schools contain disproportionately African-American or Latino/Hispanic populations, they are less segregated than their Texas counterparts. Consequently,

Figure 1. Change in Freshman Enrollment, by Race/Ethnicity³⁴

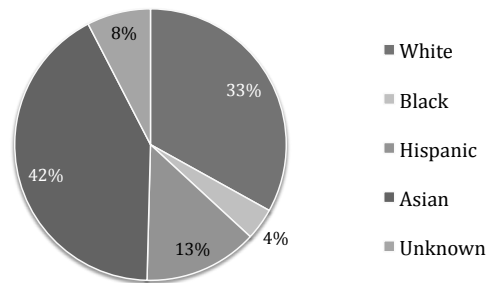
	Fall 2000		Fall 2001	
	U.C. Berkeley	U.C.L.A.	U.C. Berkeley	U.C.L.A.
White	29.5%	32.2%	28.6%	30.6%
Black	4.3	3.7	3.9	3.4
Hispanic	9.6	13.2	10.8	14.4
Asian	45.2	40.9	45.4	42
Unknown	9.2	7.4	9.3	7.3

Note: American Indians and “other” category not reported by source.

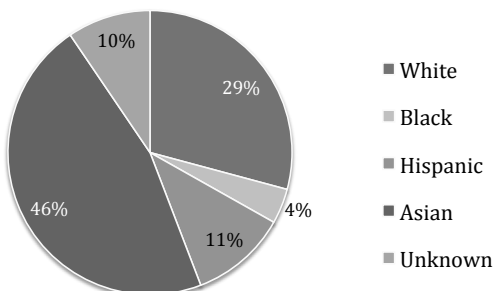
**U.C. Berkeley, Fall 2000
(without AAP or Race-Conscious Admissions)**



**U.C.L.A., Fall 2000
(without AAP or Race-Conscious Admissions)**



U.C. Berkeley, Fall 2001 (with AAP)



U.C.L.A., Fall 2001 (with AAP)

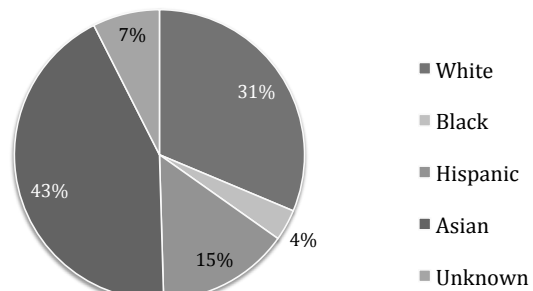


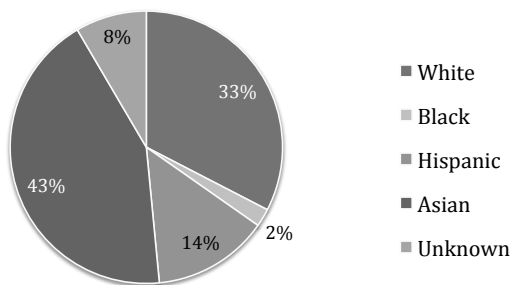


Figure 2. Distribution of ELC Students Admitted, by Race/Ethnicity, Summer/Fall 2001-2002³⁵

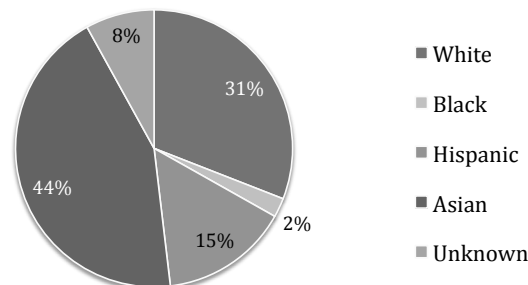
Summer/Fall 2001-2002				
	U.C. Berkeley		U.C.L.A.	
White	32%	White	30.4%	
Black	2.1	Black	2.2	
Hispanic	13.5	Hispanic	14.7	
Asian	42.3	Asian	43.1	
Unknown	8.3	Unknown	7.9	

Note: American Indians and “other” category not reported by source.

U.C. Berkeley, Summer 2001-Fall 2002



U.C.L.A., Summer 2001-Fall 2002



any percent plan in California will tend to have even less of an effect on racial/ethnic diversity than the 10 percent plan in Texas.³⁹ As was the case in Texas and Florida, California’s AAP is unlikely to restore student diversity to the same level that existed under race-conscious admissions.

INSTITUTIONAL CHANGES AT HIGH SCHOOLS AND UNIVERSITIES

The advent of AAPs has resulted in notable consequences for high schools and universities. First, because percent plans reward high achieving applicants who attend low-performing high schools, many students and parents have engaged in strategic behavior when selecting schools. One study in Texas found that among middle school students who were college bound and had a choice of high school, as many as 25 percent chose to attend less-competitive high schools in order to improve their chances of placing in the top 10 percent of their class. Surprisingly, most of these students were under-represented minorities, implying that the AAP did not lead to racial integration. Rather, the 10 percent plan prompted high achieving minorities to enroll at (lower quality) neighborhood schools, as opposed to (higher quality) magnet schools. While no research has been conducted on the effects of this behavior on achievement, one can infer that on average, strategically choosing a lower quality high school may adversely impact the academic development of these students. Viewed in this light, AAPs—or at least percent plans—might actually widen the racial achievement gap among high school students.

Another concern is that AAPs might force elite universities to accept under-qualified students. The evidence regarding this issue is mixed. Alon and Tienda estimate that 10 percent

students at the U.T. were more likely to graduate than others in their cohort. The authors argue that this outcome shows that percent plans are both meritocratic and equitable. More recent papers, however, support very different conclusions. For instance, an analysis from Texas finds that the 10 percent plan had negative effects on undergraduate outcomes. This paper statistically identifies the enrollees who were admitted under the 10 percent plan, but who would have been rejected without the AAP. The author compares these students to the others in their cohort and finds that they performed worse—as measured by first semester GPA, sixth semester GPA, and graduation probability. Although the literature is mixed, this study provides evidence that AAPs can cause a mismatch between elite public universities and less qualified students.

THE FUTURE OF AUTOMATIC ADMISSION POLICIES

Since AAPs are not ideal alternatives to affirmative action, policymakers and administrators should consider making the following improvements to these mechanisms:

- **AAPs should have simple eligibility criteria.** Percent plans are preferable because they generally have a greater effect on the diversity of public institutions. This simplification of eligibility criteria would make AAPs easier to understand, and as a result, encourage disadvantaged students to apply to college. Also, universities should exempt top high school students from course completion prerequisites. By eliminating course requirements, AAPs would benefit students who attend high schools with few college preparatory courses.



ACHIEVING DIVERSITY GOALS IN HIGHER EDUCATION

- **AAPs should grant students admission to the campus of their choice.** The literature has shown that AAPs that guarantee students admission to only one campus have less of an impact on diversity than AAPs that guarantee students admission to a campus of their choice. Such AAPs allow eligible students to attend flagship universities, while the one-campus plans tend to assign students (especially low-income minorities) to lower quality institutions. Hence, campus-of-choice AAPs provide underrepresented groups with a greater opportunity to enroll at elite institutions.
- **AAPs should determine no more than a fixed percentage of admitted students.** The number of students who are accepted through an AAP should be limited, because otherwise, the AAPs become too constraining on admission decision-making. By capping the share of AAP admits, universities can preserve the competitiveness of the pool of students that they admit.

CONCLUSION

This article examines whether automatic admission policies (AAPs) are as effective as race-conscious admission procedures in promoting racial diversity at public universities. Although AAPs may serve as a tacit form of affirmative action, they are not as effective at enhancing diversity as traditional affirmative action programs. Moreover, some AAPs have negative side effects. AAPs (especially percent plans) may

undermine desegregation efforts at high schools and reduce the competitiveness of flagship universities. In order to make AAPs more effective and less costly, decision-makers should consider three important modifications. First, the eligibility criteria of AAPs should be simplified as much as possible. Second, AAPs should grant students admission to campuses of their choice. Third, the number of admission slots filled by AAPs should be capped at some fixed percentage of admitted students. These recommendations would help provide greater access to higher education for underrepresented minorities, while preserving the quality of public universities.

Another potential improvement to AAPs would be to combine automatic admissions with recruitment and financial aid programs that are targeted at low-income high schools. Such efforts at U.T. Austin and Texas A&M (through the Longhorn Opportunity Scholarship and Century Scholar programs) have successfully attracted more applications from students at disadvantaged high schools. However, the research is less clear on whether these efforts have increased the enrollment of underrepresented minorities at public universities. A worthwhile extension to this article would be an investigation of whether these targeted programs can be combined with AAPs to provide underrepresented minorities the same level of opportunities that they received under race-conscious admissions.

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ENDNOTES

[1] For the purposes of this article, underrepresented minorities are defined as African-American or Hispanic/Latino students.

[2] Susan K. Brown and Charles Hirschman, "The End of Affirmative Action in Washington State and Its Impact on the Transition from High School to College," *Sociology of Education* 79 (2006): 106–130. To note the level of discussion that these articles have received, the results from a Web of Science citation search will be presented here for each article. This particular article has been cited 15 times since 2006. Brown has been cited 43 times since 2006 (excluding self-citations). Hirschman has been cited 1154 times since 1992 (excluding self-citations).

[3] Catherine L. Horn and Stella M. Flores, *Percent Plans in College Admissions: A Comparative Analysis of Three States' Experiences* (Cambridge, MA: The Civil Rights Project at Harvard University, 2003). Horn

has been cited twice since 2009. Flores has been cited five times since 2010.

[4] By some estimates, race-conscious admissions have increased the probability of an African-American or Hispanic/Latino student being admitted to a flagship institution by as much as 42 percent. Mark C. Long, "Affirmative Action and Its Alternatives in Public Universities: What Do We Know?" *Public Administration Review* 67, no. 2 (2007): 315–330. This article has been cited 19 times since 2004. Long has been cited 29 times since 2006.

[5] Brown and Hirschman, "The End of Affirmative Action," 106–130.

[6] In 1997, a New York Times poll indicated that 52 percent of Caucasian Americans support abolishing affirmative action. Long, "Affirmative Action and Its Alternatives," 315–330.

[7] Mark C. Long, "Race and College Admissions:

An Alternative to Affirmative Action?" *The Review of Economics and Statistics* 86, no. 4 (2004): 1020–1033.

[8] Ibid.

[9] Ibid.

[10] Yolanda F. Niemann and Geoffrey Maruyama, "Inequities in Higher Education: Issues and Promising Practices in a World Ambivalent about Affirmative Action," *Journal of Social Sciences*

[11] Daniel N. Lipson, "The Resilience of Affirmative Action in the 1980s: Innovation, Isomorphism, and Institutionalization in University Admissions," *Political Research Quarterly* 64, no. 1 (2011): 132–144. This article has been cited once since 2011. Lipson has been cited 13 times since 2007.

[12] Horn and Flores, *Percent Plans in College Admissions*.



- [13] Sigal Alon and Marta Tienda, "Diversity, Opportunity, and the Shifting Meritocracy in Higher Education," *American Sociological Review* 72, no. 4 (2007): 487–511. This article has been cited 32 times since 2007. Alon has been cited 177 times since 1994. Tienda has been cited 2,082 times since 1992.
- [14] Daniel N. Lipson, "The Resilience of Affirmative Action in the 1980s," 132–144.
- [15] The transition that was required by the *Grutter* and *Gratz* rulings is estimated to have cost the University of Michigan \$1.5 to \$2 million per year. Long, "Affirmative Action and Its Alternatives," 315–330.
- [16] *Ibid.*
- [17] Horn and Flores, *Percent Plans in College Admissions*.
- [18] "California Residents / Two Paths to UC," University of California, <http://www.universityofcalifornia.edu/admissions/freshman/california-residents/index.html>.
- [19] James A. Beckman, *Affirmative Action Now: A Guide for Students, Families, and Counselors*, (Westport, CT: Greenwood Press, 2006);
- [20] Long, "Affirmative Action and Its Alternatives," 315–330.
- [21] Horn and Flores, *Percent Plans in College Admissions*.
- [22] Angel Harris and Marta Tienda, "Minority Higher Education Pipeline: Consequences of Changes in College Admissions Policy in Texas," *The Annals of the American Academy of Political and Social Science* 627, no. 1 (2010): 60–81. This article has been cited twice since 2010. Harris has been cited 35 times since 2006. Tienda has been cited 2082 times since 1992.
- [23] Lisa M. Dickson, "Does Ending Affirmative Action in College Admissions Lower the Percent of Minority Students Applying to College?" *Economics of Education Review* 25, no. 1 (2006): 109–119. This article has been cited 11 times since 2006. Dickson has been cited 28 times since 1993.
- [24] Consider a school that is close to 100 percent African-American or Hispanic/Latino. Dickson notes that 90 percent of minorities at such a school are ineligible for automatic admission because they are (by definition) not in the top ten percent. The prognosis can be even worse at integrated schools. Since underrepresented minorities tend to underachieve, well over 90 percent of underrepresented minorities at integrated schools are ineligible for automatic admission.
- [25] Harris and Tienda, "Minority Higher Education Pipeline," 60–81.
- [26] Sunny X. Niu and Marta Tienda, "The Impact of the Texas Top 10 Percent Law on College Enrollment: A Regression Discontinuity Approach," *Journal of Policy Analysis and Management* 29, no. 1 (2007): 84–116. This paper has not yet been cited. Niu has been cited 25 times since 1998. Tienda has been cited 2082 times since 1992.
- [27] Similar results have been found with respect to application rates to U.T. Austin and Texas A&M. Rodney J. Andrews, Vimal Ranchhod, and Viji Sathy, "Estimating the Responsiveness of College Applications to the Likelihood of Acceptance and Financial Assistance: Evidence from Texas," *Economics of Education Review* 29 (2010): 104–115. This article has been cited once since 2010. Andrews has been cited once since 2005, Ranchhod has been cited 5 times since 2006, and Sathy has been cited 9 times since 2004.
- [28] Niu and Tienda, "Impact of the Texas Top 10 Percent Law on College Enrollment," 84–116.
- [29] Sigal Alon and Marta Tienda, "Diversity, Opportunity, and the Shifting Meritocracy in Higher Education," *American Sociological Review* 72, no. 4 (2007): 487–511.
- [30] Harris and Tienda, "Minority Higher Education Pipeline," 60–81; David Card and Alan B. Krueger, "Would the Elimination of Affirmative Action Affect Highly Qualified Minority Applicants? Evidence from California and Texas," *Industrial & Labor Relations Review* 58, no. 3 (2005): 416–434. The latter article has been cited 27 times since 2005. Card has been cited 3956 times since 1993. Krueger has been cited 294 times since 1993.
- [31] Long, "Race and College Admissions," 1020–1033.
- [32] Michael T. Brown, Mark Rashid, and David Stern, "UC 'Eligibility': The Quest for Excellence and Diversity," *Equal Opportunity in Higher Education: The Past and Future of California's Proposition 209* (Cambridge: Harvard Education Press, 2010). This paper was presented to the U.C. Board of Regents for internal use and is an unpublished document.
- [33] Horn and Flores, *Percent Plans in College Admissions*.
- [34] *Ibid.*, Table 29. The values represented in Figure 1 come from Horn and Flores.
- [35] *Ibid.*, Table P1. The values represented in Figure 2 come from Horn and Flores.
- [36] "Admission as a Freshman," University of California, Davis Office of the Registrar, <http://registrar.ucdavis.edu/UCDWebCatalog/admission/freshman.html>.
- [37] Horn and Flores, *Percent Plans in College Admissions*. The "A–G" course requirements can be summarized as the following: **(a) History / Social Science** – Two years; one of world history, cultures, and historical geography and one of US history, civics and American government; **(b) English** – Four years of college preparatory English, writing, and reading of classic and modern literature; **(c) Mathematics** – Three years of college preparatory mathematics that include algebra and two- and three-dimensional geometry; **(d) Laboratory Science** – Two years of laboratory science in at least two of three disciplines: biology, chemistry, and physics; **(e) Language Other Than English** – Two years of the same language other than English; **(f) Visual & Performing Arts** – One year, including dance, drama/theater, music, or visual art; **(g) College Preparatory Elective** – One year (two semesters), chosen from additional "a–f" courses beyond those used to satisfy the requirements above, or courses that have been approved solely for use as "g" electives. "General Requirements, by Subject Area," University of California, http://www.ucop.edu/a-gGuide/ag/a-g/a-g_reqs.html, (accessed April 11, 2012).
- [38] University of California Undergraduate Work Team of the Study Group on University Diversity, "Recommendations and Observations" (September 2007), http://www.universityofcalifornia.edu/diversity/documents/07-diversity_report.pdf (accessed April 11, 2012).
- [39] Long, "Race and College Admissions," 1020–1033.
- [40] Julie B. Cullen, Mark C. Long, and Randall Reback, "Jockeying for Position: Strategic High School Choice Under Texas' Top Ten Percent Plan," Working Paper 16663, National Bureau of Economic Research (2011). Cullen has been cited 39 times since 2006, Long has been cited 29 times since 2006, and Reback has been cited 44 times since 2004.
- [41] Alon and Tienda, "Shifting Meritocracy in Higher Education," 487–511.
- [42] Eric Furstenberg, "Academic Outcomes and Texas's Top Ten Percent Law," *The Annals of the American Academy of Political and Social Science* 627 (2009): 167–183. This article has never been cited. Furstenberg has also never been cited.
- [43] Long, "Race and College Admissions," 1020–1033.
- [44] Beginning in the fall of 2011, Texas implemented this sort of approach by effectively reducing its ten percent plan to an "eight percent plan." "Automatic Admission," University of Texas at Austin, <http://bealonghorn.utexas.edu/freshmen/after-you-apply/automatic-admission>.
- [45] Rodney J. Andrews, Vimal Ranchhod, and Viji Sathy, "Estimating the Responsiveness of College Applications," 104–115.



UNDOCUMENTED IMMIGRANT STUDENTS IN COLLEGE: COPING WITH CHALLENGES AND ADVOCATING FOR CHANGE

CLARA HASKELL BOTSTEIN

EDITED BY SHEETAL DHIR, SARAH THOMASON, AND ANDREW ABORDONADO

This article highlights the primary challenges faced by undocumented students pursuing higher education in the United States and describes how college students, particularly those in California, have addressed those challenges through peer networks and advocacy on behalf of state and federal legislation. The article discusses these advocacy efforts as well as the key laws and policies impacting undocumented students' lives. The article weaves together information from student interviews, academic publications, newspaper articles, advocacy materials, and pertinent legislation in an attempt to provide a comprehensive and humanistic examination of the obstacles undocumented students face.

INTRODUCTION

As of March 2010, there were approximately 11.2 million undocumented immigrants in the United States, many of whom came to the country with their children.¹ Following the 1982 Supreme Court decision *Plyler v. Doe*, all undocumented youth have the legal right to attend primary and secondary school in the United States.² As a result, many undocumented children are enrolled in elementary and/or secondary school; experts estimate that approximately 65,000 undocumented students graduate from U.S. high schools every year.³ Due to their undocumented status, however, when these children turn 18, they face substantial legal, financial, and psychological obstacles that hinder their ability to pursue higher education. Only between 5 and 10 percent of undocumented youth in the United States go to college.⁴

Among undocumented immigrant students who pursue post-secondary education, some have found ways to cope with and proactively address the issues generated by their status through peer networks and advocacy efforts on behalf of state and federal legislation. There are approximately 1,620 undocumented students in public colleges and universities in California⁵—the top destination state for undocumented immigrants. As of 2005, there were approximately 400,000 undocumented children in California. Undocumented students comprised 0.065 percent of the 2.5 million students enrolled in California's higher education institutions.⁶ Particularly within the University of California system, strong peer networks and advocacy structures have developed that

can serve as blueprints for undocumented students in public and private campuses across the country. The legislation and policies these students advocate for, including post-secondary tuition and financial aid policies, anti-deportation initiatives, and the federal DREAM Act, give clear direction to policy makers as to how they can improve the daily lives and long-term success of these students.

CHALLENGES FACED BY UNDOCUMENTED YOUTH

HOSTILE POLITICAL AND LEGAL ENVIRONMENT

Recent state legislation and federal policies have created a hostile climate for immigrant communities, particularly undocumented residents. In April of 2010, Arizona Governor Jan Brewer signed into law the Support Our Law Enforcement and Safe Neighborhoods Act. Known as Arizona Senate Bill 1070, this stringent anti-immigration legislation makes the failure to carry immigration documents a crime and gives the police broad power to detain anyone suspected of being in the country illegally.⁷ The law was the first in the country to force immigrants to carry documents identifying themselves as having legal status. Other states, including Georgia and Alabama, have followed Arizona's lead. In June of 2011, Alabama passed the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, or Alabama House Bill 56, widely considered to be the most severe anti-immigration bill to date.⁸

In addition to state laws, federal policies have negatively impacted immigrant communities. A prime example is the





Department of Homeland Security's Secure Communities program, which was created in 2008.⁹ Under Secure Communities, which was designed to identify undocumented immigrants in U.S. jails, participating jails submit the fingerprints of anyone arrested to immigration databases in addition to criminal ones, thereby allowing Immigration and Customs Enforcement (ICE) officials to see an arrested individual's immigration status and place the individual in deportation proceedings.¹⁰ The program means that undocumented immigrants charged with offenses—even if they are not found guilty (this includes people pulled over for traffic violations)—have a much higher risk of deportation. ICE reported that as of September 30, 2010, 4.2 million fingerprint submissions had resulted in 343,829 database matches and 64,072 deportations.¹¹ Raids in which ICE agents go into communities and arrest people without proper documentation also create fear and disruption in immigrant communities, as they often lead to deportation and can break apart mixed-status families.¹² As a result of raids and programs like Secure Communities, the U.S. is deporting a record number of immigrants. During the 2010 fiscal year, the Department of Homeland Security deported approximately 392,000 people.¹³

Immigrant rights groups criticize anti-immigration laws as authoritarian and discriminatory measures; proponents argue they are necessary for upholding the law, preserving jobs for U.S. citizens, and reducing expenditures on government-provided services used by undocumented residents.¹⁴

BARRIERS TO HIGHER EDUCATION

Undocumented students face a variety of barriers, particularly financial barriers, which impact their ability to pursue higher education. Since federal laws do not prohibit undocumented students from attending U.S. colleges and universities,¹⁵ states have discretion over whether or not to admit undocumented students to public institutions of higher education. While only a few states officially bar undocumented students from attending public colleges and universities, many others make doing so more financially difficult for undocumented students by denying them access to in-state tuition and financial aid. Most public colleges and universities require undocumented students to pay nonresident tuition. A number of states, including Arizona, Colorado, Georgia, and South Carolina, have enacted laws that specifically prohibit undocumented students from receiving in-state tuition.¹⁶ Others, including California, Illinois, Kansas, Nebraska, New Mexico, New York, Oklahoma, Texas, Utah, and Washington,¹⁷ allow undocumented students to access aid by basing eligibility for in-state tuition on high school graduation or other criteria. To receive in-state tuition in California under the current law, Assembly Bill 540 (AB 540),¹⁸ students must have attended a state high school for three or more years, graduated from a state high school or obtained a GED, and signed an

affidavit saying they have filed (or will do so when eligible) an application to become a legal permanent resident.¹⁹

Additional financial and other barriers to higher education exist for undocumented students. Undocumented students do not qualify for federal financial aid,²⁰ most state-based financial aid, or most scholarships,²¹ and they are greatly limited in their ability to find part-time jobs due to their immigration status. These factors augment the financial burdens of higher education for undocumented students. In addition, many individual public and private colleges create barriers to entry for undocumented students by requiring proof of citizenship or immigration status on applications.²² Finally, undocumented students often face barriers to higher education as a result of receiving inadequate information about college. Since policies with respect to undocumented students are not uniform across states and post-secondary educational institutions, it can be difficult for students to understand which schools they can apply to and afford.²³ This challenge is exacerbated by the fact that few undocumented students have parents who have been through the college application process in the United States and that undocumented students do not qualify for federally funded college access programs.²⁴

THE DREAM ACT

There have been various efforts to help undocumented immigrants, and students specifically, gain a path to legalization. One of the most important initiatives is the federal DREAM (Development, Relief, and Education for Alien Minors) Act. First introduced in 2001 as bipartisan legislation in the U.S. Senate by Senators Hatch (R-Utah) and Durbin (D-Illinois), the DREAM Act aims to solidify the right of undocumented students to access in-state tuition and public institutions of higher education, and to provide these students with a pathway to citizenship. The 2009 version of the DREAM Act would have provided a pathway to legalization for undocumented students who met certain qualifications and attended college or served in the military for two years. It would also have repealed Section 505 of the Illegal Immigration Reform and Immigrant Responsibilities Act of 1996, which discourages states from offering in-state tuition to undocumented students.²⁵ To be eligible for the DREAM Act's benefits, students would have to satisfy the following criteria: lived in the United States for five or more years; entered the country before the age of 16; been present in the U.S. for five consecutive years prior to the bill's enactment; been between the ages of 12 and 35 at the time of application; had "good moral character"; and earned a high school diploma or GED or gained admission to a post-secondary institution.²⁶ The 2009 DREAM Act passed in the U.S. House of Representatives for the first time since the bill's introduction in 2001, but failed to pass in the Senate.

COMMENTARY



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POTENTIAL PSYCHOLOGICAL IMPACTS OF UNDOCUMENTED STATUS

This section describes a number of psychological impacts experienced by undocumented students in the United States as a result of their status. The analysis of these psychological impacts is based primarily on interviews conducted by the author and interviews from the documentary *Papers*.

DEPRESSION

Many undocumented students experience depression as a result of their immigration status. Especially in high school, undocumented students can start to see their opportunities diminishing. Some respond by losing enthusiasm for school or by dropping out.²⁷ Feelings of hopelessness are especially strong among students who did not previously know about their status and have to cope with the realization, at a fairly late age, that they are undocumented.²⁸ Feelings of frustration can be worsened by experiences of discrimination based on status—for example, in the college application process or in workplace settings where undocumented youth are underemployed, with low pay and few rights or legal protections. For many undocumented young people, depression also stems from having to live in secrecy—the inability to discuss their situations and challenges openly can cause deep psychological distress.²⁹

FEAR

The recent rise in deportations generates feelings of insecurity among undocumented students. Speaking out during lobbying visits and rallies, as many students have done during advocacy efforts for the federal DREAM Act and other legislation—while in many ways liberating—comes with risks. At least ten “Dreamers,” or students who advocate for the federal DREAM Act, have been placed in deportation proceedings.³⁰

STUDENT PROFILE: MARIA

The following profile of a student referred to as “Maria” provides a humanistic illustration of the psychological, financial, cultural, and legal barriers that undocumented youth face in their efforts to obtain college degrees. Maria is a current college student who was interviewed in person by the author. Information regarding Maria’s identity and college has been omitted to protect her privacy.

EARLY LIFE

Maria³¹ came to the United States from Mexico when she was eight years old. Her parents came to California to find jobs and because members of Maria’s mother’s family lived in the state. Maria is one of six siblings, three of whom are U.S. citizens.³² Maria learned about her status when she was 14 years old. At that time, she had wanted to help her family financially by getting a job, but when she asked her mother for the documents

she needed to give to her employer, her mother explained that she did not have them. This moment was heartbreaking, and it discouraged her from continuing her education. Maria dropped out of school in ninth grade and ended up getting pregnant and giving birth to her daughter that same year.

In addition to feeling as though she had no options, Maria felt detached from her childhood friends after finding out about her status; she was not comfortable talking to them about her situation because she was afraid of being rejected. She was also afraid of being discovered by law enforcement and deported.

This fear was not unfounded. In 2009, Maria’s father was deported after being arrested for public intoxication. Maria’s family did not even have time to find legal counsel before the deportation occurred. Maria has had friends deported as well, including a male friend who was deported by ICE agents who had come to his house looking for another person. During raids in California in 2008, Maria’s mother was so afraid that she did not let Maria’s brothers go to school.

HIGH SCHOOL AND TRANSITION TO COLLEGE

Having a child motivated Maria to go back to school. She had grown up with parents who were unable to help her with homework even though she went to a bilingual school (her father dropped out of school in second grade and her mother dropped out in sixth grade), and she did not want her child to have the same experience. Consequently, Maria decided to finish high school. When Maria’s high school discouraged her from attending because of her child, Maria enrolled in a local adult school to earn her high school diploma. By taking classes during the day and at night and by working on independent studies, she was able to graduate in the same year as her original high school cohort.

After graduating from high school in 2005, Maria wanted to continue her education but did not know where to go. Her high school counselors were unable to provide her with resources since Maria was not comfortable sharing her situation with them. At the time, she was unaware that she was eligible to receive in-state tuition in California under AB 540.

COLLEGE YEARS

After working for three years to save money and help support her family, Maria was determined to continue her schooling. She enrolled in her local community college’s adult education program,³³ which allowed her to take night classes and work during the day to pay her tuition. Initially, Maria was able to pay for school through a job at a nonprofit that focused on youth development issues, but eventually her employer found out that she was not legally eligible to work and Maria had no option but to quit her job. Maria then had to find jobs through family members, such as babysitting, or work for low wages for employers who knew about her status and paid in cash.

SPEAKING OUT

When she first enrolled in community college, Maria did not have a strong support network or access to resources. She was afraid to talk about her status because she did not want to be judged or looked down upon, and she did not know whom she could trust. After a while, she started opening up to classmates in her study group, partly in order to explain why she was not looking for jobs when they asked her.

Being more open about her situation gave Maria a sense of liberation, after having lived in fear for so many years. To develop support networks for students in similar situations, Maria and some classmates launched a Latin-American club, which provides a forum for students to share their stories and a center for resource-sharing and advocacy efforts on behalf of undocumented students. In the future, the club hopes to go into high schools to talk about AB 540 and higher education options for undocumented students.

Thanks to her support network and diligence, Maria excelled in school. After receiving her associate's degree in the spring of 2011, Maria transferred to U.C. Berkeley, where she currently studies. She hopes to work in the field of social policy.

LOOKING TO THE FUTURE

Nevertheless, Maria is worried about her future. Although she is married to a U.S. citizen and has a daughter who was born in the U.S., pro-bono lawyers have told her that because she arrived in the country without inspection, she would have to leave for ten years before she could return; therefore, it would not be worthwhile for her to file for legal permanent resident (LPR) status. Because Maria is originally from Mexico, the wait time will be years even if her 16-year-old brother petitions for her to become an LPR when he turns twenty-one. Lawyers have told Maria that the federal DREAM Act is her only hope. Maria worries that she will continue having to live day-by-day.

ADDRESSING KEY CHALLENGES**PEER SUPPORT NETWORKS**

In order to cope with the challenges they face, undocumented students have turned to peer networks for emotional support and resources. On many campuses, particularly in California, undocumented students have created organizations dedicated to sharing information and providing peer support, as well as engaging in advocacy efforts. Such organizations are present on most University of California (U.C.) campuses, at a large number of California State Universities (C.S.U.s), and at some community colleges.³⁴ Often officially recognized by their universities, the organizations typically represent a large proportion of the undocumented students on their campuses.³⁵ U.C. Berkeley's Rising Immigrant Scholars through Education (RISE), for example, has fifty members, while U.C. Berkeley estimates the number of undocumented students on campus to be between forty-eight and seventy-two.³⁶

EMOTIONAL SUPPORT

Organizations for undocumented students on college campuses (in California, also known as AB 540 student organizations) provide an opportunity for undocumented students to speak openly, talk to peers with similar experiences, learn about scholarships and other resources, develop a strong social network, and advocate for their rights.³⁷ Scholars Promoting Education, Awareness and Knowledge (SPEAK) at U.C. Davis describes its mission as: "to encourage, promote and further the education of undocumented students by raising awareness regarding AB 540, as well as provide psychological, emotional and financial support to our members in order to further and complete their studies at U.C. Davis."³⁸ Some student organizations, such as U.C.L.A.'s Improving Dreams, Equality, Access, and Success (IDEAS)—the first organization for undocumented students on a U.C. campus—organize retreats so students can spend time together while formulating their advocacy agendas.³⁹ AB 540 student organizations provide a family away from home for undocumented students and a safe space for them to voice their stories and fears. Consequently, the organizations are essential for the mental well-being of many undocumented students in college.⁴⁰

OUTREACH AND RESOURCES

One main purpose of AB 540 student groups is to provide outreach to prospective students and community members. The groups organize conferences and workshops to help encourage and prepare younger students for college and to connect them to opportunities and resources.⁴¹ As an example, U.C. Berkeley's RISE organizes an annual "Achieving Your Dreams" AB 540 Conference. Between 200 and 250 high school and community college students and their parents participated in the April 2011 conference.⁴² The conference provided workshops on financial aid opportunities, academic support, and additional resources essential for students to successfully complete their college degree.⁴³ Similarly, U.C.L.A.'s IDEAS holds an annual Immigrant Youth Empowerment Conference to motivate undocumented youth to pursue their goals. The conference includes three workshop sessions on education, financial resources, and activism.⁴⁴ Campus groups also organize workshops in high schools for students, parents, and staff.⁴⁵ Hearing undocumented college students speak can inspire younger students to open up about their status and renew their focus on schoolwork.⁴⁶

FINANCIAL SUPPORT

AB 540 student organizations also help undocumented students by fundraising for educational scholarships. As an example, U.C.L.A.'s IDEAS raised funds to create the Making the Dream a Reality Scholarship Program for undocumented students at the university. Since its founding in 2003, the organization has raised over \$200,000 for student scholarships.⁴⁸ AB 540 student groups raise money for their activities through nonprofits—such as Educators for Fair

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Consideration and the Asian Law Caucus—as well as through their universities.⁴⁹

ADVOCACY

In addition to providing peer support and resources, AB 540 student organizations serve as a nexus for advocacy around pertinent issues at many campuses, such as in-state tuition and financial aid for undocumented students and immigration policy reform. IDEAS' website states, "we pride ourselves in being not only a support group for AB 540 students, but also a strong advocate for immigrant rights and more specifically, the Development, Relief, and Education for Alien Minors (DREAM) Act. As students, we have the power to use our education to spread awareness and push our government to pass just legislation like the DREAM Act."⁵⁰ Advocacy is important for undocumented students for many reasons, particularly because it connects them to a network of peers, offers them a sense of purpose, and gives them the ability to effect social change.

AB 540 student groups have provided a strong base of support for the federal DREAM Act as well as pertinent state and local legislation. Student groups have gone to Washington, D.C., to lobby and testify before Congress on behalf of the federal DREAM Act.⁵¹ They also advocate in their home states. In 2007, for example, campus groups in California joined a nine-day fast at San Francisco's City Hall organized by U.C. Berkeley's RISE to urge then-House Speaker Nancy Pelosi to support the federal DREAM Act. IDEAS has organized numerous town halls and rallies in support of the federal and California DREAM Acts and against raids and deportations.⁵²

Student groups also advocate by urging their universities' administrations to speak on behalf of undocumented students' rights. At the behest of RISE and its allies, U.C. Berkeley's Chancellor Robert Birgeneau has spoken in favor of the federal DREAM Act and against Arizona's SB 1070 at press conferences and in written statements. Chancellor Birgeneau has also testified in Sacramento on behalf of the California DREAM Act.⁵³ The AB 540 student group at Evergreen Valley College convinced the school's president and Board of Trustees to endorse the California DREAM Act and to send a letter to the Governor in support of the legislation.⁵⁴ Having prominent college administrators support legislation that benefits undocumented students can have a strong influence on policymakers. Due in large part to these advocacy efforts, the California DREAM Act bills (AB 130 and AB 131) were signed into law in 2011.

COALITIONS

The California Dream Network, founded in 2003 and funded by the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA),⁵⁵ coordinates much of undocumented students' advocacy work in California. This statewide network

of AB 540 student groups organizes on college campuses, conducts youth empowerment and advocacy trainings, gives presentations in high schools, organizes statewide and regional conference calls and meetings, coordinates biannual statewide retreats, and serves as a clearinghouse for information about advocacy opportunities. The Dream Network—active in 38 colleges and universities across the state—is led by a steering committee comprised of 17 elected student leaders. These leaders direct the network in its campaigns to generate political support for the California DREAM Act and the federal DREAM Act, as well as comprehensive immigration reform.⁵⁶ The Dream Network is divided into four regions (North, Central, Southern, and L.A. Metro Region) to facilitate organizing.⁵⁷ The regions plan lobbying visits and other advocacy activities for students in their areas and help coordinate larger actions, such as the 2011 Lighting the Torch campaign in support of the California DREAM Act.⁵⁸

On the national level, similar coalitions exist to coordinate advocacy efforts, United We Dream being the most prominent. United We Dream was founded in 2008 in an attempt to build a strong immigrant youth movement to advocate for the federal DREAM Act and immigrant rights more generally. The organization runs advocacy campaigns for the DREAM Act ("Keep the Dream Alive" campaign) and against deportations ("Education Not Deportation" campaign) and holds national meetings to strategize and organize. United We Dream also provides leadership, organizing, communications, and advocacy trainings for youth.

SPEAKING OUT

According to advocates, one of the most effective lobbying techniques is having undocumented students tell personal stories, as these stories highlight the human element of the immigration debate and can greatly influence policymakers.⁵⁹ Telling personal stories also provides an important emotional outlet for undocumented students.⁶⁰ Advocacy activities organized by AB 540 student groups provide opportunities for undocumented students to let people know that they exist and explain the challenges they face. Hearing students speak up can encourage others to do so, as has been the case during advocacy efforts for the federal DREAM Act. While speaking out carries serious risks for undocumented students, many believe it is worth the risk to stop living in secrecy and to let their voices be heard.⁶¹

CONCLUSION

Undocumented students pursuing higher education in the United States face serious obstacles to success. Some students, such as the members of AB 540 student organizations in California, have found channels through which they may cope with their personal struggles and work toward policy reform. These students can serve as models for the thousands of



undocumented youth in colleges across the nation who have not yet connected with or do not currently have access to such supports. Yet despite the benefits provided and the progress made by undocumented student organizations on college campuses, major hurdles remain that prevent their members from devoting their passion, perseverance, and talents to helping the U.S. economy and society, and prevent many other qualified undocumented students from attending college altogether. State laws increasing the affordability of higher education for undocumented students and repeals of anti-

immigrant policies such as Secure Communities and Arizona SB 1070 are important steps for helping undocumented students succeed. However, the most important barriers will not be overcome until national immigration policy reform is completed and federal legislation such as the DREAM Act is passed that provides undocumented students and their families with a pathway to legalization. Only then can these remarkable students stop living in the shadows.

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ENDNOTES

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[7] Randal Archibold, "Arizona Enacts Stringent Law on Immigration," *New York Times*, April 23, 2010, accessed online at <http://www.nytimes.com/2010/04/24/us/politics/24immig.html>. The law's most controversial provisions are currently not in effect due to legal challenges by the Obama administration and other parties.

[8] The law requires state and local police officers to ask about the immigration status of anyone they stop based on a "reasonable suspicion," bars illegal immigrants from accessing public services, including public higher education, forces public schools to determine the immigration status of all students, and prohibits landlords from renting to undocumented residents and businesses from hiring them, among other provisions. See Julia Preston, "In Alabama, a Harsh Bill for Residents Here Illegally," *New York Times*, June 3, 2011, accessed online at <http://www.nytimes.com/2011/06/04/us/04immig.html>; Text of Alabama HB 56 available at <http://alisondb.legislature.state.al.us/acas/searchableinstruments/2011rs/bills/hb56.htm>.

[9] As of March 2011, Secure Communities was in place in 39 states, including California; ICE plans to have a Secure Communities presence in every state by 2013. U.S. Immigration and Customs Enforcement website, "News Releases," <http://www.ice.gov/news/releases/1102/110224losangeles.htm>.

[10] U.S. Immigration and Customs Enforcement website, "Secure Communities," http://www.ice.gov/secure_communities/. For more information, visit Immigration Policy Center, "Secure Communities: A Fact Sheet," available at <http://www.immigrationpolicy.org/just-facts/secure-communities-fact-sheet>.

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munities: A Fact Sheet," available at <http://www.immigrationpolicy.org/just-facts/secure-communities-fact-sheet>.

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[19] Educators for Fair Consideration, “Financial Aid Guide for College-Bound Undocumented Students,” accessed online at http://financial-aid.ucsc.edu/gen_forms&pubs/E4FC_FinAid-Guide.pdf.

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[29] Alejandra, former AB 540 student, interview with the author, March 17, 2011; María, AB 540 student, interview with the author, April 8, 2011; and *Papers: Stories of Undocumented Youth*.

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Studies PhD candidate, interview by the author, April 14, 2011; David Bennion, “Obama Praises DREAM Act While Deporting Dreamers,” *Citizen Orange*, December 22, 2010, <http://www.citizenorange.com/orange/2010/12/obama-praises-dream-act-while.html>; UCLA Labor Center website, “Matias Ramos Faces Deportation,” <http://www.labor.ucla.edu/programs1/Matias-Ramos.html>.

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[32] Two of María’s siblings were born in the U.S. and one has an American father.

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[35] Membership in the organizations varies, although it rarely exceeds one hundred.

[36] Kevin Escudero Lam, interview by the author; and U.C. Office of the President, “Annual Report on AB 540 Tuition Exemptions, 2006–07 Academic Year,” 12.

[37] Alejandra, former AB 540 student, March 17, 2011.

[38] SPEAK Facebook page, accessible at <http://www.facebook.com/group.php?gid=117733368257924&ref=ts>.

[39] Gloria, AB 540 student, interview with the author, April 18, 2011.

[40] Gloria, AB 540 student, interview with the author, April 18, 2011.

[41] Panel talk by Beatrice, AB 540 student, April 5, 2011.

[42] Interview with Kevin Escudero Lam, April 14, 2011; and panel talk by Beatrice, AB 540 student, April 5, 2011.

[43] RISE Facebook page, <http://www.facebook.com/notes/foothill-college-career-center/rising-immigrant-scholars-through-education-RISE-of-uc-berkeley/10150177140451340>; and panel talk by Beatrice, AB 540 student, April 5, 2011.

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[53] Carolina, AB 540 student, interview with the author, April 29, 2011.

[54] CHIRLA website, “CA Dream Network,” <http://www.chirla.org/node/548>.

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[56] California Dream Network website, “About Us,” <http://www.cadreamnetwork.org/about-us>.

[57] Carolina, AB 540 student, April 29, 2011.

[58] Interview with Kevin Escudero Lam, April 14, 2011.

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ELECTIONS, PARTISANSHIP, AND POLICY ANALYSIS: A CONVERSATION WITH POLITICAL STRATEGIST DONNIE FOWLER

INTERVIEW BY SHEETAL DHIR



Donnie Fowler is a political strategist from Columbia, South Carolina, who now lives in San Francisco. He has worked in the technology, telecommunications, and political world for more than 20 years. Presently, he runs Dogpatch Strategies, a political and media consulting firm based in San Francisco and is a regular contributor to “The War Room” with Jennifer Granholm on *Current TV*.

PolicyMatters sat down with Donnie amidst the 2012 primary season to get his take on the November election, campaign finance, and how policy students can prepare to make a real difference.

Donnie Fowler has worked at the state and national level on the presidential campaigns of Dick Gephardt, Jesse Jackson, Bill Clinton, Al Gore, Wes Clark, John Kerry, and Barack Obama. He also worked as a Clinton White House staffer, and subsequently served as Al Gore’s national field director during the 2000 presidential campaign. He was General Wesley Clark’s first campaign manager in 2003, ran John Kerry’s 2004 winning campaign in the state of Michigan, and was senior advisor in Indiana for Barack Obama’s victory there (the first time a Democratic presidential candidate won the Hoosier State since 1964).

PolicyMatters Journal (PMJ): *As future policy makers and analysts, Goldman School students are very concerned with the current situation in Washington. It seems that no matter what is put up to a vote in Congress, decisions are made on purely ideological grounds. Do you think the ‘grand bargain’ approach of bipartisan deal making is a thing of the past because of the 24/7 news cycle of social media and the permanent campaign? Is everyone just appealing to his or her base in an effort to get elected or re-elected?*

Donnie Fowler: That’s a big question; there are several answers to the partisan divide we have in the country right now, which means there are several solutions. The first is context. We are not more divided as a country, more partisan

as a country, with uglier politics now than ever before. Think about the Civil War as the best example of a divided country. Here are the answers: one reason we are very divided right now is that the political parties are as ideologically pure as they’ve been in a very long time. even as recently as forty and fifty years ago with the Civil Rights Movement the Democratic party, which championed civil rights with black Americans, still had conservative Southerners that were the chairmen of really important committees. Lyndon Johnson who was our President during the Civil Rights era was a Southern Democrat. These days the most conservative Democrat in the United States Senate is still more liberal than the most liberal Republican in the United States Senate. That era when there were conservative Democrats and liberal Republicans is no longer with us.

Nowadays, its pretty easy to say and prove that the Democratic Party is the liberal party and Republicans are the conservative party in this country. We actually have real differences on issues and ideologies right now and so that contributes to the division. I don’t know whether that’s good or bad. Another reason we have the divide is the way the media lives now is very different than twenty-five years ago; twenty-five years ago we had a daily newspaper and there

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were network TV stations. No twenty-four-hour cycle where you can turn on the TV at 1 p.m., turn on the TV at 2 a.m., and you can get political chatter. The way that has sped up the conversation—and the fact that it requires someone to respond to stories within an hour, not within a day—has changed the way we talk about politics in a certain way.

PMJ: *Do you think our politics have become hyperbolized and disillusioning to some degree?*

Fowler: That's the third point. How do you attract people? What's the most interesting to anybody? Anything that's sexy—the celebrity break up in Hollywood. That's what you want to pay attention to, not the stable marriage in Hollywood. So in politics, what is it? The nasty break up between the two political parties. Not the Senators that get along with each other. There is a group in the United States Senate of a dozen Republicans and Democrats who are working very closely together and trying to expand their numbers from twelve out of a hundred to twenty-five or thirty out of a hundred, but they aren't there yet.

There's a real commitment but the media just isn't interested in covering compromise. So you've got a combination of history, the political parties ideological purity, this faster news cycle, and the fact that controversy is much more interesting and sexy than governing.

PMJ: *In general, what is the role of policy analysis in this charged partisan context? Will there continue to be a role for non-partisan policy research groups and impartial journalism, or will advocacy-based analysis and partisan news crowd out these groups?*

Fowler: There is definitely a continued role for non-partisan research policy analysis and reporting. It's not as sexy as controversy and debate though. There's a tremendous amount of information out there because of the Internet. Information has become democratized in an extraordinary way in the last fifteen or sixteen years since the web became ubiquitous. Not that there's a lack of objective content, it's just not what's bubbling up.

About journalism, the traditional newsroom has shrunk dramatically—the Washington Post, the New York Times, especially other small daily newspapers. I would point you to investigative media like Pro Publica, to thoughtful magazines like National Review and The Atlantic and National Journal, and to the academic policy journals like Foreign Policy. These all have relatively small audiences, but large impacts over time on the direction of the national conversation.

There's a real move to make more investigative journalist organs to replace what the mainstream daily newspapers have lost. People are trying to replace mainstream investigative journalism but it hasn't happened yet.

PMJ: *Has the "50-state strategy" of presidential campaigning impacted policy decision-making? Specifically, having a candidate campaign in all fifty states ensures that people in every state get to know the candidate, but does it also ensure that the candidate gets to know the people, or at least the important issues in previously overlooked states or regions? Does this national campaign strategy change the way Presidents govern?*

Fowler: Every presidential candidate that goes through this process, whether its over after twelve elections or over after fifty elections. Hillary Clinton, Barack Obama had to go to all fifty states and Mitt Romney may have to go to all fifty states. Regardless of whether it's a small number of states or a large number of states, every candidate is stronger, more knowledgeable, better than when they started. They may have been a weak candidate to start and now they're not as weak... and I would say that's what Mitt Romney is going through.

“There's always this divide between policy people and political people—like two silos—and that's a terrible mistake. If you're in politics, your job is to get votes. You can't get votes without a substantive message that's defensible, that's smart, that's based on research . . . [P]olicymakers have got to understand what the political people do, and they've got to get their hands dirty.”

The more a candidate must talk to voters generally, and community leaders more specifically, the [more responsive] they will be if elected. When politicians have to ask voters for their job, then voters are going to have much more influence over an elected official's thinking. Let's make our policy makers spend more time in front of the broad spectrum of the American people rather than less—and less time in front of donors, lobbyists, and hyperbolic political activists representing only the left and right.

PMJ: *How effectively do web-based social media tools and other Internet platforms communicate real-time information about public policy? For example, how effective are President Obama's Facebook page updates about important bills he signs into law?*

Fowler: The most important thing the Internet has done for politics and policy is to democratize information. It's made [information] more available to more people at a lower price, at any time of the day. If the citizens want to access that information, the Internet has become a cheap, quick, easy way to disseminate information including the President's policy proposals or his political statements.

PMJ: *Do you think we're a smarter electorate as a result?*

Fowler: I think we are better informed, more able to participate in the process. I don't know if we're smarter; that's a good question. But better informed for sure. We have the potential to be better because the information is out there. But citizens have to choose for themselves to go and learn this stuff. "You can take a horse to water but you can't make them drink." One of the negative things the Internet has done is it has eliminated a lot of editorial filters of information. Basically, good news can spread faster but so can bad news.

PMJ: *Where do you think campaign finance is going in the future and how can it make politics more democratic for small donors?*

Fowler: There are two problems with money in politics. One is where the money is coming from (that's the supply of the money) and what its being used for (the demand). Any campaign finance reform has to solve both problems. Most of campaign finance reform since the Watergate era in the early 1970s has just dealt with who is giving the money; it has not dealt with where it's going. Barack Obama in 2008 spent more money on his campaign than George Bush and John Kerry combined four years earlier. So there's more and more money coming into the system. Barack Obama and the Internet have made political giving more democratized just like the Internet has made information more democratized. Why is that important? That is important because it means more people are participating. You can participate in politics by voting, you can participate in politics by going to a rally, and you can participate in politics by giving money. Giving money is one of the highest forms of participation.

PMJ: *Do you think going to a rally is equal to giving \$2 to Barack Obama?*

Fowler: It can be. It takes two hours to go to a rally, but it takes a few minutes to click your credit card to give money to Barack Obama. Barack Obama has [collected] the vast majority of his money from small donors. That means that powerful interests have been diluted. Mitt Romney this year

so far has gotten two thirds of his money from big, wealthier donors, whether you give \$2,500 or \$2 million, that's not the best way to do campaign money. My guess is that in the general election, we're going to see more democratized giving. People are going to rally around Romney once he's clearly the Republican nominee. Romney will start getting small donors also. Campaign finance reform has to deal with supply and demand, that's really really important. Campaign donations, do you know where it goes? Two thirds of the money goes to television ads. Who owns the airwaves? The public, the citizens. We own the airwaves, the American people. So lets take some of that public advertising money out of the system and politicians won't need as much. But the politicians are scared to take on the broadcasters ... but supply and demand though that's the most important.

PMJ: *Campaign finance post-Citizens United suggests we could be in for longer campaigns, where one or two candidates who would have dropped out earlier hang on thanks to wealthy donors. Does a longer campaign mean less importance and relevance to early primary states like Iowa?*

Fowler: There's an old saying in politics that no campaign ends because it ran out of votes; a campaign ends because it ran out of money. So [whether] the money is coming from a Las Vegas casino magnate [to support] Newt Gingrich or it comes from 100,000 people giving \$10, it's the fact that the money is still there for the candidate that is important. Naturally, that extends the campaign. This year, all the Republicans—what's their campaign accessory? It's "here's my billionaire." So that is extending this campaign but it's not the only reason. The other reason is that Republicans used to have winner-take-all [primaries]—if you won, you got one hundred percent of the delegates. The Democrats have had proportional delegate allocation for decades. Republicans going into proportional delegate allocation have allowed Newt Gingrich and Mitt Romney and Ron Paul and Rick Santorum to stay in this race because they're still racking up delegates. If they were spending money and not getting delegates, it would be much more difficult. Nobody talks about Ron Paul anymore because he's not getting any delegates. Basically, money by itself is not the reason we have more candidates.

[Regardless of money and delegate totals,] the first states to vote will continue to get the most attention for the year leading up to those particular elections. This is because the candidates are desperate to make a good first impression and the media has got to write about something, so they might as well obsess with what's coming first. Additionally, these early states have traditionally managed to shrink the field (sometimes even before their elections happen, at events like the Ames straw poll in the Summer of 2011 which caused former Minnesota Governor Tim Pawlenty

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to quit the race). In the past few decades, large numbers of candidates quit after failing to pick up enough votes to justify going past these first three states, thus the winnowing effect.

PMJ: *Any advice for future 'policy wonks'? How do we make our policy ideas into reality? What is the best way to use what we're learning and apply it to politics as they stand?*

Fowler: There's always this divide between policy people and political people—like two silos—and that's a terrible mistake. If you're in politics, your job is to get votes. You can't get votes without a substantive message that's defensible, that's smart, that's based on research. So political people need policymakers to give them a message. Now, policymakers can't sit in the Ivory Tower and write white papers all day. That's not going to ever become policy, that's going to stay as a white paper. So policymakers have got to understand what the political people do, and they've got to get their hands dirty.

PMJ: *How do we do that?*

Fowler: Participate. Get out there and do politics! There's a famous cliché in campaigns, every campaign whether it's

a dog-catcher or president, even if you have a nice degree from Kennedy or Goldman or Wilson. So the Goldman grad comes to the campaign manager and says, "I really want to help this candidate, he's my favorite candidate, I want to dedicate my life just to get him elected." The campaign manager says, "So what do you want to do?" And the Goldman graduate says, "I want to write white papers." And the campaign manager says, "We have to get elected first." Political people need to spend more time studying policy, they need to understand the issues more deeply. Policy people need to understand that sometimes it's more valuable to raise money, run a phone bank, or run a door-to-door canvass operation than it is to write another white paper.

PMJ: *So am I going to get a job after graduation?*

Fowler: Depends on what you're willing to do! Here's the other thing—whether you think it's right or wrong, the reality is that people who get elected bring the people into office with them to run the government. So if you're a policy person and you want to have an influence on governing after an election, you better be the person who's in there helping them get elected in the first place. Get in there, get your hands dirty!

SAFER BIRTHS AT LOWER COST: POLICY LEVERS TO REDUCE MEDICALLY UNNECESSARY C-SECTIONS IN THE MEDI-CAL POPULATION

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The recent California state budget crisis and the passage of national healthcare reform have focused attention on reducing expenses in publicly financed health programs. Unnecessary Cesarean sections paid for by California's Medicaid program, Medi-Cal, place an undue financial burden on state resources and increase health risks in an already vulnerable population. This analysis identifies policy levers that could reduce the rate of medically unnecessary primary (i.e., first-time) Cesarean sections in all populations, with a focus on women enrolled in Medi-Cal.

BACKGROUND

Cesarean sections (C-sections) across the United States, and within California, have been increasing at rates that do not correspond to clinical need. Of the more than 550,000 births in California in 2009, 32.6 percent were delivered by C-section, a proportion that has grown nearly 60 percent since 1996.¹ The rate has risen among all ages, races, and ethnic groups, although by varying degrees.² There is widespread evidence to suggest that some of the variation can be attributed to inappropriate use of the procedure.³ Although there is a lack of clear consensus on the nonclinical factors that influence the C-section rate, these drivers include convenience, payment incentives, and medical malpractice fears.

C-sections that are not needed to overcome a medical complication during pregnancy are known as “medically unnecessary.” These procedures have higher risks to the mother and baby than a vaginal delivery or a vaginal birth after C-section (VBAC). Therefore, policymakers are trying to reduce the number of C-sections occurring for first-born babies who are fully developed and in the proper position within the uterus. The focus on primary C-sections—that is, first-time C-sections—stems from the fact that the primary C-section rate strongly influences the overall C-section rate.

The rate of primary C-sections in California's state Medicaid program, Medi-Cal, is slightly lower than the overall state average (16.1 percent versus 17.7 percent in 2009, respectively), but remains troubling for two reasons.⁴ First, C-sections in the Medi-Cal population, unlike the commercially insured population, are more likely to be scheduled for provider convenience rather than patient convenience. More mothers

in this population may be capable of delivering vaginally, but at the provider's request, deliver via C-section, undergoing the risks of surgery unnecessarily. In addition, some argue that the Medi-Cal population is culturally less likely to disagree with provider recommendations, more likely to hail from countries where C-section rates are much higher than those in the United States, and less likely to be medically literate, thereby possibly conflating more invasive procedures with better healthcare quality.

Second, publicly financed maternity care is expensive. The Medi-Cal program pays for just under 50 percent of all childbirths in the state,⁵ and maternity care costs are estimated to account for approximately 25 percent of the program's \$53 billion budget in 2011.⁶ C-section deliveries without complications cost on average twice as much as vaginal deliveries without complications.⁷ This places a heavy burden on taxpayers for potentially inappropriate procedures.

METHODS

I interviewed primary stakeholders, including representatives of the California Department of Health Care Services, county-managed Medi-Cal plans, private insurers, providers, and other clinicians, from California and other states, about their opinions on the relative weights of the nonclinical drivers of C-sections and various policy measures to reduce unnecessary procedures. Because of the sensitive nature of the topic, some interviewees have been made anonymous.

I obtained utilization and financial data for all California hospitals from 2009 from the Office of Statewide Health Planning and Development website, from the “Agency for

Health Research and Quality (AHRQ)—Inpatient Quality Indicators—Hospital Volume and Utilization Indicators for California (2009)” database and “Annual Financial Data (2009)” database, respectively.⁸ The data were then manually merged to match hospital utilization data with financial data. Only hospitals with reported birth rates (including “0 percent”) were included. Bivariate and multivariate regressions were performed in STATA Intercooled version 10.0.

FINDINGS

The interviews revealed areas of agreement and disagreement among stakeholders regarding nonclinical drivers of C-section rates. Possible nonclinical factors influencing C-section rates include labor management practices, hospital and clinician attitudes and policies on vaginal birth after Cesarean (VBAC), fetal monitoring technology, employment of midwives and doulas, physician leadership, and concerns about reimbursement and liability. Interviews also suggested that sensitivity to incentives to change C-section rates may vary by institution and by physician because of market segmentation.

LABOR MANAGEMENT PRACTICES

Several forms of active labor management (elective inductions and procedures) can and will result in more C-section deliveries. Inducing labor before thirty-nine weeks has been shown to result in poor fetal outcomes, sometimes resulting in emergency C-sections.⁹ Some hospitals have counteracted the rise of premature elective inductions by requiring that patients meet a favorable Bishop score—a cervical assessment to ensure that the patient has achieved the clinical benchmarks—before labor can be induced. The obstetrical unit at San Francisco General Hospital implemented an induction checklist to ensure that labor is only induced when appropriate. At Kaiser-Permanente hospitals in Northern California, inductions must be justified with a medical indication. However, not all hospitals have imposed policies around early inductions.

Policies solely focused on reducing premature inductions will not necessarily reduce the C-section rate, as only a small proportion of early inductions lead to C-sections. Dr. Elliot Main, Chairman and Chief of Obstetrics and Gynecology at California Pacific Medical Center in San Francisco, noted that the C-section rate—apart from repeat C-sections, multiple gestations, extremely premature babies and other clinical indications—is largely driven by how labor is managed, particularly for first births. He estimated that approximately 5 percent of inductions prior to thirty-nine weeks do not have ICD-9 codes (clinical indicator codes) or other issues. This suggests that these inductions are elective.¹⁰

The California Maternal Quality Care Collaborative (CMQCC), a maternal quality-focused nonprofit organization, developed a toolkit to prevent elective deliveries before

38 weeks and 6 days, including both inductions and elective C-sections. The toolkit helps obstetrical units determine the criteria for when a C-section or induction is appropriate. The CMQCC saw it as a way to change medical policy, which was largely responsible for the inductions and early deliveries driving many of the C-sections.

Predictably, hospitals that forbid elective C-sections are significantly more likely to have lower C-section rates than those that allow them. Interviewed organizations with strong policies against C-section delivery tended to have a culture rooted in a commitment toward practicing evidence-based medicine. This does not suggest that all hospitals forbidding C-section deliveries without clinical indication are only motivated by following evidence-based practices, nor does it suggest that hospitals without such a policy do not follow evidence-based practices; the evidence collected here suggests that this is an area for future research.

POLICIES ON VAGINAL BIRTH AFTER CESAREAN (VBAC)

The practice of vaginal birth after Cesarean (VBAC), whereby a mother delivers vaginally after delivering a previous child via C-section, has been a controversial procedure. Many interviewees cited hospital policies regarding VBAC as having an effect on C-section rates. VBAC procedures require extra precautions, such as an on-call anesthesiologist, due to the increased risk of rupture at the site of the C-section scar. VBACs also incur a slightly increased risk of medical malpractice claims. As such, some hospitals, clinicians, and medical malpractice insurers view the procedure as too risky and have taken extreme measures to prevent VBAC.¹¹ These prohibitions have remained in place despite changes to the clinical guidelines on VBAC from the American College of Obstetricians and Gynecologists (ACOG),¹² leading some stakeholders to wonder whether nonclinical incentives to perform C-sections outweigh strict adherence to clinical guidelines.

A quantitative analysis exploring the relationship between the VBAC rate and the primary C-section rate among California hospitals revealed a statistically significant negative correlation (Box 1). A bivariate model revealed that for every one additional percent increase in the annual uncomplicated VBAC rate, the annual primary C-section rate declines by 16.3 percent (Model 1). A multivariate model showed that the primary C-section rate declines by a greater amount (20.4 percent) when other variables are held constant (Model 3). The only other significant variables were hospital size (measured by the number of operating rooms) and whether the hospital was investor-owned (as compared with nonprofit). The findings suggest that hospitals with high VBAC rates may have the experience, resources, and preference for vaginal deliveries that hospitals with lower VBAC rates do not have. That some hospitals may have preferences toward vaginal delivery could suggest that these hospitals practice evidence-based medicine,

Box 1. Quantifying the relationship between the primary C-section rate and VBAC rate in California hospitals

A bivariate model [1] regressed the primary C-section rate (*pcs_rate*) on uncomplicated VBAC rate (*uvbac_rate*). The coefficients on the regression indicate that the VBAC rate is negatively and significantly correlated with the primary C-section rate ($p < 0.001$).

(T-stats are in parentheses.)

$$[1] \text{ pcs_rate} = 0.186 - 0.163 \text{ uvbac_rate}$$

(38.26) (-3.68)

A second model [2] regressed *pcs_rate* on whether or not a hospital permitted a VBAC (*tolacy*). The coefficients on the regression indicate that allowing VBACs is negatively associated with a hospital's primary c-section rate, but it is not statistically significant ($p = 0.262$).

$$[2] \text{ pcs_rate} = 0.183 - 0.011 \text{ tolacy}$$

(19.7) (-1.13)

A third model [3] included other variables that might better explain the variation in the cesarean rate among hospitals. It regressed *pcs_rate* on the uncomplicated VBAC rate, whether or not the hospital was a teaching facility or in a rural location, the hospital type (non-profit, city, district, or investor-owned), and the number of operating rooms (to control for size).

$$[3] \text{ pcs_rate} = 0.163 - 0.204 \text{ uvbac_rate} - 0.004 \text{ teach} - 0.015 \text{ rural} - 0.005 \text{ city} + 0.001 \text{ district} + 0.028 \text{ investor} + 0.002 \text{ op_room}$$

(18.83) (-4.01) (-0.23) (-1.27) (-0.27) (0.08) (2.80) (2.89)

The only statistically significant variables within the regression were *uvbac_rate* ($p < 0.001$), *investor* ($p = 0.006$), and *op_room* ($p = 0.004$).

since vaginal delivery has been shown to result in better medical outcomes for mothers and children, and at the very least, is not in contradiction of such an effect.

the philosophy about the birth process that midwives hold, which encourages vaginal birth when possible.

USE OF FETAL MONITORING TECHNOLOGY

Hospital policies centered on the use of fetal monitoring technology were widely seen as influencing C-section rates. Intrapartum electronic fetal monitoring machines have led to higher C-section rates without necessarily causing proportional improvements in health outcomes. According to interviewees, these tracing machines produce a high rate of false positives—as high as 50 percent—resulting in a high level of anxiety among practitioners. Due to the constant possibility of legal action, physicians who are more risk averse may be more likely to perform a C-section if fetal monitoring machines report disconcerting results. Current practitioners believe the technology, which was originally seen as a way to reduce the number of cerebral palsy cases arising from birth trauma, has done little to improve birth outcomes, but has done much to increase medical costs and the C-section rate.¹³

PHYSICIAN LEADERSHIP AND TRAINING

Physician leadership drives a hospital's culture and establishes labor management practices. Several interviewees stated that individual physician personalities influence practice patterns; there is a tendency for some attending physicians to perform more C-sections than others. Interviewees also cited the loss of physician training to perform vaginal assisted births as older physicians retire. For example, fewer physicians on staff may be trained on breech and forceps deliveries.

PATIENT PREFERENCE

Physicians commented that patients sometimes put pressure on the clinical staff to perform C-sections, due to a perception that C-sections are more likely to lead to healthier births. However, in general, patient demand for C-sections is relatively low. One obstetrician stated that approximately 3 percent of all C-sections stem from maternal request.

EMPLOYMENT OF MIDWIVES AND DOULAS

The employment of midwives and doulas was believed by some interviewees to impact the culture of a hospital and its policies toward C-sections. Hospitals that employ midwives and doulas tend to have lower C-section rates. For example, among the Kaiser Foundation hospitals in Northern California, those with lower C-section rates employ midwives.¹⁴ (Midwives are also registered nurses in California.) This correlation was thought by interviewees to be a result of

Some pressures come from patients who may not fully understand the risks associated with C-section deliveries. According to one interviewee, this could be particularly true for the Medi-Cal population, in which patients tend to use the emergency department at higher rates than other populations, in part due to a prevalent belief that the emergency room is more technologically advanced (and therefore better) than the clinic. Thus, within this population, maternal demand for

C-sections, albeit small, could be driven by lack of accurate information about the procedure.

MEDICAL LIABILITY

Interview subjects disagreed on the extent to which medical liability influenced practice patterns, regardless of whether the threat was perceived or real. One hospital administrator noted that anything that slightly increases the risk of the mother or baby for a negative outcome immediately leads to a C-section: “Rarely will you be sued for doing a C-section . . . Instead they’ll say, ‘you should have done that sooner.’” Malpractice insurers also bear influence on practice patterns by driving physicians who have already been sued to perform more C-sections.¹⁵ But others strongly disagreed with the sentiment that medical malpractice was as much of an influence on C-section rates, claiming that providers used medical liability as an excuse to avoid changing their practice preferences.

REIMBURSEMENT

The economics of C-sections differ for hospitals and providers. Hospitals are not swayed by considerations of convenience for individual physicians; their primary focus is on overall cost. Hospitals are paid almost twice as much to perform C-sections. Providers, on the other hand, particularly those in private practice, are strongly influenced by processes, since they are typically reimbursed based on volume and intensity of services delivered. In labor and delivery, a non-salaried, non-staff physician is paid only slightly more to perform a C-section than a vaginal delivery, but a vaginal delivery may take longer, whereas a C-section can be scheduled.

Some clinicians claimed that the influence of payment in practice is minimal or nonexistent, and might only drive the marginal decision. The link between delivery method and payment becomes almost detached in facilities where physician payment is not linked to the procedures performed. While the costs of C-sections are greater, hospitals are paid handsomely for the longer amount of time that these patients

spend in the hospital than those who deliver vaginally. Federal law allows women who have a C-section to stay for up to four days versus up to two for a vaginal birth,¹⁶ thus fewer C-sections translates into shorter average length-of-stay (LOS). When asked what the incentives are for hospitals to reduce their C-section rates or LOS, a chair of an obstetrics department at a county hospital remarked that there are none. Some hospitals are exploring ways to reduce LOS times as a way to decrease healthcare costs without sacrificing patient care.

PHYSICIAN AND HOSPITAL MARKET SEGMENTATION

Interviews suggested that certain hospital and provider types might be more sensitive to incentives than others due to their organizational, legal, and financial structures. Figure 1 describes the four categories of physicians in California and gives examples of the different physician organization structures, based on their financial stake in hospitals and their employment arrangements with them. Medical groups are either organized in a staff model, where physicians are traditionally salaried, or in a network model, where physicians are traditionally paid for each service they provide (a payment form known as “fee-for-service”). Providers working at hospitals closely connected to their own medical group are less likely to feel monetary and time incentives than providers in networks that are loosely affiliated with medical facilities.¹⁷ Hospitals are run as independent entities or are co-owned by physician groups. Independent facilities have no financial connection to the doctors they employ.

The different provider-facility relationships can affect attitudes around obstetrical practices, particularly obstetrical practices for Medi-Cal patients. For example, an executive of a Medi-Cal managed care plan said that in small hospitals, obstetrics is “vital [in] those with a high Medi-Cal population,” whereas in larger hospitals, obstetrics for Medi-Cal mothers is “undesirable.” These facilities would be more likely to opt for C-sections as a means of convenience, in order to save time. Private-practice and academic physicians have markedly

Figure 1. Physician Classifications in California

		Medical Group	
		Staff	Network
Hospital	Co-Owned	Sutter Foundation Kaiser Permanente Sharp Gould	Sutter IPAs Hoag (Newport MDs)
	Independent	Health Care Partners PAMC Bay Valley	Brown & Tolland Hill Physicians

Source: James Robinson, PhD

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different practices. In a closed-staff model, the pressure for C-sections comes more from patients. In a mixed-staff model, where obstetricians are either salaried or paid per service, some clinicians find that the private-practice physicians instill more pressure to control the birth process. In private practice, providers stated that elective inductions or scheduled C-sections at thirty-nine weeks are common.

Private practice obstetricians, particularly those in solo practice, are widely viewed as having stronger time and monetary incentives to actively manage labor. They are paid per delivery and can usually attend only one delivery at a time; therefore C-sections, for which scheduling is predictable, are more desirable to the physician. Such may be the case for those who treat Medi-Cal mothers. A medical director of a health plan with a large Medi-Cal population noted that it is much harder to contract an obstetrician for this population; thus, scheduling C-sections creates an incentive for physicians to see Medi-Cal patients. In institutions with 24-hour on-call physicians, including staff-model and academic centers, the draw to actively manage labor is less strong. According to interviewees, academic physicians appeared to be more accepting of the time required for a vaginal delivery. (Academic hospitals tend to admit higher-risk pregnancies, which often require C-sections for clinical reasons.)

OPPORTUNITIES FOR CHANGING INCENTIVES

Policies that realign incentives based on the economics faced by the hospitals and providers are most likely to be successful in reducing the primary C-section rate, particularly among the Medi-Cal population. Changing the reimbursement structure and changing hospital policies around labor and inductions are two potential solutions.

CHANGES TO PAYMENT STRUCTURES

Payment reform has been viewed as a way to moderate the incentives that drive medically unnecessary C-sections. A bundled payment is a comprehensive payment from a private or government insurer to the provider and facility for a set of defined services for a discrete medical condition. This payment structure varies the performance risk that the provider assumes when treating a patient. For providers who have traditionally been paid per service rendered, a bundled payment increases their performance risk, whereas for those who receive capitated payments (i.e., payments per customer), a bundled payment decreases their level of risk.¹⁸ The amount of the payment is usually based on the expected level of service costs, risk-adjusted for age or patient severity, with the potential for shared savings if the provider is able to care for the patient at a lower cost. A bundled payment constructed for an entire pregnancy, including prenatal care, labor, delivery, and postpartum care, has only been tested in limited populations. For a payer in California, the price of a

bundled payment might be set at a blended rate such that the costs of all uncomplicated deliveries are averaged based on, for example, a rate of 25 percent C-sections. This blended payment in regions where the C-section rate is higher than that would encourage providers and facilities to become more conscious of reducing unnecessary high-cost interventions.¹⁹ The payment could be made to the provider, who is responsible for paying the hospital its share, or vice versa.

Policymakers and clinicians have mixed views on changing the reimbursement structure as a means to reduce unnecessary C-sections. If constructed without certain safeguards, a bundled payment poses a challenge in its effectiveness within different segments of the provider and hospital markets. Physicians might be attracted to a bundled payment because it does not require any oversight on limiting the number of C-sections. Yet there are those who believe changing reimbursement to a bundled payment will not address appropriateness nor be successful at reducing C-section rates.²⁰ It is also possible that hospitals and providers will only be incentivized to reduce C-section rates to the level that the bundled payment assumes.

Administratively, a bundled payment structure is burdensome, as health plans do not contract physician and hospital services together.²¹ This could be a problem if a woman seeks prenatal care at a clinic that receives the bundled payment, but delivers at a hospital unaffiliated with that clinic. The two organizations would need to negotiate the proportion of the bundle that each entity should receive, creating challenges in transferring payments. Furthermore, a bundled payment seems only moderately feasible given that the broader healthcare delivery sector lacks knowledge of this payment structure. There is also a concern that providers or facilities that accept a bundled payment contract for an expecting mother may not transfer her to a more appropriate location in the event that she becomes high-risk, for fear of losing payment for the delivery.

In terms of reducing costs, a bundled payment sets the limit of risk that an insurer will bear, but it is unclear whether the payment change will have a dramatic impact on costs. Furthermore, providers might indiscriminately deny clinically indicated C-sections to women who would then require emergency C-sections after failed trials of labor, thereby driving up costs.

CHANGES TO LABOR AND DELIVERY POLICIES

Labor and delivery policies appear to be most effective in reducing unnecessary C-sections, alone or in combination with other policies. Changes to labor and delivery policies that could reduce C-section rates include denying elective inductions, scheduling deliveries prior to thirty-nine weeks only if medically necessary or if the woman has a favorable Bishop score, and denying elective C-sections.

Numerous case studies reveal the effectiveness that changes to hospital policies have in addressing high C-section rates in a variety of clinical settings.²² A no-induction policy before 41 weeks, for example, has the same effect in a for-profit institution as it does in a county hospital. Hospital policies that are aligned and enforced across the state, coupled with data collection and transparency, afford hospitals political cover from potential resistance by providers and encourage compliance.

Labor and delivery policy changes have gained broad national and statewide support for their ability to reduce unnecessary C-sections, to save costs, and to improve maternal safety and quality of care. Policymakers agree that elective C-sections and inductions deserve more attention as a way to improve quality and decrease costs, but they disagree as to how late in the pregnancy to deny these procedures. For mothers who request C-section deliveries without clinical indication, one solution is to require them to pay the difference between a C-section and a vaginal delivery. Some believe that if the labor and delivery policies are recommended by credible organizations devoted to improving maternal and neonatal quality and safety, then they should be adopted, and patients should be better counseled on the rationale for these policies in order to begin to accept them.

Hospital policies are not only meant to decrease the C-section rate, but also to improve patient safety. Improved labor and delivery practices should have the effect of reducing neonatal intensive care unit (NICU) admissions, emergency C-sections, and hospital re-admissions. Thus, both the Medi-Cal and commercially insured populations would have lower maternal and neonatal health complications and associated costs. The biggest challenge in implementing labor and delivery policies will be instituting means for oversight to ensure compliance.

A VISION FOR THE FUTURE

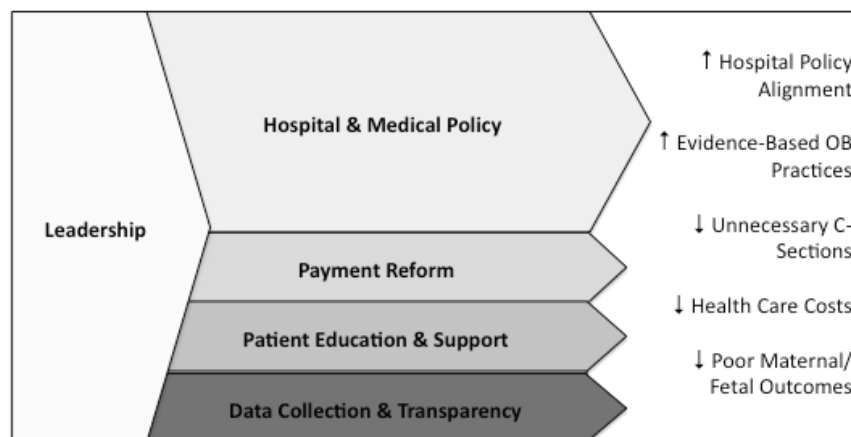
An ideal solution to the problem of unnecessary C-sections would decrease healthcare costs, improve maternity outcomes, and encourage evidence-based practices. A concerted approach using the policy alternatives described above would have a greater likelihood of meeting these goals. Changes to hospital policies could address the broader trend of high unnecessary C-section rates for all patients, not just the Medi-Cal population. Implementation of a novel payment structure could reinforce hospital incentives to ensure compliance with policies around labor and delivery.

Alignment of payment structures among payers would provide further reinforcement. Implementation of policies by hospitals would be incentivized if data is made more transparent and made available to the public. Furthermore, clarification and promotion of VBAC policies could reduce fears of medical malpractice.

The recommendations presented here are based on evidence of success in California and elsewhere. The challenge now lies in bringing these recommendations to life and making California maternity care an example of evidence-based medicine in practice, not just in theory.

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Figure 2. Conceptual Framework for Reducing NTSV C-section Rates



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THE VALUE OF FOOD: THE IMPACT OF SUPERMARKET PROXIMITY ON HOME VALUES IN OAKLAND

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Food deserts—neighborhoods in which residents have disproportionately low access to retailers that sell fresh, healthy food—are a pressing public health and economic development concern in many U.S. cities. There are a number of policy options available to catalyze grocery store and supermarket development in food deserts, but most require outlays of public funds. In a fiscally-constrained time such as the present, policymakers and advocates seeking funds for these programs must articulate and quantify the full range of societal benefits that grocery stores will bring. This article explores enhanced residential property values as one such benefit and uses data from Oakland, California and a hedonic price model to estimate that proximity to a grocery store adds \$20,000 to \$30,000 to home values. This increase in value represents increased wealth for homeowners and an expanded property tax base for governments.

INTRODUCTION

Public health and community economic development policymakers and advocates are increasingly focused on bringing healthy food retail to inner city food deserts. Fresh food financing instruments (“FFFI”) are a policy tool that a number of cities and states are using to increase the presence of grocery stores and supermarkets in areas that lack access to healthy food. FFFIs are pools of money from which loans and grants are awarded to eligible grocery store development projects. Public seed money is an essential component of successful FFFI programs, yet in an era of budgetary cutbacks, advocates and policymakers seeking outlays for FFFI programs face an uphill battle.

The argument for funding FFFI programs is strengthened if advocates can point to benefits from improving grocery store access beyond public health. One crucial benefit of improving access to grocery stores is an increase in property values for homeowners near the new store. This is a benefit of particular interest to localities or states considering funding an FFFI as improved property values strengthen their tax base and allow them to recoup some of the commitment to an FFFI.

This article examines how much supermarket proximity improves home values using data from Oakland home sales. Econometric techniques are used to isolate the benefit of supermarket access while controlling for other factors like school quality, crime, and size of home that are certain to influence sale price. The models estimated here indicate that

supermarket proximity increases home prices by \$20,000 to \$30,000. Estimates of this magnitude suggest that there may be considerable benefits for cities that invest public funds to finance the construction of grocery stores in food deserts.

FOOD DESERTS AND THEIR CONSEQUENCES

The 2008 Farm Bill formally defined a food desert as an “area in the United States with limited access to affordable and nutritious food, particularly such an area composed of predominantly lower income neighborhoods and communities.”¹ A 2009 USDA Report to Congress found that 23.5 million people in the U.S. live in low-income areas (areas where more than 40 percent of the population has income at or below 200 percent of federal poverty thresholds) that are more than one mile from a supermarket or large grocery store.² The study also found that 5.7 million households are located more than one-half mile from a supermarket or large grocery store but lack access to a car. The food retail options in inner city food deserts often are limited to corner stores and liquor stores (which generally charge higher prices and lack healthy, perishable foods) and restaurants (frequently fast food establishments). Individuals and families living in food deserts must choose between these substandard options or traveling long distances to shop in other neighborhoods (with the attendant transfer of wealth away from their own neighborhood). Oakland is a classic case study in disparate food access—in the affluent Oakland Hills there is one supermarket for every 13,778 people while in the poorer Flatlands neighborhood there is only one supermarket for every 93,126 people.³



A substantial body of evidence documents a strong correlation between fresh food access and public health indicators like obesity, diabetes, and heart disease rates. For instance, one study finds that in California, adults living in an area with a high ratio of fast food restaurants and convenience stores to grocery and produce stores are 20 percent more likely to be obese and 23 percent more likely to have diabetes than adults living in an area with a low ratio of these establishments.⁴ Grocery stores and supermarkets are also seen as pivotal in creating jobs and anchoring other community-serving retail establishments, and as this article explores, may boost nearby property values. Unfortunately, residents in food deserts are unable to share equally in these public health and economic development benefits.

CAUSES OF FOOD DESERTS AND POTENTIAL POLICY SOLUTIONS

The reasons for the existence of food deserts are numerous. Inadequate demand is often cited as a reason for relative lack of retail outlets in inner cities (both for food and retail more generally). This claim is rebuffed by studies that demonstrate considerable leakage of food spending from poorer inner city neighborhoods without full-service grocery stores to other neighborhoods and cities.⁵ In Oakland for instance, one assessment found that only \$101 million of a possible \$440 million annual retail spending by Oakland residents happens within the city, with the remainder of sales (and sales tax revenues) escaping to neighboring cities.⁶

On the supply side, there are significant and legitimate barriers to supermarket development in urban settings. Developers and grocery store operators point to high upfront costs, difficulty obtaining financing from commercial banks, and relatively high operating costs for stores in areas that become food deserts.⁷ Suitable sites for a full-service grocery store are often lacking in urban areas due to fragmentation of land ownership, and thus assembly of multiple parcels and remediation of previous uses may be required. Land and construction costs are also typically higher than in suburban settings. Stores and store designs often must be highly customized to accommodate smaller parcels. These difficulties are in stark contrast to suburban setting where land is relatively cheap, sites are typically greenfield and standard store designs can be used for numerous projects.⁸ Commercial banks, given the relative lack of recent track record of supermarkets in urban areas and the higher costs these stores face compared to suburban stores, perceive these projects as high risk.⁹ Finally urban stores may also face higher ongoing costs due to higher shrinkage¹⁰ or security costs and higher labor costs (customers in urban settings often buy fewer items per visit but make more frequent visits, necessitating more cashiers).¹¹

In recognition of these barriers, several cities and states have established FFFIs that make grant and loan money available

for food retail projects in areas that lack access to health food. FFFIs are typically public-private partnership funds (seeded by public money that is then leveraged and administered by a community development bank), which target food retail projects that cannot secure financing from more traditional avenues. It is important to note that FFFIs are one of a suite of policy interventions needed to address the barriers to supermarket development in food deserts. While FFFIs are well-suited to challenges of high upfront costs and difficulty obtaining financing through traditional means, other complementary policy changes are needed to address siting difficulties and higher operating costs. These other policy solutions might include changes in zoning and economic development incentives that extend over the life of a project.

FFFI now exist in a number of states and cities around the country including Pennsylvania, New York, Illinois, Los Angeles, Detroit, Washington, D.C., New Orleans, California, and a program at the federal level. The first and most successful program, the Pennsylvania Fresh Food Financing Initiative, has provided funding for eighty-eight food retail projects in over thirty-four counties.¹² These outlets have brought healthy food access to more than 400,000 residents and enabled the state to create or retain 5000 jobs.¹³

The commitment of public funds is seen by some prospective grocery store developers as essential to enabling FFFI administrators to fund higher risk projects.¹⁴ While private financiers are hesitant to lend to prospective stores run by inexperienced operators or located in neighborhoods that do not promise the same return on investment, the presence of public dollars in FFFI funds can ensure that projects truly target the highest need neighborhoods.

SUPERMARKET ACCESS: FRINGE BENEFIT OR TAX REVENUE GENERATOR?

Given the central nature of public financial commitment, it is essential that advocates seeking to establish new FFFIs are able to articulate the full range of benefits that come from investing in food retail in food deserts. While improved public health and job creation are the two most obvious benefits, improvement in real estate values has also emerged as a highly discussed benefit.

Most realtors would agree that property values can be explained by location. This truth is also well established in the urban economics literature. A variety of econometric studies that look at home values find that attributes of the neighborhood do indeed become capitalized into the value of the home. Examples include studies finding that residential property values increase with proximity to light rail stations,¹⁵ diminished probability of poor air quality days that reduce visibility,¹⁶ proximity to open spaces,¹⁷ water quality for waterfront properties,¹⁸ and proximity to and size



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of shopping centers.²⁰ These studies and others confirm the theory that location attributes are goods that have value (though they may not be priced into the market place), and homeowners are willing to pay more for a comparable home that is close to a desirable good (or far from an undesirable food) to enjoy lower costs to access that resource. While the body of studies demonstrating price effects from attributes like mass transit and parks is quite robust, a literature search revealed no studies that examine the property value effects of supermarket proximity.

From the perspective of a city council member or state legislator considering whether or not to spend public funds on financing supermarkets, property value appreciation is particularly attractive because it means part of the investment may quickly return via an expanded property tax base. Moreover, unlike public health related benefits whose cost savings are spread across governmental units, it is easy to ensure that these benefits are enjoyed by the jurisdiction that invests in supermarkets.

To be sure, increased property values are just one way a new supermarket may increase tax revenues. Capturing retail sales tax revenue that currently escapes to neighboring cities is clearly an important fiscal benefit to cities. Grocery stores also bring jobs that produce associated tax revenues. The New York City Department of City Planning estimates that an average 30,000 square foot store employs 100 to 200 people, and that each job equates to \$2,800 in tax revenues annually.²¹

Increases in property values are not the only mechanism by which grocery store development can increase a city's tax revenues, and they may not even be the most important. A further caveat in California is that the tax revenue gains of increased property values are greatly undermined by Proposition 13, which limits increases in the assessed values of homes to 1 percent annually between sales. Nevertheless, home value appreciation is a clear avenue by which money that cities spend financing supermarkets could return as property tax revenues. It is important to explore how much supermarkets actually do increase real estate values to determine the magnitude of property tax increases that jurisdictions can expect.

METHODOLOGY

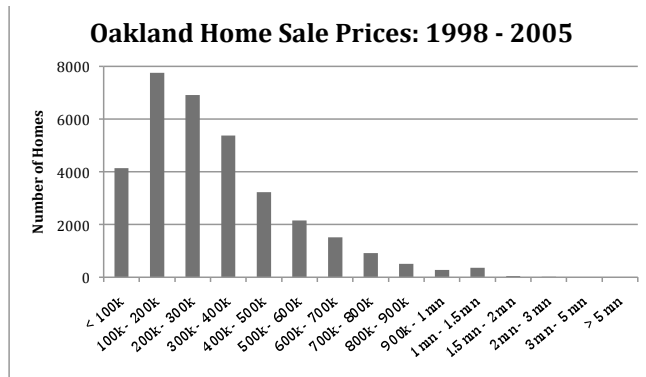
This analysis estimates the improvement in home values attributable to proximity to a full-service grocery store for homes in Oakland. The model used here integrates data on a variety of location-based attributes to control for neighborhood quality. By accounting for other aspects of homes that may be correlated with grocery store access, the model presents an unbiased estimate of the residential property value bonus from grocery store access that is of great use to advocates and policymakers seeking to articulate the full return to public budgets from expenditures on grocery store finance.

This article uses hedonic price analysis, a technique for valuing goods or attributes of goods that are not transacted

Table 1. Definition and Summary Statistics of Variables

Variable	Description	Data Source	Mean	Standard Deviation	Min	Max
PRICE	Selling price of home ('98 through '10)		321,634	244,762	17,000	7,500,000
SQFT	Square footage of home		1,578	1,184	336	52,637
LOTSIZE	Square footage of lot		5,433	3,728	409	43,119
BED	Number of bedrooms in home		2.8	1.5	0	20
BATH	Number of bathrooms in home		1.7	1	0	20
AGE	Age of structure when sold		68	24	0	133
AVGSCORE	5th grade STAR math and reading scores (averaged) for neighborhood elementary school	CA Dept of ED	356	42	285	444
NUM_CRIME	Number of severe crimes within half-mile radius of centroid of Census Block	Oakland CrimeWatch	77	48	0	200
NUM_BUSSTOPS	Bus stop intensity (bus stops * routes per stop) within half-mile radius of centroid of Census Block	MTC	155	71	0	614
BART_QMI	Home is within quarter mile (network distance) of BART station	MTC	Pct True	0.20%	Pct False	99.80%
BART_HMI	Home is within half mile (network distance) of BART station	MTC		1.60%		98.40%
BART_MI	Home is within mile (network distance) of BART station	MTC		13.10%		86.90%
SUPER_QMI	Home is within quarter mile (network distance) of full-service supermarket (15,000 ft ² or greater store)	CNN		2.20%		97.80%
SUPER_HMI	Home is within half mile (network distance) of full-service supermarket (15,000 ft ² or greater store)	CNN		11.20%		88.80%

Figure 1. Frequency Distribution of Oakland Sale Prices



in a market and therefore cannot be valued on the basis of price (such as supermarket proximity). A hedonic analysis takes a good that is transacted and decomposes this good into its component attributes. The sale price is regressed onto the attributes of the good, and the coefficients on attributes in such a model provide estimates of the value of that attribute.

In the models estimated here, homes (the transacted good) are considered to be a bundle of attributes describing the building itself (size, age, number of bathrooms, etc.) and attributes describing the neighborhood quality (supermarket proximity, school test scores, transit access, crime, etc.). Since sale prices are in dollars, the estimated coefficients give the monetary value associated with an attribute (dollars per square foot, dollars per school test score point).

DATA SOURCES

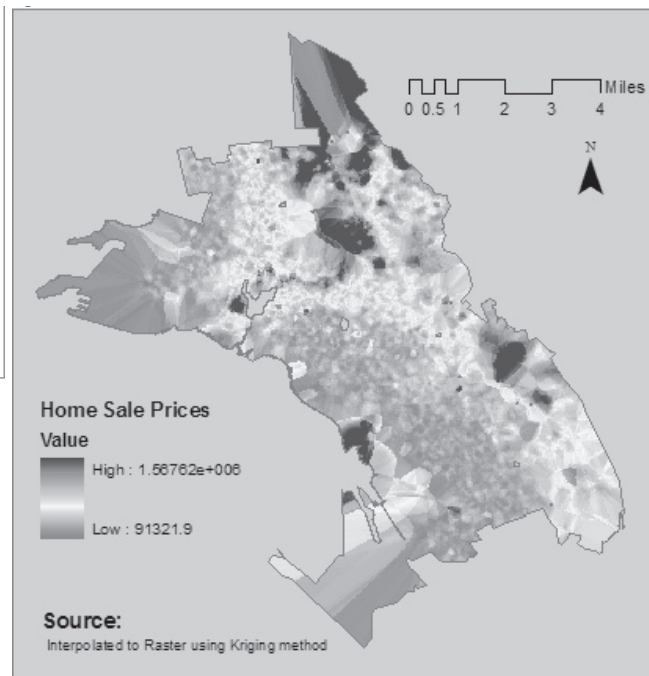
The dataset needed to estimate a hedonic price model of Oakland home sales requires integration of data from a variety of sources, as discussed below. Table 1 defines the home and neighborhood attributes used and provides summary statistics of these.

HOME SALE DATA

Data on home sales from 1998 to 2005 were obtained from the Alameda County Tax Assessor's Office.²² This dataset, in addition to the sale price of the homes, included information on the home and lot size, the number of bedrooms, number of bathrooms, and year of construction of the home. The dataset also included the home addresses, which were used to geocode the homes. The term "geocode" means to locate by identifying coordinates in Geographic Information Systems ("GIS") software. Once all records that were missing some information or could not be geocoded were removed, the dataset included 33,177 observations.

Home sales prices in Oakland from 1998 to 2005 ranged from less than \$100,000 to over \$5 million as Figure 1 illustrates (note that these prices are not inflation adjusted, though the final models estimated control for year of sale to account for

Figure 2. Oakland Home Sale Prices 1998-2005



inflation and housing-market trends). Figure 2 shows a spatial interpolation of the home sale price observations, which illustrates that the highest valued homes are in the northeast (the Oakland Hills).

LOCATION DATA

Data describing neighborhood quality were obtained from a variety of publically available sources. These data were mapped in GIS then spatially joined to each home sale record. Spatially joining is a way of merging two datasets based on spatial identifiers in GIS software (for instance, attaching a school test score value to the home sale dataset based on which school boundary the home falls in).

Supermarket locations were obtained from the California Nutrition Network ("CNN").²³ An export of food retail outlets in Alameda County was downloaded from the CNN website. A threshold of 15,000 square feet was used to define full-service supermarkets (stores smaller than this generally do not include a butcher, seafood counter, bakery, etc.). The network analyst tool in ArcGIS was used to define buffers of one-fourth, one-half, and one mile emanating from each supermarket. These buffers, shown in Figure 3, define the area that is reachable within a given travel distance along the street network. The buffers were overlaid with the geocoded home sale records to determine proximity to a supermarket.

Neighborhood crime was represented using a download of all crimes reported from January to May 2011 from the Oakland Police Department's Crimewatch website.²⁴ Severe crimes

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Figure 3. Supermarket Proximity Buffers in Oakland

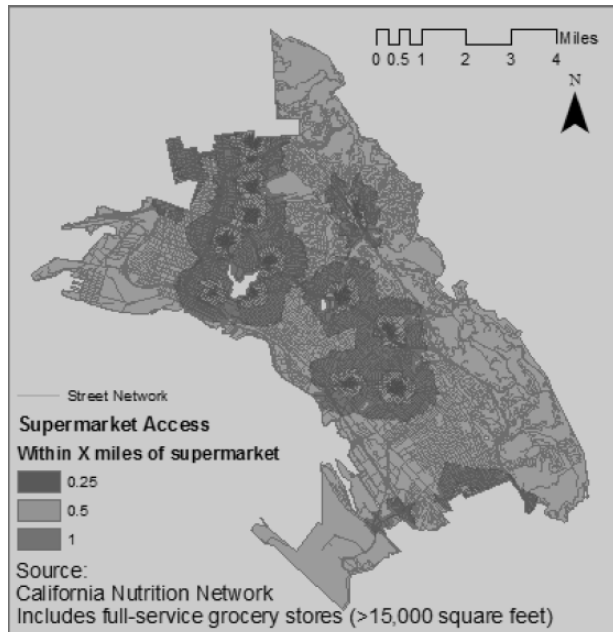
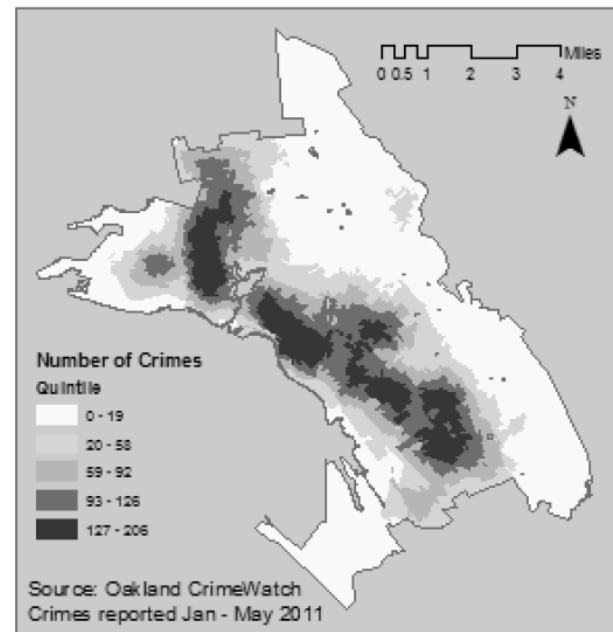


Figure 4. Crime Prevalence in Oakland



were geocoded in ArcGIS.²⁵ ArcGIS was then used to create a half-mile buffer around the centroid of each census block in Oakland and count the number of severe crimes falling within this buffer. The number of crimes was then matched to home sale records based on census block. Figure 4 shows the distribution of the number of severe crimes for each Oakland census block.

Neighborhood school quality was determined using Standardized Testing and Reporting (“STAR”) scores from the California Department of Education.²⁶ Fifth grade math and reading scores were averaged and the home records were matched to average school test scores based on school boundaries in the Oakland Unified School District (“OUSD”). Elementary school scores were used to provide a high level of spatial variation (OUSD only includes 6 public high schools). Figure 5 shows the distribution of average STAR test scores of each elementary school in Oakland in 2010.

Neighborhood transit access was characterized using data on bus and rail stops from the Metropolitan Transportation Commission.²⁷ Bus stop intensity (the number of stops multiplied by the number of routes visiting each stop) was used to characterize bus access; bus access was counted within a half-mile buffer from the centroid of census blocks. Rail access was determined using a buffer method similar to that for supermarket proximity. Network buffers of one-fourth, one-half, and one mile were constructed around each Bay Area Rapid Transit (“BART”) station and overlaid on geocoded homes.

MODEL RESULTS

Table 2 shows the final estimated home sale price model. The model has an r-squared value of 0.538, explaining over half of the variation in home sale prices. All coefficients have logical signs (crime detracts from home value, school quality improves home value, etc.). In addition, all variables except for the number of bedrooms are statistically significant. Number of bedrooms may appear insignificant because the effect of adding more bedrooms is already captured by home square footage; regardless, bedrooms are kept in the final model because they are a core attribute of homes.

The effect of supermarket proximity should be interpreted relative to a home that is more than a half-mile away from a supermarket. The model says that relative to such a home and holding all other attributes of the home equal, a home that is within a half-mile of a full-service supermarket garners a \$22,000 premium, while a home within a quarter-mile of a full-service supermarket enjoys a \$30,000 boost in value.

The sale year dummy variables are all relative to a base year of 1998. The estimates of these variables indicate that home values increased each year (holding all else equal) up to 2005 (for instance, from 1998 to 1999, home values increase \$33,000 on average, while from 1999 to 2000 they increase \$73,000 on average. This increase is at least partially due to inflation but also likely reflects trends in the California housing market during that period (over this period the California housing price index increased by a factor of 3.1, while the national housing price index increased by only a factor of 1.8).²⁸

ANALYTIC CONCERNS

There are several legitimate concerns with the methods used here. These concerns should not detract from the final conclusion of this article—that supermarket proximity has an impact on home values. However, the concerns discussed below mean that the estimated magnitude of home value benefit could change with improved analytic methods.

One significant concern is endogeneity of home sale price and supermarket locations. While it is likely true that supermarket proximity increases home values, the causality may also exist in the other direction. That is, supermarket developers seeking to locate near high spending power may consider prevailing home values as a factor in their location decisions. If this reverse causality does in fact exist—if home values do in fact determine where supermarkets are located (or if the causality exists in both directions simultaneously)—then this likely means that the home value benefit estimated here is biased too high.

To some degree, the endogeneity critique is an argument that grocery store operators will not locate in certain neighborhoods because they perceive inadequate demand—the same demand side reasons for food deserts that are discussed above and refuted by retail leakage studies. The legitimacy of the endogeneity critique depends on whether one believes that the causes of food deserts lie on the demand side or the

supply side. If one believes that market analysts working for developers and supermarket operators are savvy and would not leave food retail spending on the table by allowing it to leak to other neighborhoods and cities, then the endogeneity critique does not stand up. If one believes that food deserts lack supermarkets for supply side reasons—unsuitable sites, prohibitive costs, and challenges obtaining financing—then this means supermarket locations are not causally determined by property values.

In reality, supply side barriers may be the dominant reason why food deserts lack grocery stores, but it is still likely true that home values are at least one of many metrics grocery store developers consider when assessing the potential of a neighborhood to support a store. Future analyses should use analytic techniques equipped to handle a causal relationship between home values and supermarket location that may be determined in both directions simultaneously. Two-stage least squares regression using an instrumental variable for supermarket location would be one such technique. In this set-up, a third factor that determines home prices only through its relationship on supermarket location is invoked to remove causality between home price and supermarket location. Possible instruments on supermarket location could include tax abatements offered, other tax rates, or availability of supermarket-sized parcels (measures of the very supply side reasons that may prohibit urban supermarket development).

Figure 5. Oakland School Test Scores

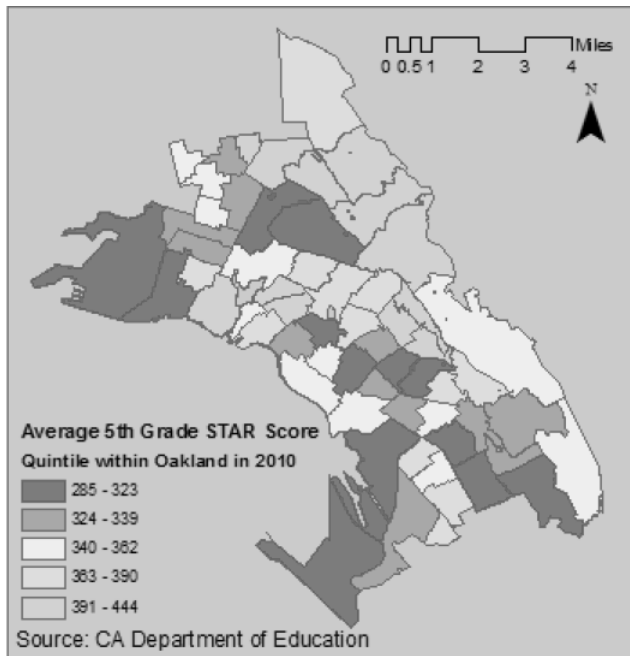


Table 2. Final Home Values Model

Variable	Coefficient	Standard Error	T-score	P less than
CONSTANT	-191876.4	12503.7	-15.3	0.001
SQFEET	43.0	0.9	48.6	0.001
LOTSIZE	3.5	0.3	12.7	0.001
BED	222.1	820.4	0.3	0.787
BATH	29391.2	1268.6	23.2	0.001
AVG_TEST	1200.7	27.2	44.2	0.001
BARTQuartMi	-91775.3	20176.5	-4.5	0.001
BARTHalfMi	-51076.6	7431.5	-6.9	0.001
BARTMi	-7118.5	2852.6	-2.5	0.013
SuperQuartMi	30293.7	6249.6	4.8	0.001
SuperHalfMi	22430.5	2985.1	7.5	0.001
NumCrimes	-1596.9	29.2	-54.7	0.001
NumBusStops	72.6	16.7	4.3	0.001
AGE	-3093.4	153.7	-20.1	0.001
AGE2	24.8	1.3	19.3	0.001
1999_SALE	32989.8	3449.4	9.6	0.001
2000_SALE	105595.9	3433.2	30.8	0.001
2001_SALE	144712.3	3614.6	40.0	0.001
2002_SALE	178100.7	3508.8	50.8	0.001
2003_SALE	201005.9	3567.1	56.4	0.001
2004_SALE	299275.0	3501.5	85.5	0.001
2005_SALE	337612.9	6893.9	49.0	0.001



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Another concern is the coarse method used to estimate supermarket proximity. Ideally, GIS would be used to compute the exact distance from each home to the nearest supermarket, rather than to merely find which distance band the home falls within. This finer-grained measurement would permit a more exact estimate of the benefit of grocery store proximity. Finer-grained measurement would also remove “cliff effects” (the model presented here says that a home that is located 0.25 miles from a grocery store is worth roughly \$8,000 more than a home located 0.251 miles from a grocery store). Limitations in computing resources prevented this more detailed distance measurement.

CONCLUSIONS

This article presents a statistical model of home sales in Oakland that suggests that grocery store proximity can add tens of thousands of dollars to residential property values. The model should be interpreted with a few caveats, but the conclusion that grocery store proximity becomes capitalized in a (taxable) asset held by the residents of a community is well supported. This finding lends support to advocates and policymakers who wish to invest public funds in developing grocery stores in areas that lack adequate food access—whether as part of a public commitment to a Fresh Food Financing Initiative or through any other economic development incentive. The benefits of such an investment extend beyond the home value improvement effects estimated here, and this article demonstrates that the value created by seeding food access in low access neighborhoods is far-reaching.

The City of Oakland and Alameda County have started a number of exciting initiatives aimed at promoting healthy food access. These initiatives support a range of retail

models including urban gardening, mobile vending, farmers markets, and school-based produce stands. While these efforts are laudable—and indeed these retail models bring some advantages in terms of food access and economic development that grocery stores lack—the sheer size of the food access gap in East and West Oakland means that these neighborhoods also need brick-and-mortar grocery stores. At least one group of entrepreneurs wants to bring a grocery store to West Oakland and is currently seeking financing.²⁹ A dedicated pool of funds from which to finance grocery stores would be a decisive factor in making this and other projects in Oakland’s underserved markets a reality.

In fact, there is already a fresh food financing instrument at the state level: the California FreshWorks fund, a \$264 million funding pool administered by the California Endowment. Unlike other FFFIs around the country, FreshWorks is seeded by foundation capital (not public funds). This feature means that the FreshWorks program often requires greater operator experience or higher rates of return from projects. Unfortunately, projects proposed by less experienced operators or promising lower return are often those in the highest food access need areas.

California will soon have a publically-backed supermarket financing initiative as well. State Assembly Bill 581, signed into law in October 2011, creates the California Healthy Food Financing Initiative.³⁰ While this bill creates a program that can finance high need projects, future appropriations processes will determine exact funding levels. Legislators seeking to fund this program will find their case greatly strengthened by the wealth supermarkets bring to nearby homes, and ultimately to the state via property value gains.

Matthew Bomberg is a Master’s student in Public Policy and Transportation Engineering at the University of California, Berkeley. He worked on an assessment of policy options to improve food retail access for the Alameda County Public Health Department in Spring 2011. The author wishes to acknowledge Hope Richardson and Laura Schroeder with whom he worked on an assessment of policy options to improve food retail access in Oakland. He also wishes to acknowledge Diane Woloshin and Pam Willow of the Alameda County Public Health Department and Jane Mauldon of the Goldman School of Public Policy who supervised this effort.

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