

MOBILIZING A COMMUNITY: THE EFFECT OF PRESIDENT
TRUMP'S EXECUTIVE ORDERS ON THE COUNTRY'S INTERIOR

by
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Utilizing his executive powers, one of President Trump's first actions denied entry into the U.S. to individuals from seven different countries. This action immediately set into motion many relief efforts undertaken by attorneys around the nation and showcased lawyers' work on high impact cases through suits brought by organizations such as the American Civil Liberties Union. While the media attention focused on these efforts in coastal cities at international airports, cities in the interior United States struggled to gather resources and effectively provide legal assistance to affected individuals. The participatory action research (PAR) model emerges as a means to bridge the gap between the Ivory Tower and the surrounding community to optimize resources. Through use of PAR, the University of Louisville Brandeis School of Law's Human Rights Advocacy Program clinics and engaged the surrounding community in a way that could be replicated in other communities.

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A special thank you to the Brandeis School of Law's Human Rights Advocacy Program Co-Founder, Professor Jamie Abrams, for her continued assistance and support, especially on this Article. We would also like to thank our research assistants, Aleisha Cowles and Lindsey Dennis, for assisting us in compiling our news sources, and the Human Rights Advocacy Fellows—Janet Lewis, Katherine Miller, Benjamin Potash, Steven Harris, Kristen Barrow, Briana Lathon, Abigail Lewis, Kylie King, Sue Eng Ly, Irina Strelkova, Danielle Hampton, and our many volunteers—who contributed to our community research.

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INTRODUCTION

On January 27, 2017, President Trump released Executive Order 13769.¹ Fulfilling one of his many campaign promises, this Order effectively acted as a “Muslim ban”² and would later be referred to as the “travel ban.”³ The ban excluded entry of citizens from seven Muslim majority countries for 90 days and indefinitely suspended the entry of Syrian refugees. The impact was felt immediately. Upon arriving in the U.S., individuals from these countries were detained at airports; some were immediately returned to their home countries.⁴ Others were not allowed to board their flights to the U.S. People were enraged. Attorneys rushed to the airports. Executive Order 13769 was the last in a trio of orders issued by the Trump Administration during his first week in office fundamentally altering the framework for enforcement, as well as the policies for refugee admissions.⁵ The news coverage, however, focused on the travel ban and its effect on coastal cities, obscuring other long-term changes to immigration policy in these executive orders.

¹ Exec. Order No. 13,769, 82 Fed. Reg. 8977 (Jan. 27, 2017).

² See Margaret Hu, *Algorithmic Jim Crow*, 86 *FORDHAM L. REV.* 633, 636 (2017). Though the President explicitly stated that Executive Order 13769 was not a Muslim ban upon its release, many news outlets focused on his campaign rhetoric as the basis for his actions. “The travel restrictions and the vetting requirements were expanded yet again in a third iteration of the ‘Muslim Ban,’ also referred to as the ‘Travel Ban’ or the ‘Entry Ban.’” *Id.* at 636.

³ See, e.g., Evan Bush, *After Block of Trump Travel Ban, Washington Solicitor General Noah Purcell Adjusts to Spotlight*, *SEATTLE TIMES* (Feb. 12, 2017), <https://www.seattletimes.com/seattle-news/politics/successful-travel-ban-challenge-shines-light-on-lawyer-noah-purcell/>.

⁴ Anya Kamenetz, *Students Stranded Worldwide by Trump Order*, *NAT’L PUB. RADIO* (Jan. 30, 2017), <https://www.npr.org/sections/ed/2017/01/30/512431112/students-stranded-worldwide-by-trump-order>.

⁵ Exec. Order No. 13,767, 82 Fed. Reg. 8793, 8793 (Jan. 25, 2017) (naming the Executive Order “Border Security and Immigration Enforcement Improvements”); see also Exec. Order No. 13,768, 82 Fed. Reg. 8799, 8799 (Jan. 30, 2017) (naming the Executive Order “Enhancing Public Safety in the Interior of the United States”).

National organizations, such as the American Civil Liberties Union (ACLU) and the National Immigrant Justice Center, brought suit on behalf of detained individuals seeking injunctive relief to halt the widespread chaos at major U.S. international airports.⁶ As time went on, President Trump released two revised versions of the travel ban (Travel Bans 2.0 and 3.0), each one more narrowly tailored to avoid a legal challenge.

In the backdrop of these national events, attorneys in interior states struggled to assist people in their local communities. These efforts were unnoticed since local media coverage was limited. Local attorneys and nonprofit organizations with limited resources also worked tirelessly to ensure that their communities received accurate information and legal advice about the new policies and nebulous executive orders. It was necessary for local attorneys to partner with community organizations to ensure that legal services were available to the local community. In Louisville, the Brandeis Human Rights Advocacy Program (HRAP or the Program), housed in the Louis D. Brandeis School of Law, acted as a conduit between the legal community; local organizations; and the local immigrant, noncitizen, and refugee community by leveraging resources through its participatory action research and community engagement model.⁷

Part I reviews the history of the travel ban litigation and the national media attention focused on coastal cities with large airports. It includes an assessment about how the media coverage may have limited the public's understanding of the full impact of the new restrictionist immigration policy. Part II examines the challenges facing smaller, interior cities, such as Louisville, Kentucky, and provides a brief overview of Louisville's immigrant, noncitizen, and refugee community. Part III addresses the distribution of resources after high-profile actions, the contrast between national and local resources, as well as the challenges of

⁶ See *ACLU and Other Groups Challenge Trump Immigration Ban After Refugees Detained at Airports Following Executive Order*, ACLU (Jan. 28, 2017), <https://www.aclu.org/blog/national-security/discriminatory-profiling/aclu-and-other-groups-challenge-trump-immigration>; Robert Channick, *Immigration Lawyers Swamped in Wake of Travel Ban*, CHI. TRIB. (Feb. 7, 2017), <http://www.chicagotribune.com/business/ct-immigration-lawyers-trump-travel-ban-0208-biz-20170206-story.html>.lawyers-trump-travel-ban-0208-biz-20170206-story.html.story.html.story.html.and-Channick; *Immigration Lawyers Swamped in the Wake of the Travel Ban*, CHICAGO TRIBUNE (Feb. 7, 2017), <http://www.chicagotribune.com/business/ct-immigration-lawyers-trump-travel-ban-0208-biz-20170206-story.html>.

⁷ BRANDEIS HUMAN RIGHTS ADVOCACY PROGRAM, HRAP FINAL REPORT 2015, <http://louisville.edu/law/bhrap/documents-pp-pdfs/hrap-final-report-2015/view> ("We use the phrase in this report 'noncitizen and refugee community' to identify the entire international population in the region . . . This report does not use the term 'immigrant' because the [Immigration and Nationality Act] defines an immigrant as a noncitizen authorized to reside permanently in the U.S.").

resource constraints in smaller legal markets. It includes an analysis of the difficulties in mobilizing a local legal community and continuing its assistance on a sustained level. This includes a discussion of the university as a resource and offers a more in-depth explanation of the Brandeis School of Law Human Rights Advocacy Program and its functions. Part IV concludes with an analysis of the measures HRAP took after the January 2017 Executive Orders, illustrating the usefulness of a participatory action research and community engagement model in a law school setting compared to a more traditional clinical education model.

I. THE NATION'S FIRST LOOK AT PRESIDENT TRUMP'S RESTRICTIONIST IMMIGRATION POLICY

*The New Restrictionist Immigration Policy: The January 2017 Executive Orders—
A Travel Ban and Much More*

Throughout the election period, Candidate Trump gave many speeches promising to fundamentally alter immigration law and policy, including building a wall on the U.S. southern border; creating a deportation force to round up the unauthorized population estimated at 11 million; instituting extreme vetting for entry into the U.S.; and dismantling the Deferred Action for Childhood Arrivals (DACA), a program enacted during President Obama's tenure to provide refuge for children who arrived in the United States at a young age.⁸ The DACA program was terminated without notice on September 5, 2017 by the

⁸ See *2016 Candidates Stance on Immigration—Donald Trump*, FED'N FOR AM. IMMIGRATION Reform, <https://fairus.org/legislation/2016-candidates-stance-immigration-donald-trump>; Lauren Said-Moorhouse & Ryan Browne, *Donald Trump Wants 'Extreme Vetting' of Immigrants. What Is the US Doing Now?*, CNN (Aug. 16, 2016), <https://www.cnn.com/2016/08/16/politics/how-us-vets-immigrants-donald-trump-extreme-vetting/index.html>; Amy Chozick, *Trump Appears to Soften on Deporting Thousands of Young Immigrants*, N.Y. TIMES (Dec. 7, 2016), <https://nyti.ms/2gWxkYG>. The DACA program granted deferred action (deportation) status to noncitizens who were under the age of 31 as of June 15, 2012; entered the U.S. before their 16th birthday; had continuously resided in the U.S. since June 15, 2007; were physically present in the U.S. on June 15, 2012; had no lawful status; were in school, or had graduated or completed high school, or had a General Educational Development (GED) certificate, or were honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and had not been convicted of a felony, a significant misdemeanor, three or more other misdemeanors, and would not otherwise pose a threat to national security or public safety. *Consideration of Deferred Action for Childhood Arrivals (DACA)*, U.S. CITIZENSHIP & IMMIGRATION SERVS., <https://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca> (last updated Oct. 6, 2017).

Trump Administration, creating chaos for those who are “DACA-mented” and affecting students on university campuses throughout the nation.⁹

HRAP predicted that uncertainty about the future of DACA would be a central issue after the election and that there would be significant unmet legal needs in our community. None in the immigrant advocacy community predicted the kind of disruption created by the Trump Administration barely one week after the inauguration. A trio of executive orders, implemented immediately, created fear, confusion, and havoc throughout the nation. The first two Executive Orders released during President Trump’s first week in office dismantled established enforcement priorities and longstanding interpretations of the Immigration and Nationality Act (INA) relating to enforcement. These Executive Orders, entitled *Border Security and Immigration Enforcement Improvements* (Border Security Executive Order) and *Enhancing Public Safety in the Interior of the United States* (Interior Enforcement Executive Order), were released on January 25, 2017.¹⁰ The full implication of these orders was obscured by the surprise and chaos after Executive Order 13769, *Protecting the Nation from Foreign Terrorist Entry Into the United States*, released on January 27, 2017 (Travel Ban Executive Order or Travel Ban 1.0).¹¹ To respond, HRAP focused on mobilizing and collaborating with the legal community and local immigrant rights advocacy groups. This included public education at numerous community events where HRAP’s co-director, Professor Trucios-Haynes, joined local advocates in discussing the impact of the executive orders.¹² HRAP fellows worked on

⁹ On September 5, 2017, President Trump announced his plans to end DACA, which simultaneously rescinded the Obama Administration memorandum establishing the DACA program. Memorandum from Elaine C. Duke, Acting Sec’y, U.S. Dep’t of Homeland Sec., to James W. McCament, Acting Dir., U.S. Citizenship & Immigration Servs. et al. (Sept. 5, 2017), <https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca>. His actions were in response to his fellow Republicans’ calls for him to act on the promises he made during his campaign. See Jill Colvin, *Trump Expected to Decide Soon on Fate of Young Immigrants*, CHI. TRIB. (Aug. 28, 2017), <http://www.chicagotribune.com/news/nationworld/ct-trump-immigrants-daca-20170828-story.html>; Stephen Dinan, *Top Republicans Demand Data on Dreamers Taking Shortcut to Citizenship*, WASH. TIMES (Aug. 28, 2017), <http://www.washingtontimes.com/news/2017/aug/28/top-republicans-demand-data-dreamers-shortcut/>; The Editors, *Mr. President, End DACA*, NAT’L REV. (Aug. 28, 2017) <http://www.nationalreview.com/article/450894/daca-donald-trump-end-amnesty>. According to the Migration Policy Institute, “[c]lose to one-third [of DACA recipients] had either enrolled in college or completed at least some college.” RANDY CAPPS ET AL., MIGRATION POLICY INST., THE EDUCATION AND WORK PROFILES OF THE DACA POPULATION 4 (2017).

¹⁰ Exec. Order No. 13,767, 82 Fed. Reg. 8793, 8793 (Jan. 25, 2017); Exec. Order No. 13,768, 82 Fed. Reg. 8799, 8799 (Jan. 25, 2017).

¹¹ Exec. Order No. 13,769, 82 Fed. Reg. 8977, 8977 (Jan. 27, 2017).

¹² The public education efforts in Louisville mirrored similar events held across the country organized by nonprofit immigrant rights advocacy groups, immigration

creating one-day pro bono legal clinics and other educational programs to provide information to the university and the local immigrant, noncitizen, and refugee community. The clinics were modeled on DACA clinics previously organized through the law school in 2012 in Lexington and Louisville, Kentucky by co-director Professor Trucios-Haynes, local immigration lawyers and community advocates, and DACA-eligible students.

The Travel Ban Executive Order included elements affecting many different immigrant, noncitizen, and refugee communities. The justification for Travel Ban 1.0 relied on September 11, 2001 and a continued need to “ensure that those admitted to this country do not bear hostile attitudes toward it and its founding principles.”¹³ It suspended the entry of “immigrants and nonimmigrants” for 90 days to ensure adequate standards were established to prevent “infiltration by foreign terrorists or criminals.”¹⁴ While not explicitly stating which countries were excluded, the Executive Order referred to the countries listed in section 217(a)(12) of the Immigration and Nationality Act.¹⁵ Those listed countries include Iraq, Syria, Iran, Libya, Somalia, Sudan, and Yemen.¹⁶

The Travel Ban Executive Order suspended *all* refugee admissions for 120 days.¹⁷ The entry of Syrian refugees was declared to be

law clinics, and other immigration law experts. Many national organizations and law schools immediately produced valuable multilingual materials explaining the executive orders and the fast-moving litigation. *See, e.g., Immigration After the Election*, PENN STATE LAW, <https://pennstatelaw.psu.edu/immigration-after-election> (listing various resources that address the travel ban and DACA).

¹³ Exec. Order No. 13,769, 82 Fed. Reg. at 8977 (The Executive Order stated the U.S. should not admit those: (1) who “do not support the Constitution”; (2) who “place violent ideologies over American law”; (3) who “engage in acts of bigotry or hatred (including ‘honor’ killings, other forms of violence against women, or the persecution of those who practice religions different from their own)”; or (4) who “would oppress Americans of any race, gender, or sexual orientation.”).

¹⁴ *Id.* at 8978. Immigrant and nonimmigrant admissions were halted from the seven countries and Syrian refugee admissions were suspended entirely; DHS clarified within days that immigrants [lawful permanent residents] were exempt from this ban. *Id.*; *Fact Sheet: Protecting the Nation from Foreign Terrorist Entry to the United States*, DEP’T OF HOMELAND SEC. (Jan. 29, 2017), <https://www.dhs.gov/news/2017/01/29/protecting-nation-foreign-terrorist-entry-united-states>.

¹⁵ Exec. Order No. 13,769, 82 Fed. Reg. at 8978; Immigration and Nationality Act (INA) § 217(a)(12), 8 U.S.C. § 1187(a)(12) (2012) (listing individuals from Iraq, Syria, or countries “designated by the Secretary of State under section 4605(j) of title 50” or “any other country or area of concern designated by the Secretary of Homeland Security”).

¹⁶ INA § 217(a)(12), 8 U.S.C. § 1187(a)(12); *see also Trump’s Executive Order: Who Does Travel Ban Affect?*, BBC (Feb. 10, 2017), <http://www.bbc.com/news/world-us-canada-38781302>.

¹⁷ Exec. Order No. 13,769, 82 Fed. Reg. at 8979.

“detrimental to the interests of the United States” and admissions were suspended indefinitely.¹⁸ An exception was carved out for Christians being persecuted in these countries.¹⁹ Refugee admissions were reduced to 50,000 for fiscal year 2017, claiming a detriment to U.S. interests by admitting more refugees.²⁰ The Travel Ban Executive Order also suspended the processing of any other immigration benefit to citizens of the seven countries, which would include applications relating to naturalization, extending work authorization for refugees already present in the U.S., and petitions filed for relatives seeking permanent residency in the U.S.²¹ It included a form of “extreme vetting” promised during the campaign by requiring vague additional screening procedures to determine if individuals were at risk of causing harm in the U.S. *after* their admission and if they were likely to “become a positively contributing member of society” and “make contributions to the national interest.”²² The Secretary of State and the Secretary of Homeland Security were empowered to issue visas or other immigration benefits on a case-by-case basis to individuals who would otherwise be blocked.²³

The Border Security and Interior Enforcement Executive Orders focus on heightened security at the U.S.-Mexican border²⁴ and expanded enforcement within the interior U.S.²⁵ These Orders increased Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) agents by 15,000.²⁶ The Border Security Executive Order mandates steps toward building a physical wall on the southern border, including budget requests to Congress; increases detention facilities along the southern border; expands detention of *all* individuals unlawfully present in the U.S.; and allows the Department of Homeland Security (DHS) to enter agreements with state and local law enforcement

¹⁸ *Id.* This determination was made under section 212(f) of the INA, which outlines the duration and termination of a country’s designation as disqualified due to its perceived high risk and failure to report passport thefts, share information with the Secretaries of Homeland Security and State, and screen applicants. INA § 212(f), 8 U.S.C. § 1182(f).

¹⁹ Exec. Order No. 13,769, 82 Fed. Reg. at 8979 (stating the Order will “prioritize refugee claims made by individuals on the basis of religious-based persecution, provided that the religion of the individual is a minority religion in the individual’s country of nationality”).

²⁰ *Id.*

²¹ *Id.* at 8977.

²² *Id.* at 8979.

²³ *Id.* at 8978.

²⁴ Exec. Order No. 13,767, 82 Fed. Reg. 8793, 8793 (Jan. 25, 2017).

²⁵ Exec. Order No. 13,768, 82 Fed. Reg. 8799, 8800 (Jan. 25, 2017).

²⁶ Exec. Order No. 13,767, 82 Fed. Reg. at 8795 (5,000 CBP agents); Exec. Order No. 13,768, 82 Fed. Reg. at 8800 (10,000 ICE agents); *see also* Jennifer M. Chacón, *Immigration and the Bully Pulpit*, 130 HARV. L. REV. F. 243, 254 (2017).

agencies to perform immigration enforcement functions.²⁷ In addition to the expanded detention, ICE officers are empowered to expand the expedited removal process applied to individuals who lack proper documentation for admission into the U.S., or who have committed fraud or a material misrepresentation and have not been lawfully admitted or paroled.²⁸ The preexisting policy applied expedited removal to those within 100 miles of a U.S. border.²⁹ Under the Border Security Executive Order, this removal would apply to anyone who lacks proper documentation.³⁰ These individuals may now be summarily deported without access to an Immigration Judge. The justification for these measures includes assertions, unsupported by facts, about a “recent surge in illegal immigration at the southern border[,]” and the harms caused by transnational criminal organizations engaged in drug and human trafficking that have contributed to the significant increases in violent crime and drug overdoses in the United States.³¹

The Interior Enforcement Order, and a subsequent memorandum implementing both the Border Security and Interior Enforcement Executive Orders, rescinded all prior policies related to enforcement priorities, effectively targeting all unauthorized noncitizens in the U.S. by providing broad discretionary authority to apprehend and detain anyone believed to be present in violation of immigration law.³² One of the most publicized portions of this Order attempts to limit the authority of state and local jurisdictions to refuse to enforce federal immigration law. DHS is authorized, in its sole discretion, to designate a state or local

²⁷ Exec. Order No. 13,767, 82 Fed. Reg. at 8794–95.

²⁸ Exec. Order No. 13,768, 82 Fed. Reg. at 8800; *see also* INA § 235(b)(1), 8 U.S.C. § 1225(b)(1) (2012). As of April 1, 1997, expedited removal procedures are applied to any person deemed inadmissible for fraud or material misrepresentation under INA § 212(a)(6)(C) or lack of proper immigration documents under INA 212(a)(7). Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,318 (Mar. 6, 1997) (codified in scattered sections of 8 U.S.C.). Expedited removal provides an immigration officer with the singular authority to detain and deport an individual and to deny access to a deportation hearing before an Immigration Judge. INA § 235(b)(1), 8 U.S.C. § 1225(b)(1). Expedited removal may apply to any person who is unable to prove they have been present in the U.S. for two or more years. *Id.* DHS policy had applied expedited removal to anyone within 100 miles of a U.S. border who could not prove they were continuously present in the U.S. for the prior 14 days. Designating Aliens for Expedited Removal, 69 Fed. Reg. 48,877, 48,879 (Aug. 11, 2004) (notice). The Trump Interior Enforcement Executive Order expands the interior use of expedited removal to anyone encountered anywhere in the U.S. Exec. Order No. 13,767, 82 Fed. Reg. at 8793–94.

²⁹ Designating Aliens for Expedited Removal, 69 Fed. Reg. at 48,879.

³⁰ Exec. Order No. 13,767, 82 Fed. Reg. at 8793–94.

³¹ *Id.* at 8793.

³² *See* BILL ONG HING ET AL., IMMIGRATION LAW AND SOCIAL JUSTICE, at xxi (2018); *see also* Chacón, *supra* note 26, at 254.

jurisdiction as a “sanctuary jurisdiction” and make these jurisdictions ineligible for federal grants.³³ The Department of Justice is authorized to take “appropriate” enforcement action against a designated jurisdiction.³⁴ The new enforcement priorities essentially include any and all unauthorized noncitizens in the U.S.³⁵ Ongoing litigation throughout the nation has challenged these sanctuary city provisions and attempts by the Department of Justice to limit law enforcement-related federal grants.³⁶ These are limited examples of the significant policy changes affecting immigrant, noncitizen, and refugee communities within the interior U.S. in addition to the travel ban.

The first iteration of the Travel Ban Executive Order (1.0) had a far-ranging, immediate impact. The travel ban halted the entry of first-time entrants into the U.S. as well as lawful permanent residents.³⁷ The ban directly counteracted the INA, which explicitly entitles lawful permanent residents (LPRs) to return to the U.S.³⁸ The White House tried to

³³ Exec. Order No. 13,768, 82 Fed. Reg. at 8801.

³⁴ *Id.* (designating jurisdictions as sanctuary cities if they “willfully refuse to comply with 8 U.S.C. 1373”).

³⁵ See HING ET AL., *supra* note 32, at xxi–ii. The new enforcement priorities include anyone who has been “[c]onvicted of any criminal offense”; “[c]harged with any criminal offense where the charge is ‘not resolved’”; “[c]ommitted ‘acts’ that constitute a ‘chargeable criminal offense’”; “[c]overed by any deportation ground related to crimes, criminal behavior (e.g. prostitution, drug sales), allegations of terrorism or national security”; “[s]ubject to ‘expedited removal’”; “[s]ubject to a final order of removal”; “[s]uspected of fraud or willful misrepresentation in their immigration cases”; “[a]n ‘abuser’ of any government benefit program”; or “[a] threat to public safety and security in the ‘judgment’ of an ‘immigration officer.’” Paromita Shah et al., *FAQ for Community Groups: Immigration Enforcement Executive Actions: Interior Enforcement*, IMMIGRANT JUSTICE NETWORK (Jan. 26, 2017), <http://immigrantjusticenetwork.org/resources>.

³⁶ See, e.g., Ryan Lillis, *Sacramento Joins Federal Lawsuit Challenging Trump’s ‘Sanctuary City’ Threat*, SACRAMENTO BEE (Mar. 23, 2017), <http://www.sacbee.com/news/politics-government/article140414868.html>; Ryan Lucas, *Los Angeles Sues Justice Department, Joining Other ‘Sanctuary Cities’*, NAT’L PUB. RADIO (Aug. 22, 2017), <https://www.npr.org/2017/08/22/545352996/los-angeles-sues-justice-department-joining-other-sanctuary-cities>.

³⁷ Chacón, *supra* note 26, at 259.

³⁸ INA § 101(a)(13)(C), 8 U.S.C. § 1101(a)(13)(C) (2012). A lawful permanent resident (LPR) will not be regarded as seeking an admission unless he or she has (1) abandoned or relinquished LPR status; (2) been absent from the U.S. for a continuous period in excess of 180 days; (3) engaged in illegal activity after departing the U.S.; (4) departed the U.S. while in deportation proceedings; (5) committed a criminal offense under INA § 212(a)(2); or (6) entered or attempted to enter the U.S. without a formal admission. *Id.*; see also Chacón, *supra* note 26, at 259 (“As any student of immigration law could have informed President Trump, compared to other arriving immigrants, LPRs, particularly those returning from a brief stay abroad, are entitled under clearly established law to a more robust process than the summary exclusion to which many of them were subjected.”).

counteract the immediate, harsh effects by altering the Executive Order.³⁹ After litigants were granted an injunction, the Secretary of Homeland Security later stated that the ban did not apply to LPRs.⁴⁰ Following the release of the Travel Ban Executive Order and the ensuing chaos, the Trump Administration announced that 872 refugees would be allowed into the U.S., since they were already traveling to the country.⁴¹

The immediate and drastic effect of the Travel Ban Executive Order led to high-impact cases filed by the ACLU and other groups. The ACLU brought a case before a New York federal judge on behalf of two affected individuals.⁴² The petitioners filed an Emergency Motion for Stay of Removal.⁴³ The action was filed on behalf of themselves and others similarly situated.⁴⁴ The judge granted the Emergency Motion for Stay of Removal submitted by two respondents against President Trump, DHS, CBP, and their respective department heads on the basis that the defendants failed to show that the affected plaintiffs would not face substantial and irreparable harm by being sent back to their countries.⁴⁵

The ACLU filed another case in Massachusetts on behalf of two university professors who were detained in the Boston Logan International Airport.⁴⁶ The Massachusetts universities filed an *amici* brief in support of granting both Arghavan Loughalam and Mazdak Pourabdollah Tootkaboni injunctive relief.⁴⁷ Many professors and students, returning from being abroad for conferences, studying abroad, and visiting family, were detained at airports.⁴⁸ The *amici* brief highlighted people like Steve Jobs's father and many international

³⁹ Fredrick Kunkle, *What Should Travelers Expect Following Trump's Travel Ban? Even Experts Say It's Hard to Know*, WASH. POST (Feb. 1, 2017), https://www.washingtonpost.com/news/tripping/wp/2017/02/01/what-should-travelers-expect-following-trumps-travel-ban-even-experts-say-its-hard-to-know/?utm_term=.4a29eff3f938 ("The original order—which has been the subject of legal challenges—has undergone changes in the way it's been enforced.").

⁴⁰ Chacón, *supra* note 26, at 259.

⁴¹ Alicia A. Caldwell, *U.S. Official Says 872 Refugees Will Be Allowed In*, BLOOMBERG (Jan. 31, 2017), <https://www.bloomberg.com/news/articles/2017-01-31/us-official-says-872-refugees-to-be-allowed-in>.

⁴² *Darweesh v. Trump*, No. 17 Civ. 480, 2017 WL 388504, at *1 (E.D.N.Y. Jan. 28, 2017).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ See Shannon Dooling, *Boston Federal Court Puts Hold on Trump's Travel, Refugee Ban*, WBUR NEWS (Jan. 29, 2017), <http://www.wbur.org/news/2017/01/29/boston-ruling-trump-executive-order>.

⁴⁷ Brief of Amici Curiae Massachusetts Universities in Support of Plaintiffs' Complaint for Declaratory and Injunctive Relief at 1, *Loughalam v. Trump*, 230 F. Supp. 3d 26, 30–31 (D. Mass. 2017) (17-10154-NMG).

⁴⁸ See, e.g., Dooling, *supra* note 46; Kamenetz, *supra* note 4.

leaders, such as Liberian President Ellen Johnson-Sirleaf and former Pakistani Prime Minister Benazir Bhutto, to extol the contributions of individuals who received their educations in the U.S.⁴⁹ In 2016, the U.S. hosted 17,000 foreign exchange students from the seven banned countries, which exemplifies the travel ban's impact on these communities.⁵⁰ Citing the Executive Order's deterrent effect on international scholars, the universities requested the judge to grant the stay.⁵¹

The Ninth Circuit Court of Appeals heard arguments from the Department of Justice and the states of Washington and Minnesota on an action brought by the Government seeking an emergency stay of the district court's ruling against the travel ban.⁵² The Ninth Circuit considered whether the Government proved its likelihood of succeeding on the merits of its appeal, the degree of hardship caused by the stay or its denial, and the public interest associated with the stay.⁵³ This suit specifically focused on the travel ban's suspension of individuals from the seven countries, the Refugee Admissions Program, and all Syrian refugees.⁵⁴ It also challenged the expanded power of the Secretaries of State and Homeland Security in granting case-by-case exceptions.⁵⁵ The states argued that the travel ban was unconstitutional and sought to enjoin its implementation and enforcement.⁵⁶ The Government argued that the district court lacked subject matter jurisdiction due to the states' lack of standing.⁵⁷ The states' arguments mirrored those set forth in Massachusetts by highlighting the travel ban's burden on university students and employees.⁵⁸ Finding that the states had standing through "third party standing," the Ninth Circuit ruled in favor of the states.⁵⁹ The Government went on to frame President Trump's powers in creating immigration laws as unreviewable.⁶⁰ The court, noting that it is required to give deference to a president's immigration policies, rejected the Government's argument.⁶¹ Concluding with an analysis of substantive arguments, the court found that the Government failed to prove that it would succeed on the merits and that it would be irreparably injured

⁴⁹ *Loughalam*, 230 F. Supp 3d at 8.

⁵⁰ Kamenetz, *supra* note 4.

⁵¹ *Loughalam*, 230 F. Supp. 3d at 19.

⁵² *Washington v. Trump*, 847 F.3d 1151, 1156 (9th Cir. 2017).

⁵³ *Id.* at 1164.

⁵⁴ *Id.* at 1156–57.

⁵⁵ *Id.* at 1157.

⁵⁶ *Id.*

⁵⁷ *Id.* at 1158.

⁵⁸ *Id.* at 1159.

⁵⁹ *Id.* at 1160.

⁶⁰ *Id.* at 1161.

⁶¹ *Id.* at 1162.

without a stay.⁶² Though the Government may have been able to prove the last two factors, that the stay would not injure parties interested in the proceeding and it did not go against public interest, the first two factors hold the most weight.⁶³ Since the Government failed in proving its likelihood of success, the Ninth Circuit upheld the district court's stay.⁶⁴

On March 6, 2017, President Trump released an updated version of Travel Ban 1.0, *Protecting the Nation from Foreign Terrorist Entry Into the United States* (Travel Ban 2.0).⁶⁵ President Trump again claimed authority under Article II of the Constitution and under section 212(f) of the INA to suspend the entry of any people he believes are detrimental to the interests of the United States.⁶⁶ The second travel ban (2.0), quite similar to the first with narrower exceptions, prohibited individuals from six of the original seven countries, with Iraq having been removed from the second iteration.⁶⁷ The second travel ban allowed individuals with a "bona fide relationship" to a person or entity within the U.S. entry to the country.⁶⁸ The updated order framed the President's intent as "protect[ing] the ability of religious minorities . . . to avail themselves of the [U.S. Refugee Assistance Program] in light of their particular challenges and circumstances."⁶⁹ Once more, the news focused its lens on the impact of Travel Ban 2.0 on coastal cities.⁷⁰

⁶² *Id.* at 1167–68.

⁶³ *Id.* at 1164.

⁶⁴ *Id.* at 1169.

⁶⁵ Exec. Order No. 13,780, 82 Fed. Reg. 13,209, 13,209 (Mar. 6, 2017).

⁶⁶ *Id.*; see also U.S. CONST. art. II; INA § 212(f), 8 U.S.C. § 1182(f) (2012).

⁶⁷ Exec. Order No. 13,780, 82 Fed. Reg. at 13,210.

⁶⁸ See Emily Holland, *Attorneys to Camp at LAX as Travel Ban Takes Effect*, BEVERLY HILLS PATCH (June 29, 2017), <https://patch.com/california/beverlyhills/attorneys-camp-lax-travel-ban-takes-effect>.

⁶⁹ Exec. Order No. 13,780, 82 Fed. Reg. at 13,210.

⁷⁰ See, e.g., Saeed Kamali Dehghan, *Iranian Cancer Researcher Detained at Boston Airport Despite Valid Visa*, THE GUARDIAN (July 11, 2017), <https://www.theguardian.com/us-news/2017/jul/11/travel-ban-iran-cancer-researcher-boston-mohsen-dehnavi> (Boston, Massachusetts); Holland, *supra* note 68 (Los Angeles, California); Tom McCarthy & Oliver Laughland, *Travel Ban Goes into Effect Despite Courts Saying Security Issues Unfounded*, THE GUARDIAN (June 29, 2017), <https://www.theguardian.com/us-news/2017/jun/29/trump-travel-ban-us-airports-security-concerns-unfounded> (focusing on the reaction of lawyers in New York's John F. Kennedy Airport); Madison Park, *Revised Travel Ban Rolls Out to a Muted Response at US Airports*, CNN (June 30, 2017), <http://www.cnn.com/2017/06/30/us/travel-ban-reaction/index.html> (highlighting how few lawyers were at airports in Chicago, San Francisco, New York, and Los Angeles).

On June 26, 2017, the Supreme Court issued its first ruling on the travel ban.⁷¹ The Court upheld part of the travel ban that did not allow “foreign nationals who lack any bona fide relationship with a person or entity in the United States” and scheduled oral arguments to be heard in the fall.⁷² The oral arguments would later be cancelled since President Trump issued new executive orders and proclamations that affected the travel ban.⁷³

On September 24, 2017, President Trump released a proclamation, *Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats*, which was a follow-up to the travel ban released on March 6, 2017 and preceded the third iteration of the original travel ban.⁷⁴ The Proclamation highlighted the results of the review undertaken by the Secretary of Homeland Security to determine what “additional information would be needed from each foreign country to assess adequately whether their nationals seeking to enter the United States pose a security or safety threat.”⁷⁵ The President identified seven countries where all immigrants would be prohibited from entering.⁷⁶ Moving on to a different point, the President promised a “more tailored approach” to restrict “the entry only of certain categories of nonimmigrants, which [would] mitigate the security threats presented by their entry into the United States.”⁷⁷

A month later on October 24, 2017, President Trump released Executive Order 13815, *Resuming the United States Refugee Admissions Program with Enhanced Vetting Capabilities* (Travel Ban 3.0).⁷⁸ The purpose of the latest Executive Order is to restart the refugee resettlement program, which the original travel ban suspended for 120 days.⁷⁹ The Order also established a 90-day review program of individuals from 11 countries.⁸⁰ Much like the first iteration, the Executive Order did not

⁷¹ Trump v. Int’l Refugee Assistance Project, 137 S. Ct. 2080 (2017); see also Ariane de Vogue, *Supreme Court Allows Parts of Travel Ban to Take Effect*, CNN (June 27, 2017), <http://www.cnn.com/2017/06/26/politics/travel-ban-supreme-court/index.html>.

⁷² Int’l Refugee Assistance Project, 137 S. Ct. at 2087; de Vogue, *supra* note 71.

⁷³ Trump v. Hawaii, 138 S. Ct. 377 (2017) (dismissed); Michael D. Shear et al., *Supreme Court Cancels Hearing on Previous Trump Travel Ban*, N.Y. TIMES (Sept. 25, 2017), <https://nyti.ms/2yoNMGO>.

⁷⁴ Proclamation No. 9645, 82 Fed. Reg. 45,161, 45,161 (Sept. 24, 2017).

⁷⁵ *Id.*

⁷⁶ *Id.* at 45,164 (identifying the seven countries as Chad, Iran, Libya, North Korea, Syria, Venezuela, and Yemen).

⁷⁷ *Id.*

⁷⁸ Exec. Order No. 13,815, 82 Fed. Reg. 50,055, 50,055 (Oct. 24, 2017).

⁷⁹ *Id.* at 50,056; Ted Hesson, *Trump Targets 11 Nations in Refugee Order*, POLITICO (Oct. 24, 2017), <https://www.politico.com/tipsheets/morning-shift/2017/10/25/trump-targets-refugees-from-11-nations-222991>.

⁸⁰ Exec. Order No. 13,815, 82 Fed. Reg. at 50,057.

name the 11 countries. News outlets reported that senior administration officials made statements that appeared to identify Egypt, Iran, Iraq, Libya, Mali, North Korea, Somalia, South Sudan, Sudan, Syria, and Yemen as the unspecified countries.⁸¹ According to the associate director for the refugee, asylum and international operations directorate at U.S. Citizenship and Immigration Services (USCIS), the new procedures introduced by the latest Executive Order will more stringently regulate the applications, interviews, and background checks of all refugees.⁸² The Refugee Admissions Program resumed on October 24, 2017 under Executive Order 13780, *Protecting the Nation from Foreign Terrorist Entry into the United States*, although admissions from the 11 countries remain on a case-by-case basis.⁸³ So far, there have not been any challenges.

Mainstream Responses to the Initial Travel Ban

Following the release of the Travel Ban 1.0 executive order on January 27, 2017 and the immediate suspension of entries from the specified countries, attorneys went to international airports in coastal cities such as New York City, Los Angeles, Boston, and Fairfax, among others.⁸⁴ While immigration attorneys were present, there were many attorneys from different practice areas who went to assist at the airports and provide legal advice based on their general legal knowledge.⁸⁵ One thousand two hundred attorneys signed up to volunteer at Dulles Airport alone.⁸⁶ The media followed shortly thereafter.

According to a tweet, President Trump estimated that 109 people were detained at the airports.⁸⁷ The day before President Trump's tweet,

⁸¹ Hesson, *supra* note 79.

⁸² *Id.*

⁸³ Exec. Order No. 13,780, 82 Fed. Reg. 13,209, 13,216 (Mar. 6, 2017) (determining that current screening/vetting enhancements are generally adequate to resume refugee admissions, but additional in-depth review is needed with respect to refugees of 11 nationalities previously identified as potentially posing a higher risk to the United States for whom admissions will occur on a case-by-case basis during a new 90-day review period); see *Status of the U.S. Refugee Admissions Program*, U.S. DEP'T OF STATE (Oct. 24, 2017), <https://www.state.gov/r/pa/prs/ps/2017/10/275074.html>.

⁸⁴ Katherine Shaver, *We're the Good Guys: Lawyers Continue Airport Campouts Amid Trump Travel Ban*, WASH. POST (Feb. 3, 2017), https://www.washingtonpost.com/local/were-the-good-guys-lawyers-continue-airport-campouts-amid-trump-travel-ban/2017/02/03/7503dd94-e957-11e6-bf6f-301b6b443624_story.html?utm_term=.68f122a5eb73.

⁸⁵ *Id.* ("Most are not immigration lawyers but say they all know constitutional law and how to ask questions, do legal research and gather potential evidence.").

⁸⁶ *Id.*

⁸⁷ Donald J. Trump (@realDonaldTrump), TWITTER (Jan. 30, 2017 4:16 AM), <https://twitter.com/realdonaldtrump/status/826041397232943104?lang=en> (highlighting how many people were detained at the airports following his Executive Order); accord Joanna Walters, *Trump's Travel Ban: Stories of Those Who Were Detained*

the Wall Street Journal reported that 375 individuals were detained according to a senior official from DHS.⁸⁸ The conflicting numbers do not reflect the broad swath of individuals affected by the trio of executive orders nor even all of those affected by the Travel Ban 1.0 since the focus was on the individuals who made it to large international airports on the coasts. The numbers fail to include individuals who were forced to stay in a country other than the U.S., were immediately sent back to their country of departure, or were already present in the U.S., but now dealing with the reality that their immigration statuses were at issue. In addition, the U.S.-based family members who petitioned for their family members to join them were not included in the numbers.

The media's coverage solely revolved around large, coastal cities.⁸⁹ International news sources also focused on the activity in major, mostly coastal cities. For example, an Australian article focused on the protests in New York, Washington, Los Angeles, San Francisco, and Dallas airports.⁹⁰ Though large protests occurred at major airports, this does not reflect the full picture. Protests also occurred within the interior states in cities such as Nashville, Tennessee; Indianapolis, Indiana; and Cleveland, Ohio.⁹¹ The construct that the coastal protests were more important infiltrated local news sources, which mentioned the protests at "major airports," despite existing reports about protests in smaller cities.⁹²

Attorneys at these airports faced a unique situation: they wanted to offer legal assistance, but did not have access to the individuals needing legal representation. The lawyers used their intuition and approached

This Weekend, THE GUARDIAN (Jan. 31, 2017), <https://www.theguardian.com/us-news/2017/jan/31/people-detained-airports-trump-travel-ban>.

⁸⁸ Miriam Jordan et al., *Donald Trump's Immigration Order Sparks Confusion, Despair at Airport*, WALL ST. J. (Jan. 29, 2017), <https://www.wsj.com/articles/donald-trumps-immigration-order-sparks-confusion-despair-at-airports-1485709114>.

⁸⁹ See, e.g., Lucy Westcott, *Thousands of Lawyers Descend on U.S. Airports to Fight Trump's Immigrant Ban*, NEWSWEEK (Jan. 29, 2017), <http://www.newsweek.com/lawyers-volunteer-us-airports-trump-ban-549830>.

⁹⁰ Brad Crouch, *Trump's Muslim Travel Ban Sparks Airport Protests*, THE ADVERTISER (Australia), Jan. 30, 2017, at 4.

⁹¹ Stacey Barchenger, *Amid Protest in Nashville, Tennessee Senators Speak Up*, TENNESSEAN (Jan. 29, 2017), <http://www.tennessean.com/story/news/2017/01/29/amid-protests-nashville-tennessee-senators-speak-up-nobannowall/97222360/> (Nashville, Tennessee); Justin L. Mack, *Trump Immigration Ban Sparks Planned Indy Airport Protest*, INDYSTAR (Jan. 29, 2017), <https://www.indystar.com/story/news/2017/01/29/trump-immigration-ban-sparks-indy-airport-protest/97213386/> (Indianapolis, Indiana); Jane Morice, *Hundreds Protest Trump's Travel Ban at Cleveland Hopkins International Airport*, CLEVELAND.COM (Jan. 29, 2017), http://www.cleveland.com/metro/index.ssf/2017/01/hundreds_protest_trumps_travel.html (Cleveland, Ohio).

⁹² See Mack, *supra* note 91; see also Chris Kenning, *Trump Immigration Protests Spread to Louisville*, COURIER J. (Jan. 29, 2017), <http://www.courier-journal.com/story/news/local/2017/01/29/louisville-reaction-to-donald-trump-immigration-order-archbishop-kurtz/97212764/>.

individuals who appeared to be waiting on someone.⁹³ They also received their news about people who may potentially need their help from secondary sources, including travelers who went through customs and interacted with the CBP officers as well as the CBP officers themselves.

The travel ban affected many people with different classifications. Approved nonimmigrant visa holders seeking entry as students, visiting scholars, and others possessing lawful status including lawful permanent residents were detained despite conflicting information from DHS and White House officials.⁹⁴ In most cases, these individuals with approved visas to enter the U.S. had already been subject to extensive security screenings. In the uncertainty surrounding the travel ban, many legal permanent residents may have signed away their rights.⁹⁵ They were reportedly asked to sign papers that would forfeit their green cards to CBP, thereby making them lose their status.⁹⁶ It is estimated that possibly 100,000 visas were “provisionally revoked as a result of Trump’s order.”⁹⁷ Individuals were encouraged to “return to their country of origin or face formal deportation, which would jeopardize their chance to ever gain lawful entry to the U.S. again.”⁹⁸ The loss of green cards is one effect that lawyers felt at the airport of the vague travel ban.⁹⁹

Adding a human component to the effects of the Travel Ban Executive Order, many news sources covered stories of people waiting for their relatives to come through customs.¹⁰⁰ The stories generally exposed the plight of the educated individuals who were either coming to the U.S. to work or attend school or those who were waiting to be reunited with

⁹³ Jordan et al., *supra* note 88 (“In an effort to help detained travelers, volunteer lawyers in New York and Los Angeles wandered through terminals and approached people who appeared to be waiting for travelers who hadn’t emerged from the customs-clearance area.”).

⁹⁴ *See id.*; Walters, *supra* note 87.

⁹⁵ Westcott, *supra* note 89, at 6 (“A number of lawful permanent residents of the U.S. were allegedly asked by Customs and Border Patrol agents to sign papers that would surrender their green card to the U.S. government.”).

⁹⁶ *Id.*

⁹⁷ Fenit Nirappil et al., *With Stay of Trump Travel Ban, Immigrants Scramble to Get Back to U.S.*, WASH. POST (Feb. 5, 2017), https://www.washingtonpost.com/national/with-trump-travel-ban-stay-immigrants-scramble-to-get-back-to-us/2017/02/05/3806cea6-ebb4-11e6-b4ff-ac2cf509efe5_story.html?utm_term=.43084c386a4c.

⁹⁸ Jordan et al., *supra* note 88.

⁹⁹ *CNN Newsroom Transcript*, CNN (Feb. 4, 2017), <http://transcripts.cnn.com/TRANSCRIPTS/1702/04/cnr.06.html> (“All of these events are happening so quickly, the travel ban, the halting of the ban, visas being revoked and visas being reinstated, it’s making more, needless to say, confusion at the nation’s airport, especially those with a number of international arrivals.”).

¹⁰⁰ *See, e.g.*, Donie O’Sullivan, *The Endless Wait: A Day at Dulles Amid Hope, Despair and Lawyers*, CNN (Jan. 29, 2017), <http://www.cnn.com/2017/01/29/politics/dulles-airport-trump-ban-trnd/index.html>.

family they had to leave in their countries of origin.¹⁰¹ Many news reports appeared to minimize the range of individual noncitizen stories, opting instead to focus on how the travel ban affected individuals that could assist the U.S.'s competitiveness in education and its economy. The harms caused to refugees denied entry and forced to return to refugee camps overseas were addressed in passing by interested third parties.¹⁰²

On a national level, the news covered attorneys providing aid at airports that serve an international population.¹⁰³ The narrative solely revolved around attorneys rooted in the U.S. assisting individuals who came from other countries. This narrative writes out the chaos experienced by travelers who were never allowed onto the plane to their destinations. Even in discussing attorneys who were not at airports, but still assisting clients affected by the travel ban, the media focused on attorneys who were in coastal states.¹⁰⁴ One article about a group of attorneys stationed in a New York diner, highlighted clients who included a Syrian doctor, individuals located in international locales, and an Algerian green card holder.¹⁰⁵ The narrative was firmly rooted in the New York diner, but still focused on the airports as the pathway into the travel ban's crosshairs.

Some news outlets attempted to cover the travel ban's effects on individuals who were sent back to their countries of origin,¹⁰⁶ or were affected in different countries.¹⁰⁷ Ultimately, the media focused on the success stories. They avoided heavy reporting on the stories of those who were sent back. This may be because there was a lack of access to those

¹⁰¹ See, e.g., Hatty Collier, *Harvard University-Bound Sisters Stranded at Heathrow Airport amid Donald Trump's Travel Ban*, EVENING STANDARD (Jan. 31, 2017), <https://www.standard.co.uk/news/world/harvard-universitybound-sisters-stranded-at-heathrow-amid-donald-trumps-travel-ban-a3454431.html>.

¹⁰² See Joanna Walters et al., *US Airports on Frontline as Donald Trump's Travel Ban Causes Chaos and Protests*, THE GUARDIAN (Jan. 28, 2017), <https://www.theguardian.com/us-news/2017/jan/28/airports-us-immigration-ban-muslim-countries-trump> ("I never thought I'd see the day when refugees, who have fled war-torn countries in search of a better life, would be turned away at our doorstep," Cuomo said in a statement. "We are a nation of bridges, not walls, and a great many of us still believe in the words 'give me your tired, your poor, your huddled masses.'").

¹⁰³ See, e.g., Shaver, *supra* note 84.

¹⁰⁴ See, e.g., Walters, *supra* note 87 ("The couple are now plaintiffs in a lawsuit filed by immigration lawyers from a firm in Cambridge, Massachusetts, and from the ACLU.").

¹⁰⁵ Rob Crilly, *In a Diner at JFK Airport, Lawyers Toil Away to Help Those Affected by Travel Ban*, THE NATIONAL (Feb. 2, 2017), <https://www.thenational.ae/world/in-a-diner-at-jfk-airport-lawyers-toil-away-to-help-those-affected-by-travel-ban-1.36386>.

¹⁰⁶ See, e.g., Walters, *supra* note 87.

¹⁰⁷ See, e.g., Nirappil et al., *supra* note 97 ("But while things appeared to be going relatively smoothly for travelers landing at U.S. airports, many people were having problems boarding U.S.-bound flights overseas.").

individuals, or interest. Regardless, the stories followed a common pattern.

Mainstream media covered some of the immigration challenges arising in interior states. The Orders were only immediately enforced at ports of entry, but not the continental US.¹⁰⁸ This fact obscured impact within the interior states as local news sources failed to report on the issues in their own communities.¹⁰⁹ Instead, they redistributed stories published by the national media outlets. This created an echo chamber where the only narrative being perpetuated was that of heroic lawyers at major international airports.

News reporting that primarily focuses on those providing services to immigrants, noncitizens, and refugees rather than the individuals directly impacted may limit the public's understanding about the human toll of these new immigration policies. An HRAP report about local media coverage found that the focus on service providers did not effectively foster understanding or inclusiveness of immigrant, noncitizen, and refugee members of Kentucky communities.¹¹⁰ HRAP's Media Rhetoric Project, initiated in 2014, offers insight into the impact of reporting habits over the course of several years in Louisville and the surrounding region.¹¹¹ A multi-year review of reporting by local news sources, primarily newspapers, examined the coverage of the immigrant, noncitizen, and refugee populations of Kentucky's metropolitan areas.¹¹² This work was performed in stages and shared with community members and service providers.

HRAP's Media Rhetoric Project report determined that the local coverage in Kentucky does not effectively foster understanding or inclusiveness of the immigrant, noncitizen, and refugee members of Kentucky communities.¹¹³ Noncitizens, immigrants, and refugees are most often cast in the role of "outsiders" in their community and are not the focus of most stories.¹¹⁴ Rather, they are almost exclusively included

¹⁰⁸ Jordan et al. *supra* note 88 ("The order sowed confusion and despair among travelers and family members Saturday as customs inspectors began implementing it at ports of entry.").

¹⁰⁹ A quick search of local Louisville news sources, including WLKY, WDRB, WHAS11, and WAVE3, revealed a lack of stories based on the travel ban's local effects.

¹¹⁰ BRANDEIS HUMAN RIGHTS ADVOCACY PROGRAM, *supra* note 7, at 8.

¹¹¹ ABBY LEWIS, BRANDEIS HUMAN RIGHTS ADVOCACY PROGRAM, RHETORIC INFLUENCING POLICY: THE CONSEQUENCES OF INACCURATE DISCOURSE 3 (2017), <http://louisville.edu/law/bhrap/documents-pp-pdfs/media-rhetoric-report-april-2017>.

¹¹² *Id.*

¹¹³ *See generally id.* (discussing the ways in which local media portrays noncitizens and the effect terminology has on local populations when discussing noncitizens).

¹¹⁴ *Id.* at 6; *accord* BRANDEIS HUMAN RIGHTS ADVOCACY PROGRAM, *supra* note 8, at 8.

in stories showcasing the charitable works of others.¹¹⁵ This reporting primarily elevates the “insider,” while giving only cursory attention to the local immigrant, noncitizen and refugee community.¹¹⁶ Over the course of three years, the review found that most of the articles focus on images of an “insider” doing good work to assist the “outsider,” without fully developing the individual from the immigrant, noncitizen, or refugee community.¹¹⁷ This pattern of exclusion and the portrayal of immigrants, noncitizens, and refugees as outsiders, in combination with the primary focus on the good works of others in the community, provides an inaccurate and incomplete view of these members of the community and the vital role they play in Kentucky’s business, schools, churches, and communities at large.¹¹⁸

The media coverage of the Travel Ban Executive Orders often overemphasized the role of lawyers. At the same time, collaborative efforts including law students and lawyers who were not immigration attorneys was critical to raising the national consciousness about the impact of the Trump Administration’s restrictionist immigration policies. The concern raised by the nearly exclusive focus on the travel bans is the lack of context about the full impact of the trio of executive orders.

II. THE CHALLENGES IN SMALLER CITIES SUCH AS LOUISVILLE, KENTUCKY

Understanding the Diversity of the Immigrant, Noncitizen and Refugee Community in Louisville

It is important to understand the composition of local immigrant, noncitizen, and refugee communities to assess the impact of the new restrictionist immigration policies unveiled in the Trump Executive Orders. HRAP has made this a central focus of its work with a particular emphasis on the most vulnerable members of the local community. The University of Louisville—situated within a growing, robust, and diverse noncitizen community—has a large footprint with many service-learning, experiential learning, and community engaged research projects.

While numbers tell one story about the local community, the data, reports, and charts may not reveal the full picture nor the characters and

¹¹⁵ LEWIS, *supra* note 111, at 3; *accord* BRANDEIS HUMAN RIGHTS ADVOCACY PROGRAM, *supra* note 7, at 8.

¹¹⁶ LEWIS, *supra* note 111, at 3; *accord* BRANDEIS HUMAN RIGHTS ADVOCACY PROGRAM, *supra* note 7, at 8.

¹¹⁷ LEWIS, *supra* note 111, at 3; *accord* BRANDEIS HUMAN RIGHTS ADVOCACY PROGRAM, *supra* note 7, at 8.

¹¹⁸ *See* NEW AM. ECON., THE CONTRIBUTIONS OF NEW AMERICANS IN KENTUCKY 1 (2016), <http://www.newamericaneconomy.org/wp-content/uploads/2017/02/nae-ky-report.pdf>.

plot of the immigration story in Kentucky.¹¹⁹ Louisville is a refugee resettlement city with a refugee population twice the national share.¹²⁰ In Louisville MSA (Metropolitan Statistical Area), there is a significant foreign-born population and more than half of the population arrived in the last 20 years.¹²¹ The greater Louisville metropolitan area is home to over 40% of the foreign-born population of the state, demonstrating the need to provide services and address the human rights issues of the immigrant, noncitizen and refugee population.¹²²

Foreign-born individuals in the Louisville MSA are less likely to be naturalized citizens than the national average, indicating a need for legal and related services.¹²³ One-third of the foreign-born individuals living in

¹¹⁹ The numbers also tell another story about how difficult it is to compare apples-to-apples because of the different terminology and datasets used in various reports. Some reports rely on U.S. Census data for the Louisville Metropolitan Statistical Area (MSA). The Louisville MSA covers many counties, including seven Kentucky counties (Bullitt, Henry, Jefferson, Oldham, Shelby, Spencer and Trimble) and five counties in Southern Indiana (Clark, Floyd, Harrison, Scott and Washington). Other reports use U.S. Census data on Metro Louisville, which is Louisville-Jefferson County. We rely on demographic data of the state, Louisville MSA and Louisville-Jefferson County (Metro Louisville).

¹²⁰ Randy Capps et al., *A Profile of the Foreign-Born in the Louisville Metropolitan Area*, URBAN INST. 7 (2006), <https://www.urban.org/sites/default/files/publication/50986/411391-A-Profile-of-the-Foreign-Born-in-the-Louisville-Metropolitan-Area.PDF> (“According to our estimates using census data, 15 percent of Louisville’s immigrants are refugees, twice the national share of 7 percent. The actual share of refugees among Louisville’s immigrants may be even higher, since refugee admissions data suggest that the census undercounted this population.”).

¹²¹ Matt Ruther, *Louisville: Immigration Rebirth*, UNIV. OF LOUISVILLE (2015), <http://www.ksdc.louisville.edu/wp-content/uploads/2015/05/louisville-immigration-rebirth.pdf>. U.S. Census Bureau data indicates the total Louisville MSA foreign-born population is 61,776 in 2012, and 56.7% arrived in the past 20 years. *Id.* Foreign-born individuals are responsible for nearly half of the population growth from 2000 to 2012 in the Louisville Metropolitan Area. *Global Louisville: A Demographic and Economic Snapshot of the Foreign Born*, AMERICAS SOC’Y/COUNCIL OF THE AMERICAS, <http://www.as-coa.org/sites/default/files/GlobalLouisvilleFactSheet.pdf>.

¹²² Kentucky’s total population is just over 4.4 million and just over 25% live in Louisville MSA. *Quick Facts: Kentucky*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/KY> (4,436,974 people living in Kentucky in 2016); *Louisville/Jefferson County, KY-IN (MSA)*, U.S. DEP’T OF COMMERCE, <https://www.bea.gov/regional/bearfacts/pdf.cfm?fips=31140&areatype=MSA&geotype=4> (2016 U.S. Metropolitan Statistical Area (MSA) data, from the American Community Survey Public Use Microdata Sample, indicates 1,283,430 live in the Louisville MSA); *Immigrants and the Economy in: Louisville Metro Area*, NEW AM. ECON., <http://www.newamericaneconomy.org/city/louisville/> (approximately 159,867 foreign-born individuals residing in Kentucky and 66,343 reside in the Louisville MSA).

¹²³ Most applicants for citizenship reside in either Louisville MSA or Lexington-Fayette County. From 2008–2013, approximately 5,200 individuals became permanent residents annually in Kentucky, and approximately 65% of these individuals live in Louisville MSA or Lexington. In 2012, 66.5% of individuals

the state have become U.S. citizens.¹²⁴ In Louisville MSA, nearly 40% of the foreign-born population is naturalized, representing a significant voting constituency.¹²⁵ In 2014, 50% of noncitizen immigrants of the state were eligible for naturalization.¹²⁶ Citizenship among the foreign-born population matters in Louisville, as it does elsewhere in the U.S. The noncitizen population living at the poverty line (100%) is more than double the rate for foreign-born citizens.¹²⁷ In 2012, nearly 60% of noncitizens lived in low-income households, with just over 30% living at the poverty line. To compare, nationally only 15% of foreign-born citizens live at the poverty line.¹²⁸

Louisville, as a refugee resettlement city, has a large African immigrant population, more than double the national average at 10% of the foreign-born population.¹²⁹ Nearly half of the Louisville MSA foreign-born population is from Latin America, somewhat lower than the national average.¹³⁰ In addition, there are sizeable foreign-born populations from India, Vietnam, China, and Bosnia-Herzegovina.¹³¹

There is a high poverty rate among foreign-born individuals in the Louisville MSA.¹³² The Louisville MSA poverty rate among foreign-born is 23%, which is significant and higher than the national average poverty

obtaining LPR status in Kentucky resided in one or another of the state's two largest cities. *Yearbook of Immigration Statistics 2012*, U.S. DEP'T OF HOMELAND SEC. (Nov. 14, 2017), <http://www.dhs.gov/yearbook-immigration-statistics-2012-naturalizations>. In 2012, 68.3% of those who naturalized statewide, both refugees and other immigrants, resided in Louisville (1,295) and Lexington (541). *Id.*

¹²⁴ NEW AM. ECON., *supra* note 118, at 20.

¹²⁵ Of the 66,343 foreign-born individuals who reside in the Louisville MSA, 25,715 have been naturalized, which is approximately 39 percent. *Id.*; *Immigrants and the Economy in: Louisville Metro Area*, *supra* note 122.

¹²⁶ NEW AM. ECON., *supra* note 118, at 20.

¹²⁷ BRANDEIS HUMAN RIGHTS ADVOCACY PROGRAM, *supra* note 7, at 16.

BRANDEIS HUMAN RIGHTS ADVOCACY PROGRAM, *supra* note 7, at 16.

¹²⁸ Elizabeth M. Grieco et al. *The Foreign-Born Population in the United States: 2010*, AM. COMMUNITY SURV. REP., May 2012, at 21, <https://www.census.gov/prod/2012pubs/acs-19.pdf>.

¹²⁹ Ruther, *supra* note 121 (10% of foreign-born in Louisville MSA is from Africa and total US foreign-born from Africa is 4%).

¹³⁰ *Id.* (45% of the foreign-born in Louisville MSA were from Latin America and nationally 55% of the foreign-born are from Latin America).

¹³¹ *Id.*

¹³² BRANDEIS HUMAN RIGHTS ADVOCACY PROGRAM, *supra* note 7, at 13. The foreign-born had significantly lower median earnings in Metro Louisville than native-born individuals in full-time, year-round positions with just over \$10,000 difference among males, and over a \$9,000 difference among male workers in 2013. U.S. CENSUS BUREAU, KY. FOREIGN & NATIVE-BORN POPULATIONS (2009–2013). The median earnings for native-born full-time, year-round workers in Louisville/Jefferson County was \$44,993 for males and \$36,280 for females compared to foreign-born median earnings for males of \$33,392 and for females \$27,353. *Id.*

rate, which is 18.7%.¹³³ In the Louisville MSA, the median household income of foreign-born-headed households is approximately 84% of median household income of native-born.¹³⁴ This median income for foreign-born individuals is lower than the national average.¹³⁵ Finally, the Louisville MSA foreign-born population also is more likely than the native-born population to live below the federal poverty line.¹³⁶

The Jefferson County Public School District (JCPS) in Louisville is the largest school system in the state of Kentucky.¹³⁷ According to the JCPS website, 120 languages are spoken by students.¹³⁸ In 2013–14, the Kentucky School Boards Association stated that 4.9%, or approximately 4,489 of JCPS students participated in the English as a Second Language (ESL) program.¹³⁹ The same data shows that in 2010 the percentage of students in the ESL program was 3.3%, showing an increase in the need for ESL services.¹⁴⁰ As for Kentucky as a whole, ESL enrollment drastically increased by 306% from 4,030 students to 16,351 students between the academic years 2000-01 and 2010-11.¹⁴¹ Between these academic years, an article in *Voices in Urban Education* published by the Annenberg Institute for School Reform at Brown University placed Kentucky as the second fastest growing ESL population nationwide.¹⁴² JCPS responded to this growth by opening more ESL units, now more than 60, although mostly in elementary schools.¹⁴³ Pre-enrollment surveys are used to identify students with ESL needs, and the districts actively watch enrollment trends to identify the growing need for ESL units across the county.¹⁴⁴

¹³³ Ruther, *supra* note 121.

¹³⁴ *Id.* The foreign-born median household income in Louisville MSA is \$42,027; the native-born median household income of \$50,093. *Id.*

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ *JCPS Facts: District Profile*, JEFFERSON CTY. PUBLIC SCH., <https://www.jefferson.kyschools.us/about/newsroom/jcps-facts>.

¹³⁸ *Id.*

¹³⁹ Board Orientation Presentation on Student Demographics, Jefferson County Public Schools (Jan. 10, 2015).

¹⁴⁰ *Id.*

¹⁴¹ Bailey Loosemore, *ESL Programs Skyrocket with Need at JCPS*, *COURIER J.* (Dec. 17, 2014), <http://www.courier-journal.com/story/news/education/2014/12/17/jcps-sees-increase-english-language-learners/20534777/>.

¹⁴² Sonya Douglass Horsford & Carrie Sampson, *High-ELL-Growth States: Expanding Funding Equity and Opportunity for English Language Learners*, *VOICES IN URBAN EDUC.*, Summer 2013, at 47, 49.

¹⁴³ Loosemore, *supra* note 141.

¹⁴⁴ *Id.*

Understanding the Legal Needs of Local Communities in Smaller Cities

In smaller cities such as Louisville, there are significant challenges in meeting the legal and related needs of the local immigrant, noncitizen and refugee community. Too often the interrelated needs are not identified by any single organization as each smaller nonprofit or government agency is tasked with a specific focus. For example, since Louisville is a refugee resettlement city, many, if not most, nonprofit entities are focused on the specific needs of diverse refugee communities and do not attend to the needs of undocumented members of the community.¹⁴⁵ Many local immigration attorneys in the private bar do not regularly offer pro bono services, and those that do are stretched thin in their valiant efforts to meet substantial unmet needs. The lack of robust nonprofit organizations addressing poverty among immigrant communities and providing legal and other services to undocumented people creates significant gaps. Abuses from notario fraud often are accentuated in communities that lack low cost and pro bono legal services, and recent reports confirm that notario fraud is escalating throughout the U.S.¹⁴⁶

The Brandeis Human Rights Advocacy Program conducts research within the Louisville community through a participatory action research and community engagement model, then uses that research to create connections between the local community and the legal community. HRAP's first participatory action research project was a needs assessment to understand the composition and needs of the local immigrant, noncitizen and refugee community, as well as what resources were available and what resources were needed.¹⁴⁷ As it became clear that the needs of vulnerable noncitizen populations extended beyond legal services alone, the list of organizations and providers identified in the survey, in turn, expanded.¹⁴⁸ The need for multiple services is often

¹⁴⁵ BRANDEIS HUMAN RIGHTS ADVOCACY PROGRAM, *supra* note 7, at 22–23.

¹⁴⁶ There has been a rise in what has become known as “notario fraud,” a longstanding problem of the unauthorized practice of law that significantly harms noncitizen communities. Some people misrepresent themselves as being qualified to provide immigration advice, but are not. This leads to many immigrants missing important deadlines and opportunities to attain legal status, including U.S. citizenship, because they depend on people without the proper training. This also exemplifies a language barrier: the word “notario” in Spanish translates to someone who has a law license. See *About Notario Fraud*, AM. BAR. ASS'N, https://www.americanbar.org/groups/public_services/immigration/projects_initiatives/figh_tnotariofraud/about_notario_fraud.html; see also *Fight Notario Fraud*, AM. BAR ASS'N, https://www.americanbar.org/groups/public_services/immigration/projects_initiatives/fightnotariofraud.html.

¹⁴⁷ BRANDEIS HUMAN RIGHTS ADVOCACY PROGRAM, *supra* note 7, at 1.

¹⁴⁸ *Id.* at 5.

interrelated, and to isolate one component for study would have provided incomplete and less helpful information.

Preliminary findings from the needs assessment report identified challenges facing many smaller cities. In Louisville, HRAP found that: (1) service providers with limited human and economic resources face challenges conducting outreach to the immigrant, noncitizen and refugee population; (2) language access is a critical priority and was particularly impacted by budget cuts and resource constraints; (3) there is a strong interest in and a need for more collaboration and communication among service providers; (4) the local immigrant, noncitizen and refugee population identifies its needs more holistically with needed services in the medical, legal, and educational domains; and (5) there is a need for shared information to develop a comprehensive understanding of the needs of our immigrant, noncitizen and refugee population.¹⁴⁹

Nearly all organizations surveyed consistently identified outreach challenges. Advertising the services that organizations provide within the community is simply not feasible with the limited time and resources available to providers. . . . [M]ost organizations are inconsistent in this outreach[,] not able to sustain outreach efforts regularly[,] . . . and are unable to designate . . . any significant resources to advertising and/or outreach. Rather, organizations rely upon word-of-mouth, sporadic Internet announcement[s], and social media to get the word out to the community about the services provided. More than half of the organizations [interviewed] rely in whole or in part on word-of-mouth 'advertisement' or client referrals.¹⁵⁰

One concern about this type of outreach is how this could leave considerable populations under-represented given the ever-changing noncitizen population, in both its origins and its geographic location in the Kentucky region.¹⁵¹

Referrals keep the client flow steady, but . . . there [may be] inaccessible groups in the community who have no knowledge of the services available to them because they lack a referral source This may be especially true for non-English speakers who are part of smaller, but still significant, noncitizen populations.¹⁵²

To respond to this gap, HRAP created a Community Resource Guide listing all local service providers, which is updated annually and widely

¹⁴⁹ *Id.* at 3.

¹⁵⁰ *Id.* at 22.

¹⁵¹ *Id.*

¹⁵² *Id.* at 22–23.

distributed in the city.¹⁵³ Using HRAP's participatory action research and community engagement model, the Program initiated three projects focused on how the immigrant, noncitizen, and refugee communities were being received as well as what resources were available to them. These projects included the Media Rhetoric Project,¹⁵⁴ the Language Access Project,¹⁵⁵ and the Educational Access Project.¹⁵⁶ Each project exposed areas of improvement within the Louisville community and offered recommendations tailored specifically for the Louisville community.

III. THE DIVISION OF RESOURCES

Leveraging Resources Within the Nation

Early coverage of legal responses to the Travel Ban Executive Order distorted the longevity and reach of the legal needs stemming from the Trump Administration's restrictionist immigration policy, as reflected in the trio of January 2017 Executive Orders. News reports focused primarily on the coastal cities' response to the travel ban at airports.¹⁵⁷ Scenes at airports captured the nation's attention: lawyers creating makeshift law firms, spread out across the floors trampled by thousands of travelers.¹⁵⁸ The scenes riveted the country. Money poured into various national organizations such as the ACLU.

Generally, resources are directly donated to organizations the media highlights.¹⁵⁹ The national ACLU received \$24 million in donations after

¹⁵³ *Community Resource Guide*, BRANDEIS HUMAN RIGHTS ADVOCACY PROGRAM (Jan. 2018), <http://louisville.edu/law/bhrap/our-publications/download-a-copy-of-the-community-resource-guide/view>.

¹⁵⁴ LEWIS, *supra* note 111, at 3.

¹⁵⁵ KRISTEN BARROW, BRANDEIS HUMAN RIGHTS ADVOCACY PROGRAM, RIGHT TO MEANINGFUL LANGUAGE ACCESS FOR LIMITED ENGLISH PROFICIENCY INDIVIDUALS 30 (2017), <http://louisville.edu/law/bhrap/documents-pp-pdfs/language-access-report>.

¹⁵⁶ BRIANA LATHON, BRANDEIS HUMAN RIGHTS ADVOCACY PROGRAM, REPORT ON EDUCATION ACCESS IN KENTUCKY FOR UNDOCUMENTED IMMIGRANTS: EXECUTIVE SUMMARY 2017, at 2, <http://louisville.edu/law/bhrap/documents-pp-pdfs/report-on-education-access-in-kentucky-for-undocumented-immigrants>.

¹⁵⁷ *See supra* notes 90 and 91.

¹⁵⁸ *See* Jonah Engel Bromwich, *Lawyers Mobilize at Nation's Airports After Trump's Order*, N.Y. TIMES (Jan. 29, 2017), <https://nyti.ms/2jGsqQG>.

¹⁵⁹ *See* Timothy Sandoval, *In Wake of Travel Ban, Nonprofits See Support Surge*, CHRON. OF PHILANTHROPY (Jan. 30, 2017), <https://www.philanthropy.com/article/In-Wake-of-Travel-Ban/239046>; Liam Stack, *Donations to A.C.L.U. and Other Organizations Surge After Trump's Order*, N.Y. TIMES (Jan. 30, 2017), <https://www.nytimes.com/2017/01/30/us/aclu-fund-raising-trump-travel-ban.html> ("That is the Trump Effect,' Mr. Romero said. 'Those 400,000 people, who donated to us, I did not go after them; they

it brought suit on behalf of detained individuals, which is almost seven times as much as it raised in 2015.¹⁶⁰ As a direct result of donations after the election, the ACLU was able to hire 200 new staff members, a number comprised primarily of attorneys.¹⁶¹ The National Immigration Law Center, which joined the ACLU in its suit against the Executive Branch, raised \$269,000 since the Order was signed.¹⁶² The National Immigration Law Center's director pointed out how it was usually difficult to get donations but that the travel ban assisted in the non-profit's ability to be stronger and able to adapt to new circumstances.¹⁶³ These two organizations were involved in the high impact litigation that the news sites followed.¹⁶⁴

Local nonprofit organizations, including legal services providers, face different challenges. While national organizations see an increase in donations after high impact events, local legal organizations and non-profits do not benefit similarly. Better-resourced national organizations engaged in filing high-impact litigation often receive donations and are the focus of news reporting. Conversely, local attorneys focus on meeting individual clients' needs. They would benefit the most from an increase in resources, so they could provide greater assistance to individuals who may not be able to afford legal representation. Their priorities are distinct and the spotlight on high-impact cases inevitably overshadows the constellation of related, unmet legal needs. Community organizations fill this void through the combined work of clinics, local nonprofits, and community support. The efforts of these groups are vital to providing all the services needed by affected communities. These community groups face challenges unique to their communities in their efforts to mobilize. In Louisville, where refugee resettlement is a primary focus, the reduction in refugee admissions included in the travel ban has reduced funding to these local organizations and has resulted in cuts to services available to the community.¹⁶⁵

came to us. In fact, our website crashed we had so many donations, we could not handle it.”).

¹⁶⁰ Jennifer Calfas, *ACLU Gets \$24M in Donations After Suing Over Trump Order*, THE HILL (Jan. 30, 2017), <http://thehill.com/blogs/blog-briefing-room/news/316812-aclu-gets-241m-in-donations-after-suing-over-trump-immigration>; Matt Drange, *After \$24 Million Anti-Trump Windfall, ACLU Heads to Silicon Valley for Startup Lessons*, FORBES (Jan. 31, 2017), <https://www.forbes.com/sites/mattdrange/2017/01/31/aclu-flush-with-24m-in-wake-of-trump-immigration-orders-partners-with-tech-incubator-y-combinator/#138487487ba6>; Stack, *supra* note 159.

¹⁶¹ Stack, *supra* note 159.

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *See supra* Part I.

¹⁶⁵ *See* Exec. Order No. 13,769, 82 Fed. Reg. 8977, 8879 (Jan. 27, 2017); Tessa Weinberg, *'Enormous Amount of Uncertainty' Blankets Louisville Refugee Resettlement Agencies*, COURIER J. (June 13, 2017), <https://www.courier-journal.com/story/news/>

Leveraging Resources Within the Local Community

Mobilizing the legal community in the nation's interior, particularly in smaller cities, presented considerably different challenges. Many attorneys on the coasts and in other major international entry points mobilized nearly instantaneously.¹⁶⁶ Law school immigration clinics, immigration lawyers, other lawyers offering pro bono services, and interpreters worked together to meet immediate needs, serving those denied entry and detained at U.S. airports.¹⁶⁷ The work was contagious as the news coverage went viral and attorneys flocked to the airports.¹⁶⁸ There were many different ways for attorneys to help at the airports, including conducting intake, interviewing travelers, interviewing CBP to understand the reasons for detentions, and comforting loved ones awaiting their relatives.¹⁶⁹ The vagueness of the order and the lack of clarity in how the orders would be enforced complicated these efforts,

local/2017/06/13/refugee-resettlement-agencies-unsure-future/362154001/ (highlighting the correlation between limiting refugee resettlement and the loss of funds, staff, and resources at local refugee resettlement agencies in Louisville, Kentucky).

¹⁶⁶ See, e.g., Bromwich, *supra* note 158; Stephanie Ebbs, *Lawyers Around the Country Work to Counter Trump's Immigration Order*, ABC NEWS (Jan. 29, 2017), <http://abcnews.go.com/Politics/lawyers-country-work-counter-trumps-immigration-order/story?id=45127871>; Westcott, *supra* note 89.

¹⁶⁷ Maryellen Fullerton, *Trump, Turmoil, and Terrorism: The US Immigration and Refugee Ban*, 29 INT'L J. REFUGEE L. 327, 329 (2017).

¹⁶⁸ See, e.g., Shaver, *supra* note 84; Anna Silman, *These Are the Attorneys Fighting Trump's Immigration Ban at Airports Around the Country*, THE CUT (Jan. 31, 2017), <https://www.thecut.com/2017/01/the-women-fighting-trumps-immigration-ban.html>; Debra Cassens Weiss, *Airport Lawyer Website Connects Volunteer Lawyers with Travelers Affected by Immigration Ban*, ABA J. (Feb. 9, 2017), http://www.abajournal.com/news/article/airport_lawyer_website_connects_volunteer_lawyers_with_travelers_affected.

¹⁶⁹ See, e.g., Charlotte Alter, *Protesters Rally at JFK Airport as Lawyers Say 'Dozens' Detained Over President Trump's Immigration Order*, TIME (Jan. 28, 2017), <http://time.com/4652654/jfk-detain-trump-immigration-order/> (assisting a woman with the release of her husband, an attorney reported that the woman was "very emotional," and had not slept since her husband was detained"); Maya Lao & Brittany Mejia, *As of Sunday Night, No More Foreign Travelers in Airport Detention, Officials Say*, LA TIMES (Jan. 30, 2017), <http://www.latimes.com/local/lanow/la-me-ln-airport-protests-20170130-story.html> ("The only way lawyers have a sense of whether people are being detained is if family members in the arrivals area say they've been waiting for a relative from abroad and haven't seen them emerge for a long time."); Reuters, *How Trump's Abrupt Immigration Ban Sowed Confusion at Airports, Agencies*, FORTUNE (Jan. 29, 2017), <http://fortune.com/2017/01/29/trump-immigration-ban/> (documenting how attorneys asked CBP who to contact to discuss their attorneys case only to be instructed to contact the President); Shaver, *supra* note 84 (reporting that attorneys observed "the crowd in the international arrivals area for anxious looking relatives and ask attendants pushing wheelchairs from the screening area if they've seen anyone who appeared stuck").

but attorneys nonetheless provided critical advocacy in this time period.¹⁷⁰

In contrast, the ripple effect did not hit smaller and midsize cities throughout the country's middle and south until days later.¹⁷¹ By that time, the legal issues were more refined as the scope of the travel ban was clarified by courts and the Trump Administration. The attorneys who became the first responders at places other than airports needed basic knowledge of immigration law, an incredibly sophisticated field involving the intersection of constitutional, statutory, international and criminal law, and federal court litigation procedures, e.g., filing habeas petitions on behalf of those detained.¹⁷² In the following weeks, the shift from airport advocacy to regulatory precision, in turn, greatly affected lawyers' abilities to mobilize and assist local communities nationwide. In smaller cities such as Louisville, it was much more difficult to mobilize the legal community due to its reduced size and the initial uncertainty of how the trio of Executive Orders affected the local community.¹⁷³

The next stage of legal response to the January 2017 executive orders required a comprehensive assessment of the restrictionist policy shift. National immigrant advocacy organizations filled this void with published materials analyzing the changes.¹⁷⁴ For those affected by the travel ban, there were many secondary questions and concerns. People who had petitioned for relatives to join them, many of whom had entered

¹⁷⁰ See Fullerton, *supra* note 167, at 330 ("Networks of volunteer attorneys and interpreters remained at the airports, in light of uncertainty as to whether the US immigration officers would obey the court orders.").

¹⁷¹ See Ben Felder, *Trump's Travel Ban Raises Concerns in Oklahoma's Immigrant Communities*, NEWSOK (Jan. 31, 2017), <http://newsok.com/article/5536226> (highlighting the struggle felt by Iranian, Russian, and Somalian immigrants in Oklahoma); see also Lyric Lewin, *These Are the Faces of Trump's Ban*, CNN (Jan. 2017), <http://www.cnn.com/interactive/2017/01/politics/immigration-ban-stories/> (telling brief stories of individuals affected by the travel ban who live in states like Indiana and Georgia); Ariana Maia Sawyer & Holly Meyer, *Effects of Refugee Ban Felt Strongly in Tennessee*, TENNESSEAN (Jan. 27, 2017), <http://tnne.ws/2kcMawz> (predicting that the Executive Order would, "have a major impact on Tennessee, a state that has a history of accepting refugees").

¹⁷² See *Introduction to Habeas Corpus*, AM. IMMIGRATION COUNCIL ((June 1, 2008), https://www.americanimmigrationcouncil.org/practice_advisory/introduction-habeas-corpus; see also Ryan Laughlin, *Executive Order on Travel Ban Rattles Locals*, WDAZ (Jan. 30, 2017), <http://www.wdaz.com/news/north-dakota/4208717-executive-order-travel-ban-rattles-locals> (reporting about an immigration lawyer who has practiced for 20 years, yet has never seen anything like the travel ban).

¹⁷³ See *supra* Section II.

¹⁷⁴ See, e.g., *Immigration After the Election*, *supra* note 12; *Information About the Travel Ban*, HOUS. IMMIGRATION LEGAL SERVS. COLLABORATIVE (Oct. 5, 2017), <https://www.houstonimmigration.org/travelban>; *#MuslimBan Resource Guide*, AJAM MEDIA COLLECTIVE (Jan. 30, 2017), <https://ajammc.com/2017/01/30/muslimban-resource-guide/>.

as refugees from the travel ban countries, had questions that were more client-centered, factual, nuanced, and individualized. Dual citizens were uncertain about whether they were included in the travel ban.¹⁷⁵ Visas had been rescinded by CPB officers at U.S. airports before many people were returned to their home countries, creating additional complexity once the travel ban was temporarily restrained.¹⁷⁶ Related questions arose about visa extensions, the validity of existing visas, risks of blocked entry upon future travel abroad, and whether any remaining options for admission existed for loved ones unable to arrive or return.¹⁷⁷

Others were concerned about the impact of the Interior Enforcement and Expanded Border Security Executive Orders, which had not received much media coverage initially. Undocumented individuals lacking authorized status were fearful of expanded ICE detentions and deportations. The fear and uncertainty in local communities created its own form of chaos.

Expanded interior enforcement received national attention with the case of Guadalupe Garcia de Rayos, who was deported in early February 2017.¹⁷⁸ Mrs. Garcia de Rayos is the mother of two U.S. citizen children.¹⁷⁹ She arrived at the age of 14 and had been in the United States for nearly two decades with unauthorized status.¹⁸⁰ Although she was subject to an order of removal, she had received a form of deferred action on the

¹⁷⁵ Dan Merica, *How Trump's Travel Ban Affects Green Card Holders and Dual Citizens*, CNN (Jan. 29, 2017), <http://www.cnn.com/2017/01/29/politics/donald-trump-travel-ban-green-card-dual-citizens/index.html> (quoting the International Air Transport Association guidance that says “[d]ual nationals holding and traveling with a valid passport issued by a State other than one of the [seven banned countries] will be allowed entry provided meeting all criteria based upon the passenger’s nationality”); Brooke Seipel, *Trump's Visa Ban Also Applies to Dual Citizens: Report*, THE HILL (Jan. 28, 2017), <http://thehill.com/blogs/blog-briefing-room/news/316692-trumps-visa-ban-also-applies-to-dual-citizens-report> (quoting the Wall Street Journal, which contradicts the CNN article by reporting “that the refugee ban extends beyond just citizens of Iraq, Iran, Somalia, Sudan, Syria, Libya and Yemen, but also to people who may originally come from those countries but have a passport from another nation or dual nationality”).

¹⁷⁶ See *supra* notes 96–100 and accompanying text.

¹⁷⁷ See, e.g., Emma Cott & Taige Jensen, *Lawyers Take on Trump's Travel Ban*, N.Y. TIMES (Feb. 21, 2017), <https://www.nytimes.com/video/us/politics/10000004914792/trump-immigration-lawyer.html?playlistId=10000004878793®ion=video-grid&version=video-grid-thumbnail&contentCollection=Times+Video&contentPlacement=0&module=recent-videos&action=click&pgType=Multimedia&eventName=video-grid-click> (portraying the fight of two Louisville attorneys trying to reunite an Iraqi immigrant with his wife and daughter).

¹⁷⁸ See Emanuella Grinberg, *What We Know About This Woman's Deportation*, CNN (Feb. 9, 2017), <http://www.cnn.com/2017/02/09/us/arizona-guadalupe-garcia-de-rayos-deported/index.html>.

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

deportation order and was required to check in with the local ICE office in Arizona.¹⁸¹ In 2016, her ICE officer told her that when she returned for her 2017 check-in, her case would likely be dropped because she was not a priority.¹⁸² The Interior Enforcement Order made her case a priority because of the prior removal order. She was deported after she checked in with the ICE office in February 2017.¹⁸³

Expanded interior enforcement has created extraordinary fear in local communities. When the word spreads about ICE raids at apartment complexes or work sites, people go into hiding.¹⁸⁴ Children do not attend school because parents are afraid of walking their children to bus stops and encountering ICE officers.¹⁸⁵ The risk of ICE apprehension and detention accompany everyday tasks, such as shopping for necessities.

The lack of trust in local government, particularly local law enforcement, is amplified as well. People do not attend local court hearings as witnesses, pay fines at local courthouses, or seek needed medical and other services because of the fear of ICE apprehension.¹⁸⁶ Collaborations between local law enforcement and ICE officers, in addition to enforcement efforts targeting particular immigrant communities, contribute to this problem. In Louisville, an investigative report by the local public media radio station detailed the kind of cooperation that occurs despite local government assertions that regular cooperation does not happen.¹⁸⁷

In smaller cities, such as Louisville, a lack of robust nonprofit legal services entities that serve diverse noncitizen populations is a major challenge. Often, law school immigration clinics can fill the gap representing clients as well as community outreach and education.

¹⁸¹ *Id.*

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ Meredith Hoffman, *Aggressive Immigration Raids Are Breaking Up Families and Scaring Longtime Residents*, VICE (Feb. 16, 2017), https://www.vice.com/en_us/article/vxdzy/aggressive-immigration-raids-are-breaking-up-families-and-scaring-longtime-residents.

¹⁸⁵ *Id.*

¹⁸⁶ See Michelle Chen, *Why Is ICE Arresting Immigrants in New York City's Courts?*, THE NATION (Dec. 4, 2017), <https://www.thenation.com/article/why-is-ice-arresting-immigrants-in-new-york-citys-courts/> (highlighting the 900% increase in immigrations being targeted by ICE in courthouses since the travel ban's release); James Queally, *ICE Agents Make Arrests at Courthouses, Sparking Backlash from Attorneys and State Supreme Court*, L.A. TIMES (Mar. 16, 2017), <http://www.latimes.com/local/lanow/la-me-ln-ice-courthouse-arrests-20170315-story.html> (highlighting the chilling effect that occurs when ICE officers arrest individuals attending legal proceedings).

¹⁸⁷ Kate Howard, *Louisville Police Don't Enforce Immigration – But Help the Feds Do It*, KY CTR. FOR INVESTIGATIVE REPORTING (Sept. 7, 2017), http://kycir.org/2017/09/07/louisville-police-dont-enforce-immigration-but-they-help-ice-do-it/?_ga=2.195245356.1019036494.1515071728-1016634787.1515071728.

Where none exist, there may be substantial unmet legal needs within undocumented communities. In smaller legal markets, private immigration attorneys may not have the capacity to provide needed pro bono services.

The complexity of immigration law is a significant barrier to increasing pro bono services in smaller legal markets. Larger cities have well-established pro bono training programs for big law firm pro bono lawyers. These training programs are offered by local bar associations and are supported by local nonprofit organizations or law school immigration clinics. For example, the Chicago Volunteer Legal Services Association works with the local American Immigration Lawyers Association chapter and the National Immigrant Justice Center to provide representation to detained individuals for bond hearings.¹⁸⁸ Even this kind of limited representation is a challenge when local attorneys do not feel competent to represent clients for bond hearings, which are similar to criminal bond hearings with which they may be very familiar. The complexity of immigration law combined with the language access issues that often accompany the representation of noncitizens can create an insurmountable barrier to expanded pro bono legal services.

These challenges exist in many smaller legal markets. In Louisville, in the months following the January 2017 Executive Orders, existing immigration attorneys who worked with individual clients were at capacity. One of the largest immigration law firms in the city reported that appointments for initial consultations were backlogged for weeks. Local attorneys who were not immigration specialists voiced their interests in assisting with bond hearings or one-day pro bono clinics but were anxious about language access issues or their own lack of in-depth knowledge about immigration law. It was difficult to maintain a sustained pro bono network although local attorneys participate in one-day clinics organized by HRAP or the local bar association.

The media's coverage shaped the national narrative, creating the impression that the work was episodic and immediate only at the nation's entry points.¹⁸⁹ In reality, the work is sustained and expansive throughout the country as ICE enforcement increased throughout the nation. In the 100 days after the January 2017 Executive Orders, ICE arrested more than 41,000 individuals who were either known or suspected of being in the country illegally, representing a 37.6% increase over the same period in 2016.¹⁹⁰

¹⁸⁸ CVLS Seminar: *How to Represent a Detained Immigrant Client in a Bond Hearing*, ILL. LEGAL AID ONLINE, <https://www.illinoislegalaid.org/for-legal-professionals/calendar/cvls-seminar-how-represent-detained-immigration-client-bond-hearing>.

¹⁸⁹ See *supra* Part I.

¹⁹⁰ HING ET AL., *supra* note 32, at xxi; *Ice ERO Immigration Arrests Climb Nearly 40%*, ICE (Nov. 2, 2017), <https://www.ice.gov/features/100-days>.

Local nonprofit organizations attempted to provide outreach and education in Louisville with programs providing “Know Your Rights” presentations and advice about preparing in advance for a possible ICE apprehension.¹⁹¹ The possibility of expanded expedited removal created significant concerns among immigration attorneys who were concerned about creating panic in the local community. Community events were held at nonprofit organization offices, in local churches, and at the University of Louisville to provide up-to-date information about what to do in case an individual is confronted by ICE officers. They stressed the importance of gathering important documents to demonstrate presence in the U.S. for more than two years in the event of an ICE apprehension. Additionally, they discussed creating an emergency plan that would account for things like childcare and a division of assets in the event members of the family were deported. Family law attorneys were involved in creating information packets.

Many immigrant advocates organized a variety of efforts to assist and inform the local immigrant, noncitizen and refugee community about the new reality. ICE detention center visits organized by HRAP’s co-director, Professor Trucios-Haynes, were immediately expanded to determine the impact of increased detentions in the local area. Discussion began with local immigration lawyers about providing pro bono representation for bond hearings at the local ICE detention center. The Russell Immigration Law Firm hosted bond clinics to train lawyers to assist in bond hearings and conducted “Know Your Rights” sessions at local churches. In addition to the bond clinics, the firm now offers asylum clinics to train local lawyers who want to work on asylum cases.

Other organizations in Louisville, such as Doctors & Lawyers for Kids and the Kentucky Refugee Ministries, also reached into their own networks to find legal assistance after the January 2017 Executive Orders.¹⁹² One immigration attorney mobilized attorneys to go to Chicago and offer assistance at international airports. In the wake of the Executive Orders, Louisville’s Mayor, Greg Fischer, quickly hosted a “Rally for American Values” outside of the Muhammad Ali Center as a

¹⁹¹ Kate Howard, *Renewed Push for Sanctuary City Policies in Wake of LMPD, Immigration Revelations*, WFPL (Sept. 15, 2017), <http://wfpl.org/renewed-push-sanctuary-city-policies-wake-louisville-police-immigration-revelations/>.

¹⁹² Doctors & Lawyers for Kids is a medical/legal partnership that combines the resources of both fields to assist individuals in the Louisville community with personal and family stability, housing and utilities, income and insurance, education, and legal status. See *Our Mission*, DOCTORS & LAWYERS FOR KIDS, <http://www.doctorslawyerskids.org/index.html#mission>. Kentucky Refugee Ministries is a local non-profit organization that provides “resettlement services to refugees through faith- and agency-based co-sponsorship in order to promote self-sufficiency and successful integration into our community.” *Mission*, KY. REFUGEE MINISTRIES, INC., <https://kyrm.org/about/>.

showing of solidarity for immigrants.¹⁹³ The rally was intended to show support in the face of uncertainty and to ensure that affected populations felt welcome in their own city.

These efforts in Louisville address some of the issues raised by the dramatic shift to a restrictionist immigration policy under the 2017 Executive Orders; however, sustained pro bono assistance remains unavailable. This is a challenge for many smaller cities, like Louisville, which lack a deep immigration bar, a law school immigration clinic, or expansive legal services entities.

*The University as a Community Resource*¹⁹⁴

Universities are another local resource that can fill the gap between national and local organizations. Universities are positioned as institutions of concentrated power, particularly in smaller cities, with many resources and various connections throughout the community. Universities should utilize their resources even more aggressively when local communities are targeted and vulnerable. This collaboration between campus and community to address social justice and human rights issues has been accomplished using different models, such as experiential learning, clinics, and Participatory Action Research (PAR). The PAR methodology is an ideal mechanism for universities to extend their resources into the community and ensure that the university's work furthers the goals of the community. HRAP engages our community, including the immigrant, noncitizen and refugee community as well as local service providers and immigrant advocates, by using PAR to achieve positive social change.

The Participatory Action Research Model

The Participatory Action Research model emerges as a solution to combining the resources found in universities with those found in local communities and optimizing them for the benefit of those in need. The action research approach of working collaboratively with community members to solve social problems has been expanding since Kurt Lewin promoted this type of research after World War II.¹⁹⁵ Lewin saw that

¹⁹³ *Louisville Mayor Greg Fischer to Hold Rally Showing Support for Immigrants*, WDRB (Jan. 29, 2017), <http://www.wdrb.com/story/34373916/louisville-mayor-greg-fischer-to-hold-rally-showing-support-for-immigrants>.

¹⁹⁴ A perennial question arises when faced with a changing political climate: whether universities are safe for students, such as undocumented students or those who are here on visas. This underlying question affects universities' policies and their ability to act in certain situations.

¹⁹⁵ See generally Kurt Lewin, *Action Research and Minority Problems*, 2 J. SOC. ISSUES 34 (1946) (discussing the "action-research organization designed primarily to

people needed to be engaged in democratic inquiry about the problems they faced in their own lives and the best solutions to those problems.¹⁹⁶ Using the PAR model, sustained collaboration and partnership with community groups can yield the most effective strategies to address community problem solving. PAR adopts the goal of supporting action to achieve positive social change and embraces the equal participation of community throughout the entire research process.¹⁹⁷ This research methodology has been adopted in a number of disciplines, including public health, environmental science, and other health sciences research.¹⁹⁸

PAR is distinguished from traditional forms of research where the principal goal is to investigate. According to Peter Reason and Kate McArdle, PAR has two objectives: “to produce knowledge and action directly useful to a group of people—through research, through adult education, and through sociopolitical action[;] . . . [and] to empower people at a second and deeper level through the process of constructing and using their own knowledge”¹⁹⁹ This research approach embraces the principle of critical reflection to create a collaboration of researchers and stakeholders.²⁰⁰ PAR relies on the input of stakeholders to shape the research process including action and reflection by all stakeholders. PAR aims to solve concrete problems, make a positive difference in the lives of people, and directly impact social problems.

The iterative cycle of PAR involves planning, acting, observing, and reflection leading to the beginning of a new inquiry cycle.²⁰¹ The criticisms of PAR include the long-term nature of this type of research, which contrasts with specified end dates for traditional research. In addition, some deride a PAR as an “ideology” dictating how research should be undertaken rather than offering a practical research method.²⁰²

function as a service organization to Jewish and non-Jewish bodies in the field of group interrelations”).

¹⁹⁶ *Id.* at 45.

¹⁹⁷ Maggie Walter, *Participatory Action Research*, SOCIAL RESEARCH METHODS 3–4 (M. Walter ed., 2009).

¹⁹⁸ Cathy MacDonald, *Understanding Participatory Action Research: A Qualitative Research Methodology Option*, 13 CANADIAN J. ACTION RES. 34, 43 (2012).

¹⁹⁹ Peter Reason & Kate McArdle, *Brief Notes on the Theory and Practice of Action Research*, CTR. FOR ACTION RESEARCH IN PROF'L PRACTICE (2004), http://peterreason.eu/Papers/Brief_Notes_on_AR.pdf.

²⁰⁰ Mark Baldwin, *Participatory Action Research*, in THE SAGE HANDBOOK OF SOCIAL WORK 467, 467–81 (Mel Gray et al. eds., 2012).

²⁰¹ MacDonald, *supra* note 198, at 37.

²⁰² Walter, *supra* note 197, at 6.

One result of PAR is Community Engaged Scholarship (CES).²⁰³ CES is the collaboration of students, faculty, and community partners to create new solutions to enduring social justice issues while expanding academic scholarship.²⁰⁴ As academia once embraced clinical education, there is now a greater emphasis on direct involvement with communities to identify solutions to modern day problems.²⁰⁵ As CES has been increasingly recognized, adopted, and accepted at universities, there are more opportunities for faculty, students, and community partners to take part in it.²⁰⁶

CES has been called many different things and defined in many different ways. Some sources cite its various names as synonyms while other sources claim distinct differences between related ideas. Some scholars define CES, action research, public scholarship, engaged scholarship, and PAR as “a cluster of applied research methods, namely, participatory research, collaborative inquiry, action learning, and community-based research.”²⁰⁷ Other scholars identify a distinction between Community Engagement and Community Engaged Scholarship.²⁰⁸ While Community Engagement involves faculty and students using university resources to work with communities to solve community problems, CES includes a scholarly component of documentation and publication. Professor Cate Fosl of the University of Louisville acknowledges the blurred boundaries between Community Engagement and CES.²⁰⁹ She views the challenge of academia accepting CES as stemming from this lack of a distinction.²¹⁰ Regardless of the challenges that exist in defining Community Engaged Scholarship, it is increasingly found at more universities, many of which have adapted traditional research frameworks to this type of research.

CES is important because it aims to solve enduring social problems. It is beneficial for everyone involved: faculty, students, and community partners. Faculty benefit as universities have begun incentivizing faculty

²⁰³ See Sherril B. Gelmon et al., *Community-Engaged Scholarship in the Academy: An Action Agenda*, CHANGE, July/Aug. 2013, at 58–59, <http://www.csusm.edu/community/facultyengagement/resources/documents/gelmon-communityengagedscholarship-2013.pdf>

²⁰⁴ *Id.* at 58–59.

²⁰⁵ Susan R. Jones & Shirley J. Jones, *Innovative Approaches to Public Service Through Institutionalized Action Research: Reflections from Law and Social Work*, 33 UNIV. ARK. LITTLE ROCK L. REV. 377, 388–91 (2011).

²⁰⁶ See Gelmon et al., *supra* note 203, at 58.

²⁰⁷ Jones & Jones, *supra* note 205, at 384–85.

²⁰⁸ See, e.g., Gelmon et al., *supra* note 203, at 59.

²⁰⁹ Cate Fosl, *Imagine Engaged Scholarship at the University of Louisville: A Research Report to the Provost*, UNIV. OF LOUISVILLE 9–10 (2015), <https://louisville.edu/braden/files/Imagine-Engaged-Scholarship.pdf>.

²¹⁰ *Id.*

to practice CES by providing recognition of this work in the tenure and promotion process.²¹¹ Students benefit through service-learning and research experience. Community partners benefit by the opportunity to frame the research process and by receiving the resources of a university to address social justice issues. The history of universities and academia in general involves enriching the knowledge base to better society and address the challenging issues of the day.²¹² CES takes this desire to better society and pushes academia further to connect with society itself.²¹³ Through CES, universities have an opportunity to return to their founding roots and fulfill a civic purpose while still building the knowledge base of academic scholarship.²¹⁴ HRAP provides that to the Louisville community.

HRAP is an example of how law schools can address social justice issues and human rights needs outside of the traditional clinical education model. The formal requirements associated with law school courses focused on experiential learning and clinics limits the ability to adapt to a rapidly changing political and social landscape. In two days, President Trump's January 2017 Executive Orders dramatically altered the expectations of immigrants, noncitizens, and refugees. Fortunately, HRAP is structured to be adaptive and responsive to change. This can be accomplished by leveraging the resources of the university, including legal expertise, by engaging the local legal community, and by creating connections between people with knowledge and power and people in affected communities.

In Louisville, HRAP is uniquely positioned as an organization that has a deep knowledge of the community's needs due to its prior research and collaboration with the local community and various local stakeholders.²¹⁵ The Program's initial work in surveying the community allows it to bridge the divide between service providers, the community, and the university because it has empirical and anecdotal evidence to support its claims of community need.²¹⁶ From its inception, the Program focused on community-engaged research. After the trio of executive orders, the Program continued to engage in its research with an additional focus on community-engaged service in the form of one-day

²¹¹ John Saltmarsh et al., *Community Engagement and Institutional Culture in Higher Education: An Investigation of Faculty Reward Policies at Engaged Campuses*, in *CREATING OUR IDENTITIES IN SERVICE-LEARNING AND COMMUNITY ENGAGEMENT* 3, 6–14 (Barbara E. Moely et al. eds., 2009).

²¹² *Id.* at 10–11.

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ *Community Resource Guide*, *supra* note 153; BARROW, *supra* note 155 at 4; LATHON, *supra* note 158, at 2; LEWIS, *supra* note 111, at 1–2.

²¹⁶ *Community Resource Guide*, *supra* note 153; BARROW, *supra* note 155, at 31; LATHON, *supra* note 156, at 2; LEWIS, *supra* note 111, at 8.

pro bono legal clinics and increased “Know Your Rights” presentations. Utilizing its community partnerships, HRAP focused on ensuring that the community’s needs were being met.

Communities are not in need of an ivory tower when they are trying to provide basic services, ensuring that people are getting their basic needs fulfilled, or dealing with their immigration status. The community needs a participatory action model in which universities utilize their resources—including their networks of alumni and city leaders within the surrounding community, in addition to any financial assistance they can provide—and connect back with local organizations that are providing services to the local community.

A Collaborative and Inclusive Organizational Model for Legal Education and Community Engagement

HRAP is unique in its organizational design, which incorporates the democratic principles of PAR. It has adopted a model that is collaborative and inclusive of faculty, staff, fellows, volunteers, and community members. It is also a non-hierarchical model in which students, faculty members, and community members work side-by-side to achieve social change and make an impact.²¹⁷ It is a hybrid of a law school clinic, a community organization, a research center, and a law course.

Across the nation, universities and law schools have created their own versions of immigration fellowships and clinics.²¹⁸ Most of these programs focus on providing legal representation for individual clients during their Immigration Court proceedings. These schools focus on the traditional clinic model of allowing third-year law students with limited law practice licenses to represent and advocate for their clinic’s clients under the close supervision of a professor.²¹⁹ These students will typically engage in client counseling and interviews, fact investigation, legal research, preparation of affidavits, writing legal arguments, and submitting applications for immigration benefits for their clients.²²⁰ Overwhelmingly, these clinics focus on clients seeking citizenship; however, the university’s geographic location is often a factor in determining what type of services are offered in their clinic. For example, the University of Miami School of Law Immigration Clinic focuses on the

²¹⁷ See *Brandeis Human Rights Advocacy Program Overview & Objectives*, UNIV. OF LOUISVILLE BRANDEIS SCH. OF LAW, <https://louisville.edu/law/bhrap/fellowship>.

²¹⁸ See, e.g., *Clinics*, UNIV. OF TENN. COLL. OF LAW, <https://law.utk.edu/clinics/>; *Immigration Clinic*, UNIV. OF TEX. SCH. OF LAW, <https://law.utexas.edu/clinics/immigration/>; *Mission/Vision*, UNIV. OF LOUISVILLE CULTURAL CTR., <http://louisville.edu/culturalcenter>.

²¹⁹ See, e.g., *Immigration Clinic*, UNIV. OF MIAMI SCH. OF LAW, <http://www.law.miami.edu/academics/clinics/immigration-clinic>.

²²⁰ *Clinics*, *supra* note 218.

Haitian community and working to stop the recent wave of deportations.²²¹ Another example is the University of Texas at Austin Law School, whose immigration clinic focuses on combating the use of family detention centers across the state.²²²

Those models of immigration legal clinics are beneficial in the sense that they positively impact the lives of individuals; however, these clinics do not necessarily address underlying issues that exist in their local communities. Typically, law school clinics are structured as a class and allow students to receive credit for their participation. The clinical education model does not usually include the investigative work, assessment, public education, and policy advocacy roles of HRAP. In addition, HRAP student fellows are awarded a scholarship, and their work in the Program is extracurricular.²²³ HRAP students also participate during all three years of their course of study, allowing for the growth of leadership and sustained educational development, compared to a one-semester or one-year clinic or course enrollment.²²⁴

HRAP differs from traditional law school clinics because it can be versatile and pivot to changing conditions and engage in more participatory community engagement. HRAP's model uniquely resembles a sophisticated hybrid of a campus clinic, a campus-community partnership, and an independent study opportunity for students to produce scholarship. The adaptability, shared governance, and community-university partnership has been more important than ever in the complex political environment surrounding immigrants, noncitizens, and refugees. HRAP's reach is amplified through community collaboration and the ability to leverage university resources in this work.

The PAR projects created by HRAP are the outcome of the research-action-reflection cycle. The initial needs assessment report was presented at a roundtable forum of service providers and community members for collaborative inquiry, including both nonprofit organizations and the private immigration bar. This collaborative inquiry process led to the creation of three participatory action research projects: the Media Rhetoric Project,²²⁵ the Language Access Project,²²⁶ and the Educational Access Project.²²⁷ These projects were conceived as opportunities to leverage university resources leading to tangible social change, to enhance the understanding of service providers about the intersection of

²²¹ *Immigration Clinic*, *supra* note 219.

²²² *Id.*

²²³ *Brandeis Human Rights Advocacy Program: Mission Statement*, UNIV. OF LOUISVILLE BRANDEIS SCH. OF LAW, <http://louisville.edu/law/bhrap>.

²²⁴ *Id.*

²²⁵ LEWIS, *supra* note 111, at 3.

²²⁶ BARROW, *supra* note 155, at 30.

²²⁷ LATHON, *supra* note 156, at 2.

their work with other agencies, and to ensure responsiveness to community members who identify the key issues for continued research.

HRAP's signature community partner is La Casita Center, a local organization dedicated to enhancing the wellbeing of Louisville's Latino community through education, empowerment, advocacy, and wellness.²²⁸ La Casita Center provides services to all immigrants, noncitizens, and refugees in Louisville by hosting pro bono clinics and organizing a rapid response team of immigrant advocates who began meeting regularly shortly after the 2016 election (Alerta Roja or Red Alert).²²⁹ La Casita Center's services address the individuals' basic needs, which allows the community to be more receptive to the Program's efforts of providing outreach and education about legal needs.²³⁰ La Casita Center and its dynamic director have their finger on the pulse of a significant portion of the local immigrant, noncitizen and refugee community. Following the Executive Orders, La Casita expressed an urgent need for regular law clinics addressing a range of questions from educational access to driver's licenses to family law questions. HRAP responded as noted above.

HRAP's work critically responds to human rights needs identified by the immigrant, noncitizen and refugee community. This includes access to due process rights in detention, hosting legal clinics, and providing informational forums to educate the general public, as well as the local community, about immigration issues.²³¹ These efforts, among others, are more necessary than ever for an urban metropolitan research institution with a vital international community connected to it. By engaging the community, HRAP's research furthers the goals of the local community and creates community-engaged scholarship.

IV. A COMMUNITY AFFAIR: IMPLEMENTING THE PARTICIPATORY ACTION RESEARCH MODEL POST-TRAVEL BAN

It is important to understand the political atmosphere surrounding Kentucky, Louisville, and the University during the time HRAP attempted to provide services to the immigrant, noncitizen, and refugee communities. Kentucky is a southern state. President Trump won the state during the 2016 presidential election—which was expected because Kentucky is a historically Republican state.²³² For the first time in 95 years,

²²⁸ *Our Mission*, LA CASITA CTR., <http://www.lacasitacenter.org/mission-and-vision.html>.

²²⁹ *Empowerment and Education*, LA CASITA CTR., <http://www.lacasitacenter.org/empowerment-and-education-1.html> (clinics).

²³⁰ *Hospitality and Solidarity*, LA CASITA CTR., <http://www.lacasitacenter.org/hospitality-and-solidarity.html>.

²³¹ See *Empowerment and Education*, *supra* note 229.

²³² See *Party Affiliation Among Adults in Kentucky by Political Ideology*, PEW RESEARCH CTR. (2014) <http://www.pewforum.org/religious-landscape-study/compare/party->

Kentucky's legislative branch was controlled by the Republican Party when the House of Representatives shifted to a Republican majority after the 2016 elections.²³³ The day after the election, vandals defaced University of Louisville property with graffiti reading, "Trump #BuildThatWall."²³⁴ This incident happened less than 100 feet from the law school.²³⁵ An HRAP fellow and an HRAP volunteer began the cleaning process when they noticed it the morning after the election. Unfortunately, the incident was repeated at another location close to the law school at the end of the week. Someone replicated the statement and wrote it on a fountain, as well as on the sidewalk leading to the student parking lot. Though the University is committed to diversity, these incidents heightened the insecurity felt by many students on campus after the election. The Travel Ban Executive Order directly affected approximately 50 University scholars and students on student visas, foreign exchange visas, or other temporary work visas. The University, well known for its athletics, was one of the most vocal about the travel ban's effect on students on its basketball team.²³⁶

In response, HRAP quickly shifted its focus and concentrated on the services it could provide to the community. The PAR projects, including an update to the 2015 needs assessment, were put on hold as the HRAP faculty co-directors and student fellows became first responders to the new reality faced by the local community. HRAP identified ways to assist and support the mobilization of the legal community using a multi-pronged approach. First, the community was invited to multiple information sessions to learn about the legal implications of the January

affiliation/by/political-ideology/among/state/kentucky/ (showing 66% of adults either are Republican or lean Republican and that 30% of adults that identify as moderate are Republican or lean Republican).

²³³ Jack Brammer & Linda Blackford, *Republicans Take the Kentucky House After 95 Years of Democratic Control*, LEXINGTON HAROLD LEADER (Nov. 8, 2016), <http://www.kentucky.com/news/politics-government/article113464563.html>.

²³⁴ Kyeland Jackson, *Trump Victory Elicits Protests, Vandalism in Louisville*, LOUISVILLE CARDINAL (Nov. 14, 2016), <http://www.louisvillecardinal.com/2016/11/trump-victory-elicits-protest-vandalism-louisville/>; Brooke Moody & Eric Matthews, *Vandals Continue to Leave Their Mark on Campus*, LOUISVILLE CARDINAL (Nov. 13, 2016), <http://www.louisvillecardinal.com/2016/11/41322/>; Amber Powell, *'The Thinker' at U of L Vandalized with Pro-Trump Graffiti*, WAVE3 NEWS (Nov. 9, 2016), <http://www.wave3.com/story/33671204/the-thinker-at-uofl-vandalized-with-pro-trump-graffiti/>.

²³⁵ See Powell, *supra* note 234.

²³⁶ Jeff Greer, *Immigration Order Won't Affect U of L Players*, COURIER J. (Jan. 29, 2017) <http://www.courier-journal.com/story/sports/college/louisville/2017/01/29/immigration-order-hits-home-louisville-basketball-players-deng-adel-ana-mahmoud-mangok-mathiang-sudan-egypt/97213110/> ("I don't think they said, 'OK, what're the bad points of this decision?' And nobody said anything about a basketball player, or a track star, or a soccer player. Nobody brought it up, so obviously there are no athletes in the cabinet.").

2017 Executive Orders. The information sessions provided the public and those particularly affected with a forum to share concerns and learn about the substance of the executive orders and their predicted effects. Second, the Program hosted a pro bono immigration clinic to provide legal advice from practicing immigration attorneys. Third, HRAP's fellows went into particularly affected communities to inform residents of their rights and distribute written materials in Spanish and English. Simultaneously, HRAP student fellows increased their own participation in the "Know Your Rights" presentations at the local detention facility. Fourth, HRAP faculty and fellows offered their services at pro bono immigration clinics hosted by La Casita Center and the Louisville Bar Association.

While creating a one-day clinic was one of the main priorities, HRAP also recognized that members of the local community were uninformed and had many unanswered questions. By educating the community, HRAP was able to ensure that Louisville had a group of people who understood the Executive Orders and were ready to assist.²³⁷ There are two parts to educating a community. The first part includes educating the advocates and allies, and the second part includes educating the affected community about their rights. HRAP hosted a community discussion at the law school entitled, *Trump on Immigration*, with a panel including an immigration attorney, a refugee, a first-generation immigrant, and the Program's co-director, Professor Trucios-Haynes.²³⁸ The event was well-attended by participants from the University's multiple campuses and local community members. The second step included hosting "Know Your Rights" trainings at local apartment complexes where increased ICE apprehensions were occurring.

For many years, HRAP and the law school worked to enhance due process for those in immigration detention. Since 2011, under the direction of Professor Trucios-Haynes, students, local lawyers, and community volunteers have conducted "Know Your Rights" sessions at the only immigration detention center in Kentucky. The sessions were conducted through a U.S. Department of Justice's Executive Office of Immigration Review (EOIR) Legal Orientation Program in collaboration with National Immigrant Justice Center. HRAP fellows and faculty have participated in these visits, which generally occur monthly, but grew in frequency after an increase in ICE apprehensions after January 2017. HRAP fellows also increased their participation in "Know Your Rights" programs held in local neighborhoods beginning in June 2016. These

²³⁷ See Gerald P. López, *Shaping Community Problem Solving Around Community Knowledge*, 79 N.Y.U. L. REV. 59, 63–66, 78 (2004).

²³⁸ See *Trump on Immigration: A Community Dialogue on the Legal Implications of Recent Executive Orders and Their Local Impact*, UNIV. OF LOUISVILLE, <http://louisville.edu/graduate/news/trump-on-immigration-a-community-dialogue-on-the-legal-implications-of-recent-executive-orders-and-their-local-impact>.

neighborhood sessions included local law enforcement, immigrant activists, and lawyers educating the community about individual rights in interactions with local law enforcement or immigration officials.

Shortly after the January 2017 Executive Orders were issued, a HRAP fellow organized a “Know Your Rights” session in an at-risk neighborhood at an apartment complex experiencing an increase in ICE raids. HRAP fellows distributed written materials collected by the Program, including its own materials and others from local law firms and the ACLU-KY. The student organizer’s Spanish language skills were particularly valuable to the group of students answering questions and listening to concerns. At the time when this event was held, tensions were high in the community and outsiders were viewed with great fear and skepticism.

HRAP’s biggest initiative immediately after the January 2017 Executive Orders was to organize an on-campus pro bono immigration clinic to provide legal advice to students, staff, and faculty members. The event, organized by HRAP fellows and held at the law school approximately one month after the Executive Orders were released, represented a collaboration with the University’s Cultural Center, the Assistant Director for Hispanic-Latino Initiatives, and the President’s Office.²³⁹ At a University Faculty Senate meeting on February 1, 2017, the President committed to providing legal services to students, faculty, and staff, particularly to DACA-mented students. On February 2, 2017, the University’s Provost requested HRAP’s assistance.

The pro bono legal clinic provided legal advice to students, faculty and staff members, and their family members. The fears of undocumented students and their families were a major focus. Many feared ICE enforcement efforts could extend to the University’s campus. Racial profiling and hate incidents targeting Latino and other noncitizens on campus were increasing. The accompanying information session also provided information about federal immigration and state and local law enforcement boundaries. The organization process for this clinic highlighted the many concerns facing people in the U.S. who lack an authorized status. The safety of those attending the clinic was a major concern, and there was substantial uncertainty in those early days about the full impact of the January 2017 Executive Orders. The University hosted the clinic rather than La Casita Center, which is a central meeting place known to the local community. La Casita Center was not a viable option due to their known reputation and the community’s fear of possible ICE raids at that location during the clinic. The organizing group also discussed emergency procedures in the event that ICE agents showed up at the law school during the clinic. Although a 2011 ICE Policy memo generally prohibits enforcement actions, including arrests,

²³⁹ *Immigration Clinic on Campus*, UNIV. OF LOUISVILLE, http://events.louisville.edu/event/immigration_clinic_on_campus#.WnaGbqinHIU.

interviews, searches, or immigration enforcement related surveillance in sensitive locations such as schools and churches, initially it was unclear whether the policy would remain in effect after the January 2017 Executive Orders.²⁴⁰ The Trump Administration later confirmed in June 2017 that the policy remains in effect.²⁴¹ A related safety concern was whether protesters or anti-immigrant activists would attend. The President's Office and University police advised HRAP's co-director that it would keep a silent, watchful presence to protect against any disruptions.

Communication was another challenge, raising questions about which avenues to use for communication, how to advertise the event, get people to sign up, and further communicate with the participants. There were concerns about anonymity, and in order to maintain anonymity HRAP utilized a third-party source to have people RSVP to the event. The event was entitled "HRAP event," a title that identified the organization, so that participants knew who was putting it on, but was vague enough so that the event would be protected and not targeted for an ICE raid. One professor asked whether it was necessary for an individual to provide her real name when reserving a space for the clinic. The exchange with the professor revealed the depth of the fear created by the Executive Orders. Twenty-seven individuals reserved a spot for the event through the third-party source.

HRAP worked with various campus organizations to both spread the word and develop a better understanding of the community's need. It partnered with the Cultural Center,²⁴² the Hispanic/Latino Initiative,²⁴³ F.I.R.E.: Fighting for Immigrant Rights and Equality,²⁴⁴ the Undocumented Student Resource Council, and the International

²⁴⁰ See *FAQ on Sensitive Locations and Courthouse Arrests*, U.S. IMMIGRATION & CUSTOMS ENF'T, <https://www.ice.gov/ero/enforcement/sensitive-loc> (last updated Jan. 31, 2018). According to the ICE FAQ, locations treated as sensitive locations under ICE policy would include, but are not be limited to:

Schools, such as known and licensed daycares, pre-schools and other early learning programs; primary schools; secondary schools; post-secondary schools up to and including colleges and universities; as well as scholastic or education-related activities or events, and school bus stops that are marked and/or known to the officer, during periods when school children are present at the stop; Medical treatment and health care facilities, such as hospitals, doctors' offices, accredited health clinics, and emergent or urgent care facilities; Places of worship, such as churches, synagogues, mosques, and temples; Religious or civil ceremonies or observances, such as funerals and weddings; and During a public demonstration, such as a march, rally, or parade.

²⁴¹ See *id.*

²⁴² *Mission/Vision*, *supra* note 218.

²⁴³ *Hispanic/Latino Initiative*, UNIV. OF LOUISVILLE CULTURAL CTR., <https://louisville.edu/culturalcenter/retention/hli>.

²⁴⁴ *Fighting for Immigrants' Rights and Equality (FIRE)*, UNIV. OF LOUISVILLE, <https://orgsync.com/66940/chapter>.

Student and Scholar Services.²⁴⁵ These organizations were chosen because they were in contact with diverse student populations, including DACA-mented students and students or faculty members with visa status questions. These organizations worked closely with the immigrant, noncitizen and refugee students, faculty and staff, and knew what resources were already available. An important part of serving a community is to prevent replication of services already provided. With such limited resources, collaboration allows the optimal use of time, money, and volunteer services.

Campus groups viewed HRAP as the organization that could help bridge the gap between the University and the legal community, and HRAP managed the task of recruiting local immigration attorneys to provide pro bono legal advice. The challenge was not finding attorneys who would provide their services for free but finding attorneys who had the time to assist. After the January 2017 Executive Orders, local immigration attorneys were spread thin due to the increased need for legal advice. Five attorneys volunteered their time to provide advice. Based on the number of perceived attendees and the number of attorneys, the program was split into fifteen 20-minute private conferences between the attendees and the attorneys.

HRAP also managed the expected need for language services in the event that an attendee needed a translator. Fortunately, the Program had several fellows who could speak multiple languages well enough to provide limited assistance. Finally, HRAP fellows decided which resources to provide to attendees: HRAP's Resource Guide, a "Know Your Rights" pamphlet from the ACLU, and various documents from local law firms were made available to attendees to provide supplemental information. The fellows encouraged those who were attending to take the materials and distribute them within their community.

The preparation for this clinic provided some key insights for future projects that can be adapted to changing needs. HRAP realized it needed a nimble model that would accommodate all of the services it wanted to provide to the community. The clinic was initially modeled after several DACA clinics organized in 2012 by Professor Trucios-Haynes and local immigrant advocates. However, the ramifications of the January 2017 Executive Orders were constantly evolving without defined boundaries. As a result, the Program found it most helpful to run this clinic with two moving parts. In this case, both legal and practical information needed to be disseminated to the community. Individualized client meetings with local attorneys provided the legal advice for specific cases. Educational outreach providing practical information to the general public and those particularly affected was provided through an informal information

²⁴⁵ *International Student and Scholar Services*, UNIV. OF LOUISVILLE, <http://louisville.edu/internationalcenter/iss>.

session, which included an analysis of the executive orders and a presentation about the services provided by the University. The information session conducted by Professor Trucios-Haynes was a useful mechanism for people from around the community who wanted to learn about ways they could help and the impact of the executive orders in our community.

Another key lesson learned was to anticipate low turnout and unexpected people showing up for services. Although 27 people reserved a spot for the clinic, the great majority of them did not show up to the event. Approximately five individuals from the original list showed up, and the rest of the attendees were walk-ins. A total of 12 individuals sought legal advice, and some sought information to disseminate to the community rather than answers to individual questions. Due to the low turnout, the attorneys were able to spend more time with the attendees, which was needed. Among those who did not register were two Syrian men completing their residencies at a local hospital. Both had just finished their hospital shifts and were seeking guidance about their next steps. The attorneys, who had been on their way out, sat down and offered advice in what became a sort of group session.

One concern about this model for future impromptu one-day clinics is the discrepancy between the amount of people who reserved a spot for the clinic and the amount of people who showed up. The Program identified various factors that may have influenced this outcome: (1) the event's location was at the University, which may have intimidated attendees or attendees may have assumed a lack of parking facilities, which is a common issue for on-campus events; (2) the attendees may have been unable to get to the location due to work, childcare, or lack of transportation; and (3) the lack of clarity in the advertisements. Although the University was the optimal location at the time, other options, such as La Casita Center, local religious organizations, or other community centers in the city, would be better for future events. At these locations, particularly at La Casita Center, additional services would be available and may be necessary. For example, La Casita Center provides its community with food, translation services, childcare, and much more. As for clarity in communication, the Program realized that in its efforts to maintain confidentiality and protect its attendees, it may not have provided enough information to effectively communicate its purpose. While nothing could be changed for the past event, the Program has made note of these difficulties and will remedy them at future events.

CONCLUSION

Moving forward, there are many challenges facing Louisville's immigrant, noncitizen and refugee community that are unique to smaller cities in the interior of the country, although many of these challenges mirror those found in larger cities. The narrative created by national

media, although critical to raising the national consciousness about important immigration-related issues, may not reflect the experiences in smaller cities such as Louisville. In a rapidly changing environment, such as that which our nation experienced during 2017, we must be mindful of the forgotten stories and the necessary nuances that paint a full picture. We can expect continued extreme measures that will require immediate mobilization of legal and other services in our communities.

The current DACA dilemma and continuing travel ban iterations demonstrate the critical need for legal services structures that can adapt to provide needed services. HRAP's framework, relying on a PAR and community engagement model, supports local social change efforts by using University resources to produce scholarship that is responsive to and supports community needs. This model further creates the critical community collaborations that can be adapted to the rapidly changing policy and social environment facing immigrant, noncitizen, and refugee communities across the nation. In a smaller city such as Louisville, this network of immigrant advocates and activists is essential to protecting the human rights of this part of our community. This adaptability and flexibility is essential to meeting the challenges facing our communities, as we learned during the past year when responding to the January 2017 Executive Orders and other Trump Administration restrictionist immigration policy initiatives.