



Issue Brief

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The People's Lawyer, For All the People: State Attorneys General and Immigrants' Rights

Terri Gerstein

State attorneys general have long been a force for justice in the United States. In addition to high-profile multi-state efforts—like the tobacco settlement of the late 1990s, the mortgage foreclosure crisis bank settlement almost a decade ago, and ongoing opioid-related litigation—state attorneys general (AGs) have been known as “the people’s lawyer,” generally acting as champions for the rights of people in their states. Their activities and authority vary by state, but they typically enforce a range of consumer, antitrust, and other laws.

For over three years, some AGs have been serving as a bulwark against rollbacks of and attacks on their constituents’ rights by the federal government. This has occurred in relation to a range of issues: the environment, reproductive rights, consumer protection, labor, government transparency and good government, and civil rights, among others. One of the most active areas for some state AGs has been in the realm of protecting immigrants’ rights and providing a powerful, highly public counterpoint to the anti-immigrant rhetoric and actions of national leadership. This has been as true during the current Covid-19 pandemic, as it was for the years before.

This Issue Brief examines many, though not all, of the major pro-immigrants’ rights activities of AG offices, including actions in response to federal developments, as well as many state-level activities both before and after 2017, with the goal not just of documenting them, but also of encouraging relevant actors to consider what more can be done.

I. A Brief Primer on AG Offices¹

All 50 states and the District of Columbia, as well as Puerto Rico and other territories, have AGs. The majority (43) are elected statewide, and staffs of these offices are generally “career,”

¹ Several sources provide useful information on state attorney general offices. See STATEAG.ORG (last visited Apr. 7, 2020) (an educational resource on the office of state attorney general); NAT'L ASS'N OF ATTORNEYS GEN. (last visited Apr. 7, 2020); CONFERENCE OF WESTERN ATTORNEYS GEN. (last visited Apr. 7, 2020). Finally, the website attorneysgeneral.org has considerable information about state AGs, including several databases containing

meaning they remain as administrations change and develop expertise in their subject areas. Within the variety of office structures, most AG offices have the following divisions:

- A division representing all state agencies in trial courts, and in some cases, also as in-house counsel;
- An appeals division, headed by the solicitor general;
- A division that brings public advocacy enforcement cases in a range of areas;
- A criminal division (where such jurisdiction exists); and
- A front office or executive team, including communications, intergovernmental, and outreach staff, a policy director, and other similar positions.

AGs typically have a range of issues they are authorized to address that impact policy and people's lives. In addition to their statutory duty to represent state agencies in court, AGs often fulfill a generalized public advocacy role within their states. They enforce state laws, educate the public about important rights, propose legislation, file amicus briefs, produce reports, author op-eds, issue opinion letters, make public statements that garner attention, submit comments and provide testimony on state and federal legislation, and, in recent years, have sued the federal government over matters of national importance that affect their constituents.

AG offices vary considerably from state to state in terms of their jurisdiction, funding, structures, and activities, in the following ways:

- **Resources for independent law enforcement:** Some offices have considerable funding for their own self-initiated public advocacy investigations and lawsuits, while others have very limited funding for such activities, with their budgets tied largely to their representation of state agencies. Overall, the number of attorneys per office varies considerably, although larger states tend to have more lawyers.
- **Criminal jurisdiction:** Some offices have no criminal jurisdiction, while others are the sole criminal prosecutors for their states. Most fall in between and have limited criminal jurisdiction.
- **Civil jurisdiction:** Some state statutes allow the AG broad jurisdiction to act when the state's laws are being violated or when the AG deems it in the state's interest. Other state AGs have far narrower jurisdiction, limited to specific consumer or antitrust statutes. In their civil public advocacy activities, AGs tend to intervene in strategic or high-impact cases where there is a pattern or practice of violations.
- **Representation of state agencies.** AG offices are responsible for representing state agencies in court, and, in some states, they serve as agencies' general counsel as well.
- **The relationship between an AG's office and the state's governor and legislature** can vary considerably from state to state for various reasons, which can affect a given AG's budget and ability to impact state policy.

information about multi-state litigation, settlements, amicus briefs, and comments and letters. *State Litigation and AG Activity Database*, ATTORNEYSGENERAL.ORG (last visited Apr. 7, 2020).

- Some AG offices have **unique and specific functions** in their states that require considerable resources. For example, the Wisconsin Department of Justice (i.e., the AG's office there) operates the state's crime laboratory, and the New York AG's office regulates all condominium and coop offerings in the state.

II. AG Activities Related to Immigrants' Rights

AG involvement with immigrants' rights certainly predates the current administration,² but the 2016 election and subsequent immigration enforcement policies catalyzed several AG offices to champion these issues. Their recent activities can be divided into three main categories:

- (1) responses to the federal government's actions, including efforts to keep the instrumentalities of the state and localities separate from federal immigration enforcement actions;
- (2) enforcement of state laws in ways that are particularly helpful to immigrant communities;
- and (3) outreach, education, convening, and public leadership.

A. Responses to the Federal Government's Actions³

1. Litigation, Amicus briefs, and Other Efforts

After the Trump administration took office in January 2017, a subset of AGs filed numerous lawsuits, amicus briefs, and public comments in high-profile cases involving critical immigrants' rights issues such as the "travel ban," the Deferred Action for Childhood Arrivals program (DACA), the inclusion of a citizenship question in the 2020 Census, the legality of "sanctuary" jurisdictions, conditions in detention facilities, the expanded definition of "public charge," and the legal and humanitarian crisis at the southern border.⁴ In addition, AGs have

² [Brief for the States of New York et al., as Amici Curiae Supporting Respondent](#), *Arizona v. United States*, 567 U.S. 387 (2012) (No. 11-182) (where eleven AGs argued that an Arizona law increasing the powers of local law enforcement to remove undocumented immigrants was preempted by federal law); *but see* [Brief for the State of Michigan and Fifteen Other States in Support of Petitioners](#), *Arizona v. United States*, 567 U.S. 387 (2012) (No. 11-182) (where sixteen AGs argued in support of Arizona and asserted that the federal legislative scheme did not preempt the state law); [Brief of the Amicus States of Washington and California](#), *J.E.F.M. v. Lynch*, 837 F.3d 1026 (2016) (Nos. 15-35738, 15-35739) (where California and Washington argued that every unaccompanied minor placed in immigration proceedings should have a right to counsel); Press Release, State of California Dep't of Justice, [Attorney General Kamala D. Harris, 16 Attorneys General File Amicus Brief Urging Supreme Court to Reverse Lower Court Decision on Executive Actions on Immigration](#) (Mar. 8, 2016) (where sixteen states urged the Supreme Court to reverse an injunction upheld by the Fifth Circuit prohibiting the federal government from putting into effect the Obama administration's 2014 guidance deferring deportation for certain undocumented immigrants).

³ This is by no means a comprehensive list of all immigrant rights' activities undertaken by AGs in recent years. It may omit some efforts and includes only information available online. For brevity, the overview occasionally refers to actions by AGs simply by their state names.

⁴ This list does not identify which AGs were involved in or led each of the many cases, but most efforts were spearheaded by a handful of highly active offices, including California led by Attorney General Xavier Becerra; the District of Columbia led by Attorney General Karl Racine; Illinois led by Attorney General Kwame Raoul and previously Attorney General Lisa Madigan; Massachusetts led by Attorney General Maura Healey; New Jersey by Attorney General Gurbir Grewal; New York led by Attorney General Letitia James and previously by Attorneys General Barbara Underwood and Eric Schneiderman; and Washington led by Attorney General Bob Ferguson.

advocated for the continuation of two types of temporary immigration status (Temporary Protected Status (TPS) and Deferred Enforced Departure (DED)),⁵ and for safeguarding access to Special Immigrant Juvenile Status (SIJS), which creates a legal pathway to residence for certain unaccompanied minors under the age of 21.⁶ And in some less well-known cases, AGs have acted to defend the rights of their immigrant residents under state law where federal law would have them deported. In Connecticut, for example, AG William Tong has personally appeared in court to defend the legitimacy of the state’s pardon process, pursuant to which Connecticut immigrants have been entitled to deportation waivers, and sued in federal court for a declaratory judgment that the state’s pardon process is legitimate.⁷

a. Travel Ban

In 2017, President Trump issued two executive orders and a proclamation placing stringent restrictions on travel to the United States for citizens of some predominantly Muslim countries.⁸ These actions were collectively known as the “travel ban.” In response, multiple AGs filed lawsuits and amicus briefs challenging these actions on Equal Protection and Establishment Clause grounds.⁹ Although the AGs prevailed in early stages of the litigation, the U.S. Supreme Court ultimately decided the matter in *Trump v. Hawaii* in favor of the Trump administration, holding that the president did not exceed his authority and that the ban did not violate the Establishment Clause.¹⁰ The following year, a coalition of AGs urged Congress to support the NO BAN Act—legislation intended to eliminate the federal government’s travel ban and

⁵ Press Release, Office of Att’y Gen. Maura Healey, [AG Healey Co-leads Coalition of 22 States to Protect Long-term Residents of the United States](#) (Feb. 8, 2019); Press Release, Office of Att’y Gen. Maura Healey, [AG Healey Leads Coalition of 17 States in Calling on Trump Administration to Halt Discriminatory Termination of Temporary Protected Status for Foreign Nationals](#) (June 22, 2018); Letter from Karl Racine et al., Att’y Gen. for the District of Columbia, to Mitch McConnell et al., Majority Leader (Mar. 13, 2018); Brief for the State of California et al. as Amici Curiae Supporting Plaintiffs, *Ramos v. Nielsen*, No. 18-16981 (9th Cir. Feb. 7, 2019); Proposed Brief for the State of Minnesota et al. as Amici Curiae Supporting Plaintiffs, *African Cmty. Together v. Trump*, No. 19-cv-10432 (D. Mass. Aug. 2019); Brief for the District of Columbia et al. as Amici Curiae Supporting Plaintiffs, *Saget v. Trump*, No. 19-1685 (2d Cir. Dec. 30, 2019).

⁶ Letter from Xavier Becerra et al., California Att’y Gen., to Samantha Deshommes, Chief, Regulatory Coordination Div., Office of Policy & Strategy, United States Citizenship and Immigration Servs. (Nov. 14, 2019).

⁷ Complaint for Declaratory and Injunctive Relief, *Connecticut v. U.S. Dep’t of Homeland Sec.*, No. 3:19-cv-01597 (D. Conn. Oct. 10, 2019); Brief of Connecticut as Amicus Curiae Supporting Plaintiffs, *Thompson v. Barr*, No. 18-1823 (1st Cir. Apr. 4, 2019); Brief of Connecticut as Amicus Curiae Supporting Petitioner, *Walton v. Barr*, No. 19-789 (2d Cir. Mar. 29, 2019); Press Release, Office of the Att’y Gen. Connecticut, [Wayzaro Walton Will Remain in the United States – Board of Immigration Appeals Affirms that Connecticut Pardons Count](#) (Dec. 9, 2019).

⁸ Exec. Order No. 13,769, 82 Fed. Reg. 8977 (Jan. 27, 2017); Exec. Order 13,780, 82 Fed. Reg. 13209 (Mar. 6, 2017); Proclamation No. 9645, 82 Fed. Reg. 45161 (Sept. 24, 2017).

⁹ Joanna Walters, *Four States Sue Trump Administration Over ‘Un-American’ Travel Ban*, *GUARDIAN* (Feb. 1, 2017); Alexander Burns, *Hawaii Sues to Block Trump Travel Ban; First Challenge to Order*, *N.Y. TIMES* (Mar. 8, 2017); Press Release, New York State Office of the Att’y Gen., [A.G. Schneiderman Challenges President Trump’s Third Travel Ban](#) (Oct. 12, 2017); Press Release, Office of the Att’y Gen. for the District of Columbia, [Attorney General Racine Joins New Supreme Court Brief Calling for End to Trump Travel Ban](#) (Apr. 2, 2018).

¹⁰ *Trump v. Hawaii*, 138 S. Ct. 2392 (2018).

require administrations to follow anti-discrimination laws when making immigration decisions.¹¹ The House will consider the legislation in 2020,¹² but recently, the administration expanded the travel ban to include seven more countries.¹³

b. DACA

The DACA program allows undocumented individuals brought to the country as children to obtain deferred action from deportation and a work permit. When the Trump administration acted to rescind it, several AGs obtained nationwide injunctions that temporarily prevented the program's end.¹⁴ The strategy to secure preliminary injunctions was a success. In 2019, California AG Xavier Becerra announced that more than 500,000 California "Dreamers," as these young people are known,¹⁵ had renewed their DACA grants.¹⁶ The Supreme Court decided to take up the issue in a group of consolidated cases asking whether the Department of Homeland Security's decision to end the program was lawful and if its decision with respect to DACA was judicially reviewable.¹⁷ As respondents, a coalition of AGs filed a brief arguing that the federal government's attempt to revoke DACA was based on faulty legal analysis and harmed state residents, institutions, and economies.¹⁸ Last week, the Supreme Court ruled that the rescission of DACA was "arbitrary and capricious," and thus unlawful, because the administration failed to provide "a reasoned explanation for its action."¹⁹

c. Census Citizenship Question

The Trump administration proposed adding a question about citizenship status to the 2020 census that likely would have led to a significant undercount in immigrant communities and thus a malapportionment of congressional representation and federal funds.²⁰ A group of AGs filed suit to block the Trump administration's plans.²¹ They argued that the Secretary of Commerce's decision to include a citizenship question on the 2020 census violated the Administrative Procedure Act (APA) and the Constitution's Enumeration Clause, which

¹¹ Letter from Keith Ellison et al., Minnesota Att'y Gen., to Zoe Lofgren et al., United States Rep. (Sept. 23, 2019).

¹² Jihan Abdalla, *Muslim Ban: US House to Vote on Bill to Repeal Trump's Travel Ban*, AL JAZEERA (Jan. 27, 2020).

¹³ Geneva Sands, *Trump Administration Expands Travel Ban to Include Six New Countries*, CNN (Feb. 22, 2020).

¹⁴ *Complaint for Declaratory and Injunctive Relief*, New York v. Trump, 17-cv-5228 (Sept. 6, 2017).

¹⁵ The "DREAM" Act or "Development, Relief and Education for Alien Minors Act" was initially proposed in Congress in 2001 but has never passed. Young people who qualified for legal status under its provisions began calling themselves "dreamers." *The Dream Act, DACA, and Other Policies Designed to Protect Dreamers*, AM. IMMIGRATION COUNCIL (Sept. 3, 2019).

¹⁶ Press Release, State of California Dep't of Justice, Attorney General Becerra: More Than Half a Million Dreamers Have Renewed Their DACA Protections as a Result of Court Order Secured by California (Oct. 1, 2019).

¹⁷ Dep't of Homeland Sec. v. Regents of the Univ. of Cal., No-18-587 (June 28, 2019).

¹⁸ *See id.*

¹⁹ Dep't of Homeland Sec. v. Regents of the Univ. Of Cal., No 18-587, at *29 (U.S. June 18, 2020).

²⁰ For analysis see Justin Levitt, *Nonsense: Pretext and the Decennial Enumeration*, 3 AM. CONST. SOC'Y SUP. CT. REV. 59 (2019).

²¹ Michael Wines & Emily Baumgaertner, *At Least Twelve States to Sue Trump Administration Over Census Citizenship Question*, N.Y. TIMES (Mar. 27, 2018).

requires accuracy when accounting for the population.²² In June 2019, the Supreme Court held that the citizenship question did not violate the Enumeration Clause,²³ but that the secretary’s justification for including the question was pretextual and violated the APA.²⁴ Since then, Alabama has filed a federal lawsuit against the Department of Commerce and the Census Bureau, asserting that the Bureau’s inclusion of all residents in the census “will re-allocate a congressional seat and an electoral vote from the State of Alabama to a state with a larger illegal alien population.”²⁵ A coalition of AGs, several municipalities, and the U.S. Conference of Mayors moved to intervene as defendants.²⁶ That motion was granted in September 2019, and the litigation continues.²⁷

d. Sanctuary Cities

Sanctuary cities are jurisdictions that limit their cooperation with or involvement in federal immigration enforcement actions.²⁸ In 2017, former U.S. Attorney General Jeff Sessions announced that disbursement of the congressionally-mandated Byrne Justice Assistance Grants (JAG) to state and local law enforcement agencies would be contingent upon cities and states providing assistance to federal immigration enforcement officials.²⁹ Several AGs filed lawsuits and amicus briefs challenging the policy,³⁰ and federal courts have held that the Department of Justice (DOJ) cannot impose immigration-related conditions on policing grants.³¹ Appellate courts also reviewed the issue and, with the exception of the Second Circuit,³² reached similar determinations,³³ including the Ninth Circuit where AGs filed an amicus brief expressing support for sanctuary states and localities.³⁴ Earlier this month, the U.S. Supreme Court declined

²² [Brief for Government Respondents](#), *Dep’t of Commerce v. New York*, No. 18-966 (2019).

²³ *Dep’t of Commerce v. New York*, 139 S. Ct. 2551, 2567 (2019).

²⁴ *Id.* at 2574.

²⁵ [Complaint for Declaratory Relief at 2](#), *Alabama v. U.S. Dep’t of Commerce*, 2:18-cv-00772-RDP (N.D. Ala. May 21, 2018).

²⁶ [Proposed Defendant-Intervenors’ Memorandum of Law in Support of Their Motion for Leave to Intervene](#), *Alabama v. U.S. Dep’t of Comm.*, 2:18-cv-00772-RDP (N.D. Ala. Aug. 12, 2019).

²⁷ Press Release, New York State Office of the Att’y Gen., [AG James: New York Victorious in Fight to Count Every Person in Census](#) (Sept. 6, 2019).

²⁸ Dara Lind, [Sanctuary Cities, Explained](#), VOX (Mar. 8, 2018).

²⁹ Press Release, United States Dep’t of Justice, [Attorney General Sessions Announces Immigration Compliance Requirements for Edward Byrne Memorial Justice Assistance Grant Programs](#) (July 25, 2017).

³⁰ Six state attorneys general (CA, DC, NY, OR, RI, WA) issued a report debunking the Trump administration’s legal and public safety claims against sanctuary cities and towns, demonstrating the legality and sound public safety reasons for such local decisions. N.Y. STATE OFFICE OF THE ATTORNEY GEN. ET AL., [SETTING THE RECORD STRAIGHT ON LOCAL INVOLVEMENT IN FEDERAL CIVIL IMMIGRATION ENFORCEMENT: THE FACTS AND THE LAWS](#) (2017).

³¹ Nicholas Iovino, [Judge Permanently Blocks DOJ’s Sanctuary City Cuts](#), COURTHOUSE NEWS SERV. (Oct. 5, 2018). National Immigration Forum summary of the status of these cases can be found at [Case Status of Sanctuary City Jurisdiction Litigation](#), NAT’L IMMIGR. F. (May 4, 2018).

³² Annie Correal, [Trump Can Withhold Millions From ‘Sanctuary’ States, Court Rules](#), N.Y. TIMES (Feb. 26, 2020).

³³ Martin Macias, Jr., [Ninth Circuit Upholds Block of DOJ Conditions on Grants to Sanctuary Cities](#), COURTHOUSE NEWS SERV. (Oct. 31, 2019); Matt Fair, [3rd Cir. Upholds Philly’s Win in Sanctuary City Dispute](#), LAW360 (Feb. 15, 2019).

³⁴ [Brief for Amici Curiae States of New York et al.](#), *San Francisco v. Barr*, 18-17308 (9th Cir. May 29, 2019).

to review the Trump administration’s appeal of the Ninth Circuit’s decision.³⁵ Relatedly, some AGs have been fighting against ICE presence in and around state courthouses, which hinders access to justice for immigrant communities,³⁶ and recently, a federal judge in New York sided with New York AG Letitia James, holding that courthouse arrests by ICE are unlawful.³⁷

e. Detention

For four decades, the federal government has built an elaborate detention system that holds immigrants in prison-like facilities while they await their hearings. The current administration did not introduce immigrant detention, but the practice has seen exponential growth since President Trump assumed office in 2017.³⁸ The abhorrent conditions of detention centers are well-documented: “there are no regulations or enforceable standards . . . including medical treatment, mental health care, religious services, transfers, and access to telephones, free legal services, and library materials.”³⁹ These conditions are even more concerning during the Covid-19 pandemic. In April 2020, California AG Xavier Becerra sent a letter to the Acting Head of Homeland Security urging him to take action to minimize the spread of Covid-19 in detention facilities and consider alternatives to detention to protect the health of immigrant detainees as well as that of surrounding communities.⁴⁰ This request stemmed from the AG office’s ongoing involvement in reviewing immigration detention centers. To gain a clearer understanding of these problems in California, the state passed a law in 2017 requiring the AG’s office to report on conditions of confinement, the standard of care and due process provided to detainees, and the circumstances around the apprehension and transfer of detainees.⁴¹ The AG office’s 2019 report showed prolonged periods of confinement without breaks, lack of accommodation for

³⁵ Amy Howe, *Court Turns Down Government’s “Sanctuary State” Petition*, SCOTUSBLOG (June 15, 2020).

³⁶ [Complaint for Declaratory and Injunctive Relief, New York v. U.S. Immigration and Customs Enforcement](#), No. 1:19-cv-08876 (S.D.N.Y. Sept. 25, 2019); [Press Release, Washington State Office of the Att’y Gen., AG Ferguson Sues to Stop Trump Administration from Using Washington Courthouses to Snare Immigrants with No Violent History](#) (Dec. 17, 2019); [Complaint for Declaratory and Injunctive Relief, Washington v. U.S. Dep’t of Homeland Sec.](#), No. 2:19-cv-02043 (W.D. Wash. Dec. 17, 2019); [Motion of the State of New York for Leave to File Amicus Curiae Brief in Support of Plaintiff’s Motion for Preliminary Injunction, Washington v. U.S. Dep’t of Homeland Sec.](#), No. 2:19-cv-02043-TSZ (W.D. Wash. Jan. 16, 2020); [Press Release, New York State Office of the Att’y Gen., Attorney General James Leads Coalition Fighting to Halt Immigration Arrests at State Courthouses](#) (May 26, 2020).

³⁷ [New York v. U.S. Immigration and Customs Enft](#), No. 19-cv-08876, at *1 (S.D.N.Y. June 10, 2020); [Press Release, New York State Office of the Att’y Gen., Attorney General James Leads Coalition Fighting to Halt Immigration Arrests at State Courthouses](#) (May 26, 2020).

³⁸ Emily Kassie, *DETAINED: How the U.S. Built the World’s Largest Immigrant Detention System*, GUARDIAN (Sept. 24, 2019).

³⁹ *Immigration Detention Conditions*, ACLU (last visited Jan. 30, 2020).

⁴⁰ [Press Release, State of California Dep’t of Justice, Attorney General Becerra Urges Trump Administration to Take Action to Minimize the Spread of COVID-19 in Immigration Detention Facilities](#) (Apr. 13, 2020).

⁴¹ [Press Release, State of California Dep’t of Justice, Attorney General Becerra, Senator Lara Announce California Department of Justice to Review Conditions in Immigrant Detention Facilities](#) (June 16, 2017).

language barriers, limited access to medical and mental health care, and obstacles to external communication and legal representation.⁴²

Some private detention centers have forced detainees to perform duties necessary to keep the centers functioning and paid them unconscionably low wages. In 2017, Washington AG Bob Ferguson, sued a detention facility for wage violations involving immigrant detainees who were paid \$1 per day.⁴³ That case is ongoing.⁴⁴

Detained migrant children and teens are particularly at risk on account of substandard treatment. The 1997 *Flores* settlement set standards for the detention and release of minors taken into immigration custody. It requires that facilities for minors meet certain standards and that minors be held only for a twenty-day period.⁴⁵ In 2018, the Trump administration proposed a rule that would roll back the agreement’s protections.⁴⁶ Several AGs submitted comments in response,⁴⁷ expressing concern that the proposed regulations would permit the indefinite detention of immigrant children and their families.⁴⁸ In light of ongoing *Flores* violations, in 2019, a coalition of AGs filed an amicus brief in support of a temporary restraining order urging immediate relief on behalf of detained immigrant children.⁴⁹ When in August 2019, the Trump administration published the new rule allowing for the detention of migrant families indefinitely,⁵⁰ AGs responded with a lawsuit⁵¹ and a motion for a preliminary injunction.⁵² One month later, a federal judge rejected the rule and held that the administration could not detain

⁴² OFFICE OF THE ATTORNEY GEN. OF CAL., [THE CALIFORNIA DEPARTMENT OF JUSTICE’S REVIEW OF IMMIGRATION DETENTION IN CALIFORNIA](#) (2019).

⁴³ Press Release, Office of the Att’y Gen. of Washington State, [AG Ferguson Sues Operator of the Northwest Detention Center for Wage Violations](#) (Sept. 20, 2017).

⁴⁴ June Williams, [Washington State Lawsuit Against Private Prison Allowed to Move Forward](#), COURTHOUSE NEWS SERV. (Oct. 9, 2019).

⁴⁵ [Stipulated Settlement Agreement](#), *Flores v. Reno*, No. CV 85-4544-RJK(Px) (C.D. Cal. Jan. 17, 1997).

⁴⁶ [Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children](#), 83 Fed. Reg. 45486 (proposed Sept. 7, 2018).

⁴⁷ Press Release, Illinois Att’y Gen., [AG Madigan Opposes Federal Government’s Proposal for Immigrant Children in Detention](#) (Nov. 7, 2018).

⁴⁸ [Official Comment on Proposed Rule: Apprehension, Processing Care, and Custody of Alien Minors and Unaccompanied Alien Children on Behalf of Attorneys General of California et al. to Secretary Kirstjen Nielsen](#) (Nov. 6, 2018); [Official Comments on Proposed Rule: Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children on Behalf of the State of Washington](#) (Nov. 6, 2018).

⁴⁹ [Proposed Brief of the States of California et al. as Amici Curiae in Support of Plaintiffs’ Application for Temporary Restraining Order](#), *Flores v. Barr*, No. 2:85-cv-4544-DMG (C.D. Cal. July 9, 2019); Press Release, State of California Dep’t of Justice, [Attorney General Becerra Leads Coalition in Fight Against Federal Attempt to Undermine the Rights of Children in Civil Immigration Detention](#) (Jan. 29, 2020).

⁵⁰ Michael Shear & Zolan Kanno-Youngs, [Migrant Families Would Face Indefinite Detention Under New Trump Rule](#), N.Y. TIMES (Aug. 21, 2019).

⁵¹ [Complaint for Declaratory and Injunctive Relief](#), *California v. McAleenan*, No. 2:19-cv-07390 (C.D. Cal. Aug. 26, 2019).

⁵² [Notice of Motion and Motion for Preliminary Injunction: Memorandum of Points and Authorities in Support](#), *California v. McAleenan*, No. 2:19-cv-07390-JFW-PLA (C.D. Cal. Aug. 30, 2019).

children for more than the twenty days specified in the *Flores* settlement.⁵³ In March, the judge ordered the government to make continuous efforts to release migrant children from custody in light of the coronavirus and in the wake of several children testing positive for it.⁵⁴

When detainees have sought abortion care, they have been sent to religiously-affiliated crisis pregnancy centers, refused medical treatment despite judicial authorization, and prevented from accessing the judicial bypass process.⁵⁵ In *Garza v. Hargan*,⁵⁶ an unaccompanied minor (“Jane Doe”) sued the federal government after she was blocked from obtaining an abortion. In support of Jane Doe, a multistate group of AGs filed an amicus brief, arguing that the government’s policies violated federalism principles and clearly established abortion rights,⁵⁷ a position with which a majority of the D.C. Circuit Court of Appeals sitting en banc ultimately agreed.⁵⁸

f. Public Charge Rule

In 2018, the Department of Homeland Security (DHS) proposed a rule amending its standards for immigrant inadmissibility based on the likelihood that an immigrant would become a “public charge.”⁵⁹ The new rule expanded the definition of public charge from those who are likely to become primarily dependent on public benefits to those who are likely to receive minimal public assistance. It also expanded the types of benefits included in the public charge analysis. In response, a multistate group of AGs submitted a comment in opposition to the proposed rule, arguing that it violated federal law and would destabilize immigrant communities and other of their residents, due to its discriminatory impact on families, people with disabilities, and other populations.⁶⁰ When the rule became final, AGs brought multiple

⁵³ Miriam Jordan, *Judge Blocks Trump Administration Plan to Detain Migrant Children*, N.Y. TIMES (Sept. 27, 2019).

⁵⁴ Miriam Jordan, *Judge Urges Release of Migrant Children After 4 Test Positive for Coronavirus in Detention*, N.Y. TIMES (Mar. 29, 2020).

⁵⁵ *J.D. v. Azar (Formerly Garza v. Azar and Garza v. Hargan)-Challenging Trump Administration’s Refusal to Permit Teenage Immigration Detainees To Access Abortion Services*, ACLU OF D.C. (last visited Feb. 22, 2020).

⁵⁶ *Garza v. Hargan*, 2017 WL 4707287, No. 17-CV-02122 (TSC) (D.D.C. Oct. 18, 2017).

⁵⁷ Corrected Brief for Amici Curiae States of New York et al., *Gara v. Hargan*, No. 17-5236 (D.C. Cir. Oct. 24, 2017); Press Release, Office of the Att’y Gen. for the District of Columbia, [Attorney General Racine Joins Amicus Brief in Support of Teen Detainee Seeking Abortion](#) (Oct. 25, 2017).

⁵⁸ Order on Petition for Rehearing En Banc, *Garza v. Hargan*, No. 17-5236 (D.D.C. Oct. 24, 2017).

⁵⁹ Inadmissibility on Public Charge Grounds, 83 Fed. Reg. 51,114 (proposed Oct. 10, 2018).

⁶⁰ Official Comment on Proposed Rule: Inadmissibility on Public Charge Grounds, DHS Docket No. USCIS-2010-0012 (October 10, 2018) on behalf of the Commonwealth of Virginia & the State of New Mexico to Chief Samantha Deshommes (Dec. 10, 2018); Official Comment on DHS Docket No. USCIS-2010-0012, Comments on Proposed Rule: Inadmissibility on Public Charge Grounds, RIN 1615-AA22 (October 10, 2018) on behalf of the State of Washington (Dec. 10, 2018).

lawsuits.⁶¹ Despite nationwide preliminary injunctions,⁶² DHS published the final rule in August 2019,⁶³ and the federal government appealed and later requested that the Supreme Court issue a stay that would permit the rule to go into effect. Several AGs responded to the application asserting that, *inter alia*, the public interest favors the continuation of the injunction.⁶⁴ However, in January 2020, the Court granted the federal government’s request pending circuit court review.⁶⁵ Nonetheless, a number of AGs have continued opposing the rule, particularly in light of Covid-19, because the rule discourages people from seeking health care and can contribute to community spread. A coalition of AGs twice in March asked the Trump administration to delay implementation of the rule during the pandemic.⁶⁶ In April, three AGs asked the Supreme Court to temporarily halt implementation⁶⁷ and later filed a motion for a preliminary injunction in the federal district court seeking to temporarily halt implementation because of the rule’s impact during the pandemic.⁶⁸ Earlier this month, the Seventh Circuit Court of Appeals upheld a federal district court ruling, which had been previously stayed by the U.S. Supreme Court, blocking enforcement of the administration’s public charge rule in Illinois.⁶⁹

g. Crisis at the Southern Border: Asylum, Family Separation, Border Wall

AGs have been particularly responsive to the humanitarian crisis at the U.S.-Mexico border as it has affected their constituencies, filing several lawsuits, amicus briefs, and comments challenging the federal government’s actions and identifying the problems arising from immigrants’ limited access to the asylum process, family separation, and the construction of a border wall.

⁶¹ [Complaint for Declaratory and Injunctive Relief](#), Washington v. U.S. Dep’t of Homeland Sec., No. 4:19-cv-05210 (E.D. Wash. Aug. 14, 2019); [Complaint for Declaratory and Injunctive Relief](#), New York v. U.S. Dep’t of Homeland Sec., No. 1:19-cv-07777 (S.D.N.Y. Aug. 20, 2019); [Complaint for Declaratory and Injunctive Relief](#), California v. U.S. Dep’t of Homeland Sec., No. 3:19-cv-04975 (N.D. Cal. Aug. 16, 2019).

⁶² Order Granting Plaintiffs States’ Motion for Section 705 Stay and Preliminary Injunction, Washington v. U.S. Dep’t of Homeland Sec., No. 4:19-cv-05210-RMP (E.D. Wash. Oct. 11, 2019); [Memorandum Decision and Order](#), New York v. U.S. Dep’t of Homeland Sec., No. 1:19-cv-07777-GBD (S.D.N.Y. Oct. 11, 2019).

⁶³ [Inadmissibility on Public Charge Grounds](#), 84 Fed. Reg. 41,292 (Aug. 14, 2019).

⁶⁴ [Opposition of Government Plaintiffs to Defendants’ Application for a Stay of the Orders Issued by the United States District Court for the Southern District of New York](#), U.S. Dep’t of Homeland Sec. v. New York, No. 19A785 (Jan. 22, 2020).

⁶⁵ [Dep’t of Homeland Sec. v. New York](#), 589 U.S. ___ (Jan. 27, 2020).

⁶⁶ Press Release, Washington State Office of the Att’y Gen., [AG Ferguson, Dozens of Washington Officials Call on Trump Admin to Delay “Public Charge” Rule During Covid-19 Outbreak](#) (Mar. 6, 2020); Press Release, State of California Dep’t of Justice, [Attorney General Becerra Joins 18 Attorneys General Calling on Trump Administration to Halt Implementation of Its Public Charge Rule Which Could Undermine Covid-19 Response](#) (Mar. 19, 2020).

⁶⁷ Press Release, New York State Office of the Att’y Gen., [Attorney General James Leads Coalition Urging Supreme Court to Halt Public Charge Rule as Coronavirus Rages On](#) (Apr. 13, 2020).

⁶⁸ Press Release, New York State Office of the Att’y Gen., [Attorney General James Continues Fight to Stop Public Charge Rule](#) (Apr. 29, 2020).

⁶⁹ [Cook Cty., Ill. v. Wolf](#), No. 19-3169, at *1 (7th Cir. June 10, 2020).

Between 2018 and 2019, the Trump administration issued new opinions, rules, and regulations designed to limit access to asylum. In June 2018, U.S. AG Jeff Sessions issued an opinion creating the presumption that those escaping domestic violence and gang violence do not qualify for asylum.⁷⁰ DHS also adopted a series of policies requiring Customs and Border Patrol officials to turn away asylum seekers at the southern border, forcing them to remain in Mexico while their applications are processed, declaring them ineligible for asylum unless they applied for and were denied protection in at least one country they traveled through prior to arrival at the border, and sending them to third countries that have signed cooperative agreements with the United States.⁷¹ In addition, the administration adopted rules making it harder for asylum applicants to obtain work authorizations. In each of these instances, multistate coalitions of AGs filed amicus briefs or submitted comments challenging the federal government's actions.⁷² In response to the most cruel of these actions, a group of AGs filed a multistate lawsuit challenging the administration's policy of separating migrant children from their families at the border,⁷³ securing a preliminary injunction to temporarily halt the practice.⁷⁴

Finally, AGs filed lawsuits⁷⁵ in response to the Trump administration's diversion of funds, in the name of a declared "national emergency," to build a wall; the diverted funds were

⁷⁰ [Matter of A-B-, 27 I. & N. Dec. 316 \(A.G. 2018\)](#).

⁷¹ [Proclamation No. 9822](#), 83 Fed. Reg. 57,661 (Nov. 9, 2018); [Aliens Subject to a Bar on Entry Under Certain Presidential Proclamations; Procedures for Protection Claims](#), 83 Fed. Reg. 55,934 (Nov. 9, 2018) (interim final rule); see Press Release, United States Dep't of Homeland Sec., [Secretary Kirstjen M. Nielsen Announces Historic Action to Confront Illegal Immigration](#) (Dec. 20, 2018).

⁷² [Brief for California et al. as Amicus Curiae Supporting Plaintiffs](#), *Al Otro Lado v. Nielsen*, No. 3:17-cv-02366-BAS-KSC (S.D. Cal. July 27, 2017) (arguing that the Trump administration's turnback policy exacerbated inhumane conditions at the U.S.-Mexico border); [Brief for California et al. in Support of Plaintiffs](#), *East Bay Sanctuary Covenant v. Trump*, No. 18-17274 (9th Cir. May 15, 2019) (challenging the Trump administration's efforts to prevent those who have not entered the country at a "port of entry" from applying for asylum in the United States); [Brief for the District of Columbia et al. as Amici Curiae in Support of Appellees](#), *Barr v. Grace*, No. 19-5013 (D.C. Cir. Aug. 1, 2019) (challenging the federal government's changes to asylum standards); *The State of Cal. Office of the Attorney Gen. & Mass. Office of the Attorney Gen. et al.*, [Comment Letter on Interim Final Rule: EOIR Asylum Eligibility and Procedural Modifications](#) (Aug. 15, 2019) (opposing the Trump administration's rule requiring asylum seekers to apply for asylum in a "pass through" country prior to applying for asylum in the U.S.); *State of N.J. Office of the Attorney Gen. & State of Cal. Office of the Attorney Gen. et al.*, [Comments on Removal of 30-Day Processing Provision for Asylum Applicant Related Form I-765 Employment Authorization Applications](#) (Nov. 8, 2019) (opposing a proposed rule that would significantly hinder the ability of asylum-seekers to get work permits); *State of Cal. Office of the Attorney Gen.*, [Comments on Interim Final Rule Implementing Bilateral and Multilateral Asylum Cooperative Agreements Under the Immigration and Nationality Act](#) (Dec. 19, 2019) (opposing a rule that would send asylum seekers to third countries that have signed asylum cooperative agreements with the federal government).

⁷³ [Complaint for Declaratory & Injunctive Relief](#), *Washington v. United States*, No. 2:18-cv-00939 (W.D. Wash. June 26, 2018).

⁷⁴ [Order on Motion for Expedited Discovery and Regular Status Conferences](#), *Washington v. United States*, No. C18-939-MJP (W.D. Wash. July 19, 2018).

⁷⁵ [Complaint for Declaratory and Injunctive Relief](#), *California v. Trump*, No. 3:19-cv-00872 (N.D. Cal. Feb. 18, 2019); [Complaint for Declaratory and Injunctive Relief](#), *Washington v. Trump*, No. 2:19-cv-01502 (W.D. Wash. Sept. 19, 2019).

previously slated for projects in some of the AGs' states. In these cases, AGs requested preliminary injunctions⁷⁶ and filed motions for summary judgment.⁷⁷ The most recent activity included a lawsuit filed in March 2020 by a coalition of 19 AGs,⁷⁸ as well as a motion for partial summary judgment filed later that month, citing the diversion of more than \$3.8 billion in funding for the Department of Defense, including the National Guard, which is urgently needed to address emergencies and public health crises such as the Covid-19 pandemic.⁷⁹

2. Guidance to State Agencies and Communities

Although ICE previously worked with many state and local law enforcement agencies, the Trump administration's immigrant deportation policies have increased ICE's reliance on local police, sheriff's offices, and others. In order to ensure that law enforcement and government agencies understand the limitations of their obligations to collaborate with ICE efforts, several AGs have provided guidance, alerts, and information to state and local agencies, as well as the broader community.⁸⁰ AGs have a unique role to play in this context because they are both their state's highest law enforcement officer and play a key role in protecting the rights of the people in their states. In addition to their role representing state agencies in litigation or in some states as counsel, AGs have also provided guidance to state agencies and law enforcement in other forms: responding to state actors' inquiries through opinion letters, providing legal analysis and training, issuing model policies, and conducting public awareness campaigns designed to assist immigrant communities, advocacy groups, and private actors like employers.⁸¹

⁷⁶ Plaintiffs' Notice of Motion and Motion for Preliminary Injunction; Memorandum of Points and Authorities in Support Thereof, *California v. Trump*, No. 4:19-cv-00872-HSG (N.D. Cal. Apr. 4, 2019).

⁷⁷ Plaintiff States of California and New Mexico's Notice of Motion and Motion for Partial Summary Judgment Regarding Sections 284, 8005, and 9002; Memorandum of Points and Authorities in Support Thereof, *California v. Trump*, No. 4:19-cv-00872-HSG (N.D. Cal. June 12, 2019); Plaintiff States of California et al. Notice of Motion and Motion for Partial Summary Judgment Regarding Section 2808 and NEPA; Memorandum of Points and Authorities in Support Thereof, *California v. Trump*, No. 4:19-cv-00872-HSG (N.D. Cal. Oct. 11, 2019).

⁷⁸ Press Release, New York State Office of the Att'y Gen., Attorney General James Sues Trump Administration Over Attempt to Unlawfully Divert Billions of Taxpayer Dollars To Build Border Wall (Mar. 3, 2020).

⁷⁹ Press Release, State of California Dep't of Justice, Attorney General Becerra Seeks to Permanently Stop Trump Administration's Illegal Attempt to Divert Critical National Guard Funds to Build Unauthorized Wall on Border (Mar. 30, 2020).

⁸⁰ *Immigration Guidance*, WASH. STATE OFFICE OF THE ATTORNEY GEN. (last visited Mar. 1, 2020).

⁸¹ *Know Your Rights*, OFFICE OF THE ATTORNEY GEN. STATE OF ILL. (last visited Mar. 1, 2020). In 2017, former Illinois AG Lisa Madigan issued guidance to law enforcement that discussed Illinois law's prohibitions on engaging in immigration enforcement. Since then, several other AGs followed suit including those representing California, New York, Vermont, and Virginia. That same year, Vermont Attorney General Thomas J. (T.J.) Donovan, Jr. provided training for state police on hate crime and bias incident investigation and reporting, and on the implementation of state legislation limiting participation of local law enforcement agencies with civil federal immigration enforcement. MASS.GOV, EMERGENCY PLANNING GUIDE FOR PARENTS WITH UNCERTAIN IMMIGRATION STATUS (Mar. 1, 2020).

As ICE has ramped up its enforcement at sites like public schools, healthcare institutions, and other community facilities considered to be “sensitive locations,”⁸² AGs have provided for the protection and safety of immigrant constituents. For example, several AGs issued guidance to public schools, colleges, and universities regarding students’ rights and the courses of action that schools and their administrators can take when interacting with officers who are enforcing immigration laws.⁸³ Likewise, AG guidance has addressed workers’ rights for immigrant employees.⁸⁴ In 2018, California AG Xavier Becerra issued guidance, along with the California Department of Industrial Relations, on the Immigrant Worker Protection Act, under which employers are required to notify all employees (in the language the employer normally uses to communicate employment information) of inspections of their employment records by federal immigration agencies within 72 hours of receiving a federal notice of inspection.⁸⁵ More recently, New York AG Letitia James released updated legal guidance for law enforcement agencies regarding ICE civil detention requests to ensure continued compliance during the pandemic.⁸⁶

One initiative worth highlighting is New Jersey’s “Immigrant Trust Directive.” Issued in 2018 by that state’s AG Gurbir Grewal to all law enforcement agencies in New Jersey, it limits the types of voluntary assistance that New Jersey officers may provide to federal immigration authorities, including ICE.⁸⁷ The directive draws a clear line between the responsibility of New Jersey’s 36,000 law enforcement officers to enforce state criminal laws and that of federal immigration authorities to enforce federal immigration law. It applies to all law enforcement

⁸² ICE’s “sensitive locations” policy can be found at [Memorandum](#) from John Morton, Director United States Immigration and Customs En’t, to Field Office Dirs. (Oct. 24, 2011).

⁸³ Press Release, Office of Att’y Gen. Maura Healey, [AG Healy Issues Guidance to Health Care Providers and Public Schools on Immigration Enforcement Requests](#) (May 18, 2017); OFFICE OF THE ATTORNEY GEN. OF CAL., [PROMOTING A SAFE AND SECURE LEARNING ENVIRONMENT FOR ALL: GUIDANCE AND MODEL POLICIES TO ASSIST CALIFORNIA’S K-12 SCHOOL IN RESPONDING TO IMMIGRATION ISSUES](#) (2018); Press Release, State of California Dep’t of Justice, [Attorney General Becerra Issues Guidance Clarifying Rights of Californians and Responsibilities of Public Entities](#) (Sept. 28, 2018); Press Release, Office of the Att’y Gen. for the District of Columbia, [Attorney General Racine Releases Guidance on Immigration Enforcement for D.C. Schools](#) (May 18, 2017); Press Release, Office of Att’y Gen. Maura Healey, [AG Healey Issues Advisory to Colleges and Universities on Rights of Immigrant Students on Campus](#) (Oct. 5, 2017); Press Release, Office of Att’y Gen. Maura Healey, [AG Healey Reminds Public Schools About Laws Requiring Equal Access to Education Regardless of Immigration Status](#) (Mar. 2, 2017); Letter from MaryEllan Elia et al., Comm’r of Educ., President of the Univ. of the State of New York (Apr. 29, 2019).

⁸⁴ Press Release, Office of the Att’y Gen. for the District of Columbia, [Attorney General Racine Releases Guidance on Immigration Enforcement in the Workplace](#) (Mar. 9, 2018); OFFICE OF THE ATTORNEY GEN. STATE OF ILL., [GUIDANCE FOR ILLINOIS RESIDENTS: IMPACT OF IMMIGRATION STATUS ON EMPLOYEES’ RIGHTS IN THE WORKPLACE](#) (2018).

⁸⁵ OFFICE OF THE ATTORNEY GEN. OF CAL., [IMMIGRANT WORKER PROTECTION ACT FREQUENTLY ASKED QUESTIONS](#) (2020).

⁸⁶ Press Release, New York State Office of the Att’y Gen., [Attorney General James Issues Additional Legal Guidance for ICE Civil Detention Requests](#) (Apr. 8, 2020).

⁸⁷ Press Release, State of New Jersey Office of the Att’y Gen., [AG Grewal Issues Statewide Directive Curtailing State and Local Police Participation in Federal Civil Immigration Enforcement](#) (Nov. 29, 2018). The Directive is currently facing a legal challenge by the U.S. Department of Justice. See *United States v. New Jersey*, No. 3:20-cv-01364-FLW-TJB, at *1 (D.N.J. Feb. 10, 2020).

agencies, including police, prosecutors, county detectives, sheriff's offices, and correction officers, and ensures that immigrants feel safe reporting crimes to New Jersey law enforcement.

B. Enforcement of State Laws that Impact Immigrant Communities

Several offices (typically well-resourced offices in states with immigrant-friendly histories) have long taken action enforcing a range of state laws either specifically to protect immigrants or where the type of enforcement responds to a need that is particularly acute in immigrant communities. These actions fall into several broad categories.

1. Language Access

Language access through the provision of translators, interpreters, and other resources ensures that immigrant communities can utilize critical services. The New York AG's Office began taking action to ensure language access almost two decades ago. In 2003, in response to advocacy groups raising the issue, the office investigated and ultimately entered into settlement agreements with two Brooklyn hospitals, requiring that they provide interpretation and translation services to limited English proficiency patients.⁸⁸ And following an undercover investigation by the AG that exposed the failure of several national pharmacy chains to ensure language access for their customers, the office entered into a similar agreement in 2009,⁸⁹ and another in 2018.⁹⁰ In 2012, the office focused its language access efforts on voting rights, entering into an agreement with the Rockland County Board of Elections that set forth the County's

commitment to strengthening and maintaining effective policies, procedures and training protocols to ensure that minority language voters are provided a meaningful opportunity to register to vote and cast an effective ballot on Election Day. This commitment includes not only ensuring that minority language voters have access to a bilingual ballot, but that all election-related materials, including voter registration details and deadlines, polling place notices, sample ballots, absentee ballot applications and materials, affidavit ballots, and other information disseminated in English are also made available in Spanish.⁹¹

And in 2014, it turned its attention to law enforcement, reaching agreements with several local law enforcement agencies to ensure that "the delivery of police services are not limited or

⁸⁸ Press Release, New York State Office of the Att'y Gen., [Spitzer Reaches Agreement with Two Brooklyn Hospitals to Provide Language Assistance for Patients with Limited English Proficiency](#) (Mar. 3, 2003).

⁸⁹ Press Release, New York State Office of the Att'y Gen., [Cuomo Announces Agreements with Major Pharmacies to Provide Customers with Prescription Medication Instructions in Their Primary Language](#) (Apr. 21, 2009).

⁹⁰ Press Release, New York State Office of the Att'y Gen., [A.G. Schneiderman Announces \\$375,000 Settlement with Specialty Pharmacy Over Failure to Provide Basic Services](#) (Mar. 22, 2018).

⁹¹ Numerous New York State settlement agreements on language access in pharmacies, hospitals, law enforcement, and public schools can be found at [Legal Documents](#), N.Y. STATE OFFICE OF THE ATTORNEY GEN. (last visited Apr. 8, 2020).

restricted by language barriers.”⁹² It should be noted that adequate language access plans for local law enforcement may help avoid situations in which local officers reach out to ICE or Customs and Border Patrol for interpretation assistance, leading to immigration consequences.

Language access issues may also arise in cases in which an AG is involved in its state counsel capacity representing state agencies. For example, in 2016, the District of Columbia settled a language access lawsuit filed by customers of the Human Services Department, resulting in, among other measures, the creation of an ombudsman for Department service centers to assist constituents with language access needs.⁹³

2. Workplace Laws⁹⁴

Immigrant workers are disproportionately impacted by employer workplace violations, including wage theft, minimum wage and overtime violations, discrimination, payroll fraud/misclassification, and other infractions.⁹⁵ As income inequality and the poor quality of many jobs has become an issue of great national concern, AGs have greatly expanded their involvement in enforcing and protecting workers’ rights, typically with a special focus on low-wage workers. Approximately five years ago, only three offices had dedicated units focusing on workers’ rights; since then, six additional offices have created such units.⁹⁶ Even states without dedicated workplace rights units have become increasingly involved in workers’ rights activities. Offices engaged in this work have brought dozens of civil and criminal cases against predatory and exploitative employers in a range of industries with high rates of immigrant workers, including restaurants (fast food and other), construction, agriculture, retail, temp

⁹² Press Release, New York State Office of the Att’y Gen., [A.G. Schneiderman Secures Agreement with Newburgh Police Department to Strengthen Language Access Services](#) (Oct. 21, 2014).

⁹³ Press Release, Office of the Att’y Gen. for the District of Columbia, [Attorney General Announces Settlement to Improve Language Access for D.C. Department of Human Services Customers](#) (Dec. 2, 2016).

⁹⁴ For a description of the wide range of AG activities in this area, see TERRI GERSTEIN & MARNI VON WILPERT, ECON. POLICY INST., [STATE ATTORNEYS GENERAL CAN PLAY KEY ROLES IN PROTECTING WORKERS’ RIGHTS](#) (2018) and Jane Flanagan, *Alt-Enforcers: The Emergence of State Attorneys General as Workplace Rights Enforcers*, 95 CHI.-KENT L. REV. (forthcoming Summer 2020). Several AG offices have issued annual reports on their workers’ rights activities. See, e.g., N.Y. STATE OFFICE OF THE ATTORNEY GEN., [WORKING FOR JUSTICE](#) (2017); OFFICE OF THE MASS. ATTORNEY GEN., [PROTECTING MASSACHUSETTS’ WORKERS](#) (2017); OFFICE OF THE MASS. ATTORNEY GEN., [PROTECTING MASSACHUSETTS WORKERS](#) (2018), OFFICE OF THE MASS. ATTORNEY GEN., [PROTECTING MASSACHUSETTS WORKERS](#) (2019); WASH. STATE OFFICE OF THE ATTORNEY GEN., [2019 LABOR DAY REPORT](#) (2019).

⁹⁵ ANNETTE BERNHARDT ET AL., [BROKEN LAWS, UNPROTECTED WORKERS: VIOLATIONS OF EMPLOYMENT AND LABOR LAWS IN AMERICA’S CITIES](#) 48 (2009).

⁹⁶ California, Massachusetts, and New York were the original three offices with dedicated labor units; currently, there are six additional offices with dedicated workers’ rights units of various kinds. Press Release, Office of the Att’y Gen. for the District of Columbia, [Attorney General Racine to Enforce Workers’ Rights Laws Against Abusive Employers](#) (Oct. 24, 2017); [Defending Your Rights: Workplace Rights Bureau](#), OFFICE OF THE ILL. ATTORNEY GEN. (last visited Mar. 1, 2020); [Michigan’s Cracking Down on Payroll Fraud](#), DEP’T OF THE ATTORNEY GEN. OF MICH. (last visited Mar. 1, 2020); Press Release, Office of the Minnesota Att’y Gen., [Attorney General Ellison announces new Wage Theft Unit in AGO](#) (July 15, 2019); [Affirmative Civil Rights and Labor Enforcement](#), STATE OF N.J. OFFICE OF THE ATTORNEY GEN. (last visited Mar. 1, 2020); [Fair Labor Section](#), OFFICE OF THE ATTORNEY GEN. OF PA. (last visited Mar. 1, 2020).

agencies, home health agencies, warehouses, manufacturing, airport contractors, platform-based (“gig economy”) companies, and car washes.

AGs have been successful in fighting systemic labor violations. For example, in 2018, District of Columbia AG Karl Racine sued a national electrical contractor for misclassification of workers as independent contractors instead of employees, a practice that deprives workers of legal protections, and ultimately reached a \$2.75 million settlement with the company.

Some AGs have also confronted instances in which labor rights and immigration enforcement collide. For example, in 2019, New York AG Letitia James obtained a \$450,000 settlement in back wages for home health aides whose employer threatened deportation when they complained about unpaid wages.⁹⁷ That same year, D.C. AG Karl Racine filed a lawsuit against teacher exchange companies that preyed upon foreign teachers working in D.C. schools.⁹⁸

Finally, with the increased vulnerability of workers during the Covid-19 pandemic, including disproportionately workers of color and immigrant workers, AGs have been heavily involved in enforcing stay-home orders and advocating for safer workplaces in the meatpacking and other key industries.⁹⁹

3. Immigration Practitioner Fraud

The core of many AG offices’ public advocacy work is consumer protection, and virtually all offices play this role to some extent. Immigration practitioner fraud (sometimes described as “notario fraud,” but by no means limited to any linguistic community) is committed when a fraudulent or deceitful individual, attorney, or agency offers immigration assistance in exchange for a large amount of money, but has no intention or ability to provide the assistance. It is a scam with devastating consequences for the victims, who may pay thousands of dollars only to find themselves deceived and deported. Immigration practitioner fraud falls squarely within the category of consumer protection, and many AG offices have brought both civil and criminal cases to address it.

Most civil immigration fraud cases involve consumer fraud types of claims, and settlements typically result in restitution for victims, penalties for the offenders, and/or measures to ensure future compliance. Several AGs have brought such cases, including District of Columbia AG

⁹⁷ Press Release, New York State Office of the Att’y Gen., [Attorney General James Secures \\$450,000 for 100 Home Health Aides Threatened with Deportation](#) (Sept. 13, 2019).

⁹⁸ [Complaint for Injunctive Relief](#), *District of Columbia v. Bilingual Teacher Exchange* (Sup. Ct. D.C. 2019).

⁹⁹ Terri Gerstein, *How State Attorneys General Are Protecting Workers During the Coronavirus Pandemic*, ECON. POL’Y INST. (Apr. 3, 2020); Press Release, State of California Dep’t of Justice, [Attorney General Becerra and City Attorneys of Los Angeles, San Diego, and San Francisco Sue Uber and Lyft Alleging Worker Misclassification](#) (May 5, 2020); Press Release, Maryland Office of Att’y Gen., [Attorney General Frosh Leads Coalition Urging the Trump Administration to Protect the Health and Safety of Tens of Thousands of U.S. Meat and Poultry Workers](#) (May 12, 2020); Press Release, Office of Att’y Gen. Maura Healey, [AG Healey Leads Multistate Group Urging Amazon and Whole Foods to Strengthen Worker Protections During COVID-19 Pandemic](#) (May 12, 2020).

Karl Racine (2017),¹⁰⁰ former Illinois AG Lisa Madigan (2011),¹⁰¹ New Jersey AG Gurbir Grewal (2018),¹⁰² and former Texas AG, now Governor Greg Abbott.¹⁰³ The Massachusetts AG launched a campaign to address this issue¹⁰⁴ and has a trilingual website on immigration practitioner fraud.¹⁰⁵ Governor Abbott when he was AG announced a public awareness campaign on the issue.¹⁰⁶ New York’s AG office has a webpage and hotline specifically focused on this subject as well,¹⁰⁷ and Illinois issued a warning to the public in 2014.¹⁰⁸

As an example of the scale of victims in these cases, a 2017 criminal case in New York involved a perpetrator who had 527 court appearances over seven years.¹⁰⁹ California has repeatedly brought criminal action against fraudulent immigration practitioners, securing sentences for the offenders and restitution for the victims,¹¹⁰ and has engaged in public outreach on this topic, issuing a warning in 2012 about immigrant practitioner fraud scams targeting young immigrants hoping to benefit from the DACA program,¹¹¹ an alert in 2014,¹¹² a consumer warning in 2015 about immigration scams during tax season,¹¹³ and an alert in 2018.¹¹⁴

¹⁰⁰ Press Release, Office of the Att’y Gen. for the District of Columbia, [Attorney General Racine Gets \\$250,000 Settlement with UTS Corporation in Notario Fraud Case](#) (Apr. 18, 2017).

¹⁰¹ Press Release, Illinois Att’y Gen., [Attorney General Madigan Files Immigration Fraud Cases](#) (June 9, 2011); Press Release, Illinois Att’y Gen., [Madigan Sues Chicago Man for Immigration Fraud](#) (Sept. 22, 2011); Press Release, Illinois Att’y Gen., [Madigan Sues Waukegan Woman for Immigration Fraud](#) (Oct. 14, 2011).

¹⁰² Press Release, State of New Jersey Office of the Att’y Gen., [Division of Consumer Affairs Takes Action Against Dozens of “Notarios” Fraudulently Offering Immigration Services](#) (Nov. 9, 2018).

¹⁰³ *State Wins Judgment in Immigration Scam*, HOUS. CHRONICLE (Feb. 7, 2006).

¹⁰⁴ Press Release, Office of Att’y Gen. Maura Healey, [AG Healey’s Office Launches Campaign about Pervasive Illegal Immigration Law Practices](#) (Feb. 14, 2018).

¹⁰⁵ *Guide: Avoiding Immigration Scams*, OFFICE OF ATTORNEY GEN. MAURA HEALY (last visited Mar. 1, 2020).

¹⁰⁶ *Texas Targets Scams Aimed at Immigrants*, UPI.COM (Mar. 4, 2003).

¹⁰⁷ *Immigration Services Fraud*, N.Y. STATE OFFICE OF THE ATTORNEY GEN. (last visited Mar. 1, 2020).

¹⁰⁸ Press Release, Illinois Att’y Gen., [Madigan Warns of Fraudulent Immigration Services Providers](#) (NOV. 21, 2014).

¹⁰⁹ Press Release, New York State Office of the Att’y Gen., [A.G. Schneiderman Seeks Criminal & Civil Contempt Charges Against Phony Lawyer Scamming New York Immigrants](#) (Dec. 26, 2017).

¹¹⁰ Press Release, State of California Dep’t of Justice, [Attorney General Becerra Announces Sentencing of Individuals Who Defrauded Victims Seeking Immigration Assistance, Secures Nearly \\$150,000 in Restitution for Victims of “Oficina Guerrero”](#) (Oct. 9, 2019); Press Release, State of California Dep’t of Justice, [Attorney General Becerra: Stockton Lawyer Pleads Guilty to Defrauding Immigrant Families](#) (Dec. 4, 2017); Press Release, State of California Dep’t of Justice, [Attorney General Xavier Becerra Announces Five-Year Prison Sentence for Oswaldo Cabrera of Coalicion Latinoamericana Internacional for Defrauding Immigrants](#) (Feb. 22, 2017).

¹¹¹ Press Release, State of California Dep’t of Justice, [Attorney General Kamala D. Harris Issues Warning on Potential Scams Targeting Young Immigrants](#) (Aug. 15, 2012).

¹¹² Press Release, State of California Dep’t of Justice, [Attorney General Kamala D. Harris Issues Consumer Alert on Scams Targeting Immigrants and their Families](#) (Nov. 25, 2014).

¹¹³ Press Release, State of California Dep’t of Justice, [Consumer Advisory: Be Careful of Immigration Scams During Tax Season](#) (Apr. 13, 2015).

¹¹⁴ Press Release, State of California Dep’t of Justice, [Attorney General Becerra: Protect Yourself During the Immigration Process](#) (Mar. 16, 2018).

4. Consumer Fraud and Other Consumer Abuses Targeting Immigrants

As noted above, consumer fraud protection is a central aspect of most AGs' public advocacy work. Given the heightened vulnerability of immigrant communities to various kinds of violations, some offices have engaged in focused efforts over the years to protect immigrants from consumer scams targeting them. The scams come in a variety of scenarios, preying on immigrants' unfamiliarity in dealing with U.S. financial institutions and law enforcement, and taking advantage of their English language limitations and immigration status. AG advocacy has come in the form of criminal prosecution; civil litigation; public warnings and alerts; and the provision of information.

In 2019, Massachusetts AG Maura Healey brought criminal charges in relation to a mortgage fraud scheme that targeted immigrant families.¹¹⁵ In 2017, California AG Xavier Becerra filed a lawsuit against a large electronics and appliance retailer for "actively market[ing] its products to members of the Latino community – specifically low-income individuals, Spanish speakers, and immigrants – who lack credit history and have minimal experience with credit card and retail payment plans."¹¹⁶ In 2017, District of Columbia AG Karl Racine issued a warning about a scam involving people posing as ICE and placing bogus search/removal warrants on people's homes.¹¹⁷ In 2013, then-Illinois AG Lisa Madigan issued an alert about a driver's license scam that emerged after the enactment of a new law allowing certain non-citizens to obtain temporary driver's licenses.¹¹⁸ In 2018, Washington AG Bob Ferguson issued a scam alert warning of calls targeting people with Latinx last names, falsely posing as the Washington State Supreme Court clerk, demanding money, and threatening arrest.¹¹⁹ And in 2018, Pennsylvania AG Josh Shapiro in a general effort "to advis[e] Pennsylvanians of his Office's priority to increase awareness of consumer protection resources for the Latino community in Pennsylvania," engaged in targeted outreach on consumer resources available to Latinx communities.¹²⁰

New York and Washington provide examples of offices that have been highly active in this area. In 2019, New York AG Letitia James announced the guilty plea in contempt of court proceedings of a taxi service operator who was overcharging asylum seekers for transportation

¹¹⁵ Press Release, Office of Att'y Gen. Maura Healey, [Foxborough Man Arrested for Mortgage Fraud Scheme Targeting Immigrant Families](#) (Oct. 18, 2019).

¹¹⁶ Press Release, State of California Dep't of Justice, [Attorney General Becerra Takes Retailer Curacao to Court for Unlawfully Preying on Consumers Across Southern California](#) (Oct. 20, 2017).

¹¹⁷ Press Release, Office of the Att'y Gen. for the District of Columbia, [Attorney General Racine Warns Residents of Immigration Scam](#) (Mar. 13, 2017).

¹¹⁸ Press Release, Illinois Att'y Gen., [Madigan Warns of Scam Related to Temporary Driver's Licenses](#) (Nov. 12, 2013).

¹¹⁹ Press Release, Washington State Office of the Att'y Gen., [Scam Alert: Watch Out for Scammers Posing as the Washington State Supreme Court Clerk](#) (Dec. 13, 2017).

¹²⁰ Press Release, Commonwealth of Pennsylvania Office of Att'y Gen., [Attorney General Shapiro Increases Awareness of Consumer Resources Available to Hispanic and Latino Communities](#) (Nov. 9, 2018).

to the Canadian border.¹²¹ In previous years, the office obtained settlements with a deceptive car dealer that targeted immigrant communities,¹²² a company targeting Spanish speakers in fraudulent mortgage rescue scheme,¹²³ and a company targeting Chinese-speaking parents for academic enrichment programs.¹²⁴ Meanwhile, in the past four years, Washington AG Bob Ferguson has pursued an immigration bond services company, a mobile home dealer, a bank officer, and a used car dealer, all for consumer frauds targeting immigrant communities.¹²⁵

In addition, AG Ferguson's office has addressed other corporate abuses that, while not perhaps consumer fraud in the most traditional sense, significantly harmed immigrant communities. One such case involved a lawsuit against the hotel chain Motel 6 for violating privacy laws by giving guest information to ICE; the settlement included \$12 million in restitution.¹²⁶ And in April 2020, the office sued Greyhound for failure to protect customers from warrantless immigration sweeps by Customs and Border Patrol on buses.¹²⁷

5. Access to Education

The U.S. Supreme Court's 1982 decision in *Plyler v. Doe* held that children in the United States, regardless of immigration status, cannot be denied access to public education.¹²⁸ In 2014 and 2015, when large numbers of unaccompanied minors were entering the state, the New York AG's office worked extensively with the New York State Department of Education to ensure those minors had access to school enrollment, ultimately obtaining 22 settlement agreements

¹²¹ Press Release, New York State Office of the Att'y Gen., [Attorney General James Announces Taxi Operator in Contempt of Court for Cheating Asylum Seekers Fleeing to the Border](#) (May 8, 2019).

¹²² Press Release, New York State Office of the Att'y Gen., [A.G. Underwood Announces Lawsuit Against Three Employment Agency Operators for Scamming Vulnerable New Yorkers](#) (Aug. 15, 2018); Press Release, New York State Office of the Att'y Gen., [A.G. Underwood Announces Settlement with Brooklyn Auto Dealer Over Deceptive Practices that Targeted Non-English Speakers](#) (July 5, 2018).

¹²³ Press Release, New York State Office of the Att'y Gen., [A.G. Schneiderman Obtains \\$1.6 Million Settlement with Queens Company that Targeted Hispanic Homeowners in Fraudulent Mortgage Rescue Scheme](#) (Nov. 2, 2016).

¹²⁴ Press Release, New York State Office of the Att'y Gen., [A.G. Schneiderman Announces Settlement from Company that Targeted Chinese-Speaking Parents with False Advertisements for Academic Enrichment Program](#) (June 30, 2016).

¹²⁵ Press Release, Washington State Office of the Att'y Gen., [AG Ferguson: Immigration Bond Services Company To Provide More Than \\$2.7 Million In Debt Relief Over English-Only Contracts](#) (Aug. 26, 2019); Press Release, Washington State Office of the Att'y Gen., [Mattawa Landlord To Fix Homes, Pay About \\$500,000 In AG Lawsuit Over Sham Sales](#) (Oct. 27, 2019); Press Release, Washington State Office of the Att'y Gen., [AG: Former Loan Officer Charged Illegal Fees, Offered No Actual Help With Loans, Bankruptcy](#) (Nov. 1, 2016); Press Release, Washington State Office of the Att'y Gen., [AG Ferguson Announces Used Car Dealer Will Pay \\$250,000 Over Discrimination, Consumer Protection Claims](#) (July 28, 2016).

¹²⁶ David Gutman, *Motel 6 to Pay Washington \$12M for Giving Information on 80,000 Guests to ICE*, SEATTLE TIMES (Apr. 4, 2019).

¹²⁷ Press Release, Washington State Office of the Att'y Gen., [AG Ferguson Files Lawsuit Against Greyhound for Failure to Protect Customers from CBP's Warrantless and Suspicionless Immigration Sweeps on Buses](#) (Apr. 14, 2020).

¹²⁸ *Plyler v. Doe*, 457 U.S. 202 (1982).

with local school districts.¹²⁹ The office also brought, and in 2015 resolved, a lawsuit against the Utica, New York school system for funneling refugees into substandard alternative programs instead of the public high school.¹³⁰

6. Hate Crimes¹³¹

Hate crimes have significantly increased in recent years, and immigrant communities, particularly Muslim and Latinx communities, are among those at increased risk.¹³² In addition to prosecuting offenders, AGs have collected and shared critical information with both law enforcement, as well as immigrant communities in an effort to address this problem. They have also created model policies, issued guidance, and spearheaded new law enforcement initiatives.

In November 2019, Minnesota AG Keith Ellison conducted a statewide tour on hate crimes and later recommended changes to the way hate crimes are handled in that state.¹³³ Also in 2019, Michigan AG Dana Nessel launched a Hate Crimes Unit,¹³⁴ and Washington AG Bob Ferguson launched a hate crimes working group.¹³⁵ In 2018, California AG Xavier Becerra launched a hate crime prevention web page with information for potential victims, law enforcement, and the public.¹³⁶ It contains brochures in 14 languages and a listing of resources, including an information bulletin for law enforcement about state laws prohibiting hate crimes, as well as guidance and a model policy framework for law enforcement in identifying and responding to such crimes. The New Jersey AG's Office issues an annual report on bias incidents,¹³⁷ and Oregon AG Ellen Rosenblum heads a task force on hate crimes that was started in 2018,¹³⁸ resulting in the passage of a new hate crimes law in Oregon.¹³⁹

The office of Vermont AG T. J. Donovan has been training law enforcement entities on hate crimes to ensure the appropriate handling of cases that do not necessarily rise to a level

¹²⁹ Settlement agreements are listed under "school enrollment agreements" on *Legal Documents*, N.Y. STATE OFFICE OF THE ATTORNEY GEN. (last visited Apr. 8, 2020).

¹³⁰ David Chen, *Utica Settles State Claim Alleging Biased Enrollment for Refugee Students*, N.Y. TIMES (July 21, 2016).

¹³¹ For a discussion of AG jurisdiction and enforcement in this area, see Amy Dieterich, *The Role of the State Attorney General in Preventing and Punishing Hate Crimes Through Civil Prosecution: Positive Experiences and Possible First Amendment Potholes*, 61 ME L. REV. 521 (2009).

¹³² Brad Brooks, *Victims of Anti-Latino Hate Crimes Soar in U.S.: FBI Report*, REUTERS (Nov. 12, 2019).

¹³³ Stephen Montemayor, *Minnesota Attorney General Moves to Combat Hate Crimes After Statewide Tour*, STAR TRIB. (Nov. 6, 2019).

¹³⁴ Press Release, Michigan Dep't of Att'y Gen., *Attorney General Nessel Officially Launches New Hate Crimes Unit* (Mar. 8, 2019).

¹³⁵ Press Release, Washington State Office of the Att'y Gen., *Attorney General Ferguson Launches Hate Crime Working Group, Convenes First Meeting* (Sept. 6, 2019).

¹³⁶ Press Release, State of California Dep't of Justice, *Attorney General Becerra Launches New Hate Crimes Prevention Webpage* (May 31, 2018).

¹³⁷ Press Release, State of New Jersey Office of the Att'y Gen., *Attorney General Grewal and New Jersey State Police Release the 2016 Bias Incidents in New Jersey Report* (Mar. 27, 2018).

¹³⁸ Press Release, Oregon Dep't of Justice, *AG Rosenblum Announces Task Force on Hate Crimes* (May 23, 2018).

¹³⁹ S. 577, 80th Leg. Assemb., 2019 Reg. Sess. (Or. 2019).

requiring criminal prosecution are nonetheless referred elsewhere. The office has a webpage devoted to hate crime issues,¹⁴⁰ and the office has held several “Forums for a Hate-Free Vermont.”¹⁴¹

7. Human Trafficking

A number of AGs have been involved in efforts to combat human trafficking, including conducting outreach on the issue, setting up websites and public education campaigns, and creating task forces to address the problem.

In 2018, California AG Xavier Becerra’s office brought a criminal human trafficking case,¹⁴² and also engaged in an educational effort in schools.¹⁴³ In 2019, the office conducted outreach reminding businesses to post notices to inform the public and victims of available resources.¹⁴⁴ Those notices are available on the AG’s website, where there is a special section devoted to trafficking.¹⁴⁵ In 2012, the office entered into a collaboration with Yahoo and Polaris to harness the internet’s power to help in the fight against human trafficking.¹⁴⁶

Massachusetts AG Maura Healey’s Office announced in 2019 a new tool developed in conjunction with Boston University to identify potential labor trafficking cases and help victims.¹⁴⁷ This followed an initiative she began in 2018 to raise awareness of the issue.¹⁴⁸ In 2020, she hosted a two-day summit to address human trafficking that was attended by 200 law enforcement officers, prosecutors, advocates and direct service providers.¹⁴⁹

Other AGs have engaged in similar efforts. In 2016, Virginia AG Mark Herring created a human trafficking task force,¹⁵⁰ and subsequently launched a billboard campaign to increase awareness

¹⁴⁰ *Hate Crimes*, OFFICE OF THE VT. ATTORNEY GEN. (last visited Apr. 8, 2020).

¹⁴¹ Press Release, Office of the Vermont Att’y Gen., [AG to Host ‘Forum for a Hate-Free Vermont’ in White River Jct.](#) (June 4, 2019).

¹⁴² Press Release, State of California Dep’t of Justice, [Attorney General Becerra Announces Criminal Charges in a Bay Area Labor Exploitation and Human Trafficking Case](#) (Sept. 7, 2018).

¹⁴³ Press Release, State of California Dep’t of Justice, [Attorney General Becerra Joins Civic Leaders to Support First-in-the-Nation Education and Training in Schools to Prevent Human Trafficking](#) (Feb. 14, 2018).

¹⁴⁴ Press Release, State of California Dep’t of Justice, [Attorney General Becerra Urges California Businesses to Use Available Resources to Help Prevent Human Trafficking](#) (Jan. 30, 2019).

¹⁴⁵ *Human Trafficking Model Notice*, STATE OF CAL. DEP’T OF JUSTICE (last visited Apr. 9, 2020).

¹⁴⁶ Press Release, State of California Dep’t of Justice, [Attorney General Kamala D. Harris Teams with Yahoo! and Polaris Project to Fight Human Trafficking, Help Victims Online](#) (June 18, 2012).

¹⁴⁷ Press Release, Office of Att’y Gen. Maura Healey, [AG Healey, Boston University Announce New Tool to Identify Potential Cases of Labor Trafficking and Assist Victims](#) (Oct. 24, 2019).

¹⁴⁸ Press Release, Office of Att’y Gen. Maura Healey, [AG Healey Announces Initiative to Raise Awareness About Labor Trafficking](#) (July 11, 2018).

¹⁴⁹ Press Release, Office of Att’y Gen. Maura Healey, [AG Healey Hosts Office’s First Human Trafficking Summit](#) (Jan. 17, 2020).

¹⁵⁰ Press Release, Commonwealth of Virginia Office of the Att’y Gen., [Federal Grant to Help Launch Human Trafficking Task Force in Hampton Roads](#) (Nov. 2, 2016).

of the problem.¹⁵¹ In January 2020, Oregon AG Ellen Rosenbloom announced the creation of a new labor trafficking task force.¹⁵²

C. Public Leadership

One of the most important manners in which AGs have impact is through their role as leaders within their states. In recent years, a number of AGs have stood up for immigrants by introducing immigrant-friendly legislation and by speaking out on television news shows, on the radio, on social media, in town hall meetings, and in other personal appearances. They have convened other legal and community leaders in efforts to champion civil rights, generally, and immigrants' rights, specifically. They have created public education resources and training opportunities so that, in addition to statements of support, they are providing immigrant communities with much needed information.

1. Legislative Proposals

AGs are not legislators and do not have the ability to vote on legislation. However, many play a role in proposing legislation. In recent years, AGs have put forth numerous legislative proposals that would improve the lives of immigrants on many of the subjects already discussed in this Issue Brief. Some of these have passed and some did not. AGs have also played a part by weighing in on legislative proposals or enactments.

In 2019, Vermont AG T. J. Donovan's office recommended legislation that would, among other things, empower state and local law enforcement agencies to more closely control their officers' communications with federal immigration authorities, consistent with federal law.¹⁵³

Both the Massachusetts and Washington AGs have proposed anti-human trafficking legislation,¹⁵⁴ and New York AG Letitia James proposed a bill to protect workers against immigration-related employer retaliation, which ultimately passed.¹⁵⁵ Both the Oregon and Virginia AG offices proposed hate crime legislation.¹⁵⁶

¹⁵¹ Press Release, Commonwealth of Virginia Office of the Att'y Gen., [Attorney General Mark Herring and Hampton Roads Human Trafficking Task Force Launch New Regional Awareness Campaign](#) (May 22, 2018).

¹⁵² Press Release, Oregon Dep't of Justice, [Attorney General Rosenblum Announces Labor Trafficking Task Force](#) (Jan. 10, 2020).

¹⁵³ Press Release, Office of the Vermont Att'y Gen., [Statement of Attorney General T.J. Donovan: On the Attorney General's Office's Work in Support of Vermont's Immigrant Communities](#) (Jan. 24, 2019).

¹⁵⁴ Press Release, Office of Att'y Gen. Maura Healey, [Attorney General Coakley, Coalition of Legislators, Law Enforcement, and Advocates File Comprehensive Human Trafficking Legislation](#) (Jan. 20, 2011); Press Release, Washington State Office of the Att'y Gen., [Attorney General Proposal to Protect Human Trafficking Victims Passes Legislature](#) (Apr. 17, 2017).

¹⁵⁵ Dan Clark, [NY AG James Proposes Bill Protecting Undocumented Employees from Exposure](#), LAW.COM (Feb. 6, 2019).

¹⁵⁶ Press Release, Oregon Dep't of Justice, [AG Rosenblum Asks Oregon Legislature to Strengthen Hate Crime Laws](#) (Mar. 12, 2019); Press Release, Commonwealth of Virginia Office of the Att'y Gen., [Legislature Rejects Requests from Herring to Better Protect Virginians from Hate Crimes](#) (Feb. 1, 2017).

Oregon AG Ellen Rosenblum testified in favor of granting driver’s licenses to undocumented people in that state,¹⁵⁷ a measure which ultimately passed.¹⁵⁸ In August 2019, a coalition of AGs filed an amicus brief supporting New York’s new law authorizing driver’s licenses for immigrants regardless of their immigration status.¹⁵⁹ In the fall of 2019, AG Letitia James successfully defended lawsuits challenging that new law;¹⁶⁰ and a coalition of AGs has supported New York’s position in an amicus brief filed with the Second Circuit.¹⁶¹ Michigan AG Dana Nessel publicly supported a package of worker protection bills.¹⁶²

2. Convenings, Task Forces, Public Education, and the Bully Pulpit

a. Convenings and Task Forces

A noteworthy example of the power of convening occurred in California in 2015, when former AG, now Senator Kamala Harris’s office convened a roundtable of law firms, immigrants’ rights advocates, and others about the need for resources and legal aid for unaccompanied minors fleeing Central America.¹⁶³ These efforts led to the legal representation of more children in immigration cases, as well as building relationships between immigrant-focused nonprofit organizations and law firms able to take on pro bono cases.

In 2017, former Illinois AG Lisa Madigan held a summit “with local civil rights leaders on immigration and hate crimes to discuss the impact of the federal Executive Orders on the nearly 2 million immigrants in Illinois communities and [to] address the increase of hate crimes with new legislation....”¹⁶⁴ That same year, Vermont AG T.J. Donovan created an immigration task force of attorneys and other community members that helped draft legislation and continues to meet and provide input to the AG’s office.¹⁶⁵ In 2015, California convened interfaith and

¹⁵⁷ Dick Hughes, *Attorney General Favors Driver Licenses for Undocumented Oregonians*, YOUTUBE (Apr. 17, 2019).

¹⁵⁸ H.R. 2015, 80th Leg. Assemb., 2019 Reg. Sess. (Or. 2019).

¹⁵⁹ Brief for Connecticut et al. as Amici Curiae in Support of Defendants’ Motion to Dismiss, *Kearns v. Cuomo*, No. 19-cv-902-EAW (W.D.N.Y. 2019).

¹⁶⁰ Press Release, New York State Office of the Att’y Gen., *AG James Wins Green Light Lawsuit, Helping Immigrants Legally Obtain Drivers Licenses* (Nov. 8, 2019).

¹⁶¹ Press Release, Illinois Att’y Gen., *Attorney General Raoul Continues Defense of Driver’s Licenses for Immigrants* (Feb. 20, 2020).

¹⁶² Mikenzie Frost, *Attorney General Nessel Supports New Legislative Push to Prevent Payroll Fraud in Michigan*, SINCLAIR BROAD. GRP. (Aug. 29, 2019).

¹⁶³ Press Release, State of California Dep’t of Justice, *Attorney General Kamala D. Harris Convenes Immigration Advocates, Law Firms to Provide Legal Support to Children Seeking Refuge in the U.S.* (Dec. 16, 2015).

¹⁶⁴ Press Release, Illinois Att’y Gen., *Attorney General Madigan Convenes Immigration and Hate Crimes Summit in Response to Unconstitutional Executive Orders* (Feb. 23, 2017).

¹⁶⁵ *Immigration Task Force*, OFFICE OF THE VT. ATTORNEY GEN. (Mar. 3, 2017).

community leaders and law enforcement officials to discuss the dangers of Islamophobic rhetoric in the wake of terrorist attacks in San Bernadino and Paris.¹⁶⁶

Massachusetts Attorney General Maura Healey established an ongoing Advisory Council on New Americans, made up of immigrant and refugee leaders statewide who advise her office on issues affecting immigrant communities.¹⁶⁷

b. Education and Training

As already discussed, some AG offices provide information on their websites targeted to immigrant communities, such as in Massachusetts, where a web page contains extensive information on protections for immigrants, including information on immigrant worker rights; avoiding immigration scams; information on immigration enforcement for patients, healthcare providers, immigrant students, and Massachusetts colleges and universities; information for schools on ICE requests for access and information; and an advisory on public school access regardless of immigration status.¹⁶⁸ In response to Covid-19, the office redoubled its outreach and public education efforts to reach the immigrant community, with multi-lingual resources and a hotline.¹⁶⁹

In 2015, Virginia AG Mark Herring hosted a cultural competency training for social, mental health, legal, and educational service providers who work with diverse immigrant populations, so that they could learn best practices “on engaging underserved populations that may be reluctant to reach out for help due to cultural considerations or legal status.”¹⁷⁰

Illinois AG Kwame Raoul’s office conducted immigrant workers’ rights outreach in conjunction with Latin American consulates, with new office “know-your-rights” materials in English and Spanish.¹⁷¹ Former Indiana AG Greg Zoeller in 2009 started a statewide community outreach program focused on harder-to-reach populations, including immigrants.¹⁷²

¹⁶⁶ Press Release, State of California Dep’t of Justice, [Attorney General Kamala D. Harris Convenes Interfaith, Community and Law Enforcement Leaders to Condemn Terrorism and Address the Danger of Islamophobic Rhetoric After Recent Terrorist Attacks](#) (Dec. 17, 2015).

¹⁶⁷ For Advisory Council member listing, see [AG Maura Healey’s Advisory Council on New Americans Members](#), MASS.GOV (last visited June 22, 2020).

¹⁶⁸ [Protections for Immigrant Communities](#), OFFICE OF ATTORNEY GEN. MAURA HEALEY (last visited Apr. 9, 2020).

¹⁶⁹ Press Release, Office of Att’y Gen. Maura Healey, [AG’s Office Expands Efforts To Support Immigrants and Communities of Color During Covid-19 Pandemic](#) (Apr. 10, 2020).

¹⁷⁰ Press Release, Commonwealth of Virginia Office of the Att’y Gen., [Attorney General Herring’s Office to Host Cultural Competency Training](#) (June 19, 2014).

¹⁷¹ [Conozca sus Derechos Laborales](#), ILL. ATTORNEY GEN. (last visited Apr. 9, 2020).

¹⁷² Braden Lammers, [Indiana Attorney General Greg Zoeller Launches a Community Outreach Program](#), NEWS AND TRIB. (July 24, 2009).

c. Bully Pulpit

California AG Xavier Becerra issued a statement in 2018 responding to President Trump’s suggestion that he might issue an executive order ending the constitutional guarantee of birthright citizenship.¹⁷³ He has also denounced white supremacy groups¹⁷⁴ and criticized the presidential pardon of Sheriff Joe Arpaio.¹⁷⁵ In 2016, his predecessor, Senator Kamala Harris, issued a statement condemning deportation raids targeting Central Americans as going “against our nation’s fundamental values of equality and justice for all.”¹⁷⁶

In Illinois, former AG Lisa Madigan used her bully pulpit to push back publicly against the state’s governor at the time, urging him to protect the state’s immigrants from federal executive orders on immigration,¹⁷⁷ to restore a hate crimes commission,¹⁷⁸ and to sign legislation strengthening the state’s hate crimes law.¹⁷⁹ Former Indiana AG Zoeller authored an op-ed calling for immigration reform, noting that his office’s “legal duty to protect the public and consumers who call Indiana home applies regardless of the nationality, religion or background of the consumer being protected.”¹⁸⁰

Connecticut AG William Tong spoke out against a Trump administration plan to end automatic citizenship for children of service members and the diplomatic corps born abroad.¹⁸¹

Finally, in July 2019, when the Trump administration announced upcoming ICE raids, AG Letitia James of New York and AG Keith Ellison of Minnesota made public statements expressing their intent to protect the immigrants in their states.¹⁸² James also published an op-

¹⁷³ Press Release, State of California Dep’t of Justice, [Attorney General Becerra Responds to President Trump’s Comments Concerning Birthright Citizenship](#) (Oct. 30, 2018).

¹⁷⁴ Press Release, State of California Dep’t of Justice, [Ahead of Rallies Planned This Weekend in California, Attorney General Becerra Denounces White Supremacy, Stands Ready to Support Local Communities](#) (Aug. 25, 2017).

¹⁷⁵ Press Release, State of California Dep’t of Justice, [Attorney General Becerra on President Trump’s Pardon of Joe Arpaio](#) (Aug. 25, 2017).

¹⁷⁶ Press Release, State of California Dep’t of Justice, [Attorney General Kamala D. Harris Issues Statement on Federal Immigration Raids](#) (Jan. 14, 2016).

¹⁷⁷ Press Release, Illinois Att’y Gen., [Attorney General Madigan Urges Governor Rauner to Protect Illinois Immigrants from Executive Orders](#) (Feb. 6, 2017).

¹⁷⁸ Press Release, Illinois Att’y Gen., [Attorney General Madigan Urges Governor to Restore State Hate Crimes Commission](#) (Mar. 8, 2017).

¹⁷⁹ Press Release, Illinois Att’y Gen., [Attorney General Madigan Urges Governor to Sign Legislation to Strengthen Hate Crimes Law](#) (May 27, 2017).

¹⁸⁰ Greg Zoeller, *Fix Broken Immigration System*, J. & COURIER (Dec. 19, 2014).

¹⁸¹ Press Release, Office of Att’y Gen. William Tong, [Attorney General Tong Statement on Trump Plan to End Automatic Birthright Citizenship for Children of Servicemembers and Diplomatic Corps Born Aboard](#) (Aug. 29, 2019).

¹⁸² Press Release, New York State Office of the Att’y Gen., [Attorney General James Vows To Fight To Protect Immigrants From President Trump’s ICE Raids](#) (July 11, 2019); Press Release, Office of Minnesota Att’y Gen. Keith Ellison, [Attorney General Ellison: ‘President Trump’s Cruelty Violates Minnesotans’ Sense of Decency’](#) (July 12, 2019).

ed in Spanish on Labor Day in 2019 celebrating the contributions of immigrant workers in the face of attacks by the federal government.¹⁸³

III. Concluding Observations

The active involvement of AGs in immigration-related issues exemplifies several developments of recent years. It demonstrates their growing role as meaningful players in national politics, a trend which began during the Obama administration, when conservative AGs filed multiple lawsuits in Texas district courts challenging administration policies. AG involvement in immigration issues is also a manifestation of the new post-2016 federalism, in which states and localities exercise their authority in opposition to the increasingly oppressive and regressive federal government.¹⁸⁴

Several questions arise in light of the extensive recent state AG involvement in this area: Is there untapped potential? Are there still areas in which state AGs could do more, resources permitting? And are any among those more readily adopted than others? How can state AGs take action to protect the immigrant community during the unprecedented challenge of Covid-19? And how might state AG involvement on immigrants' rights change if the 2020 presidential election brings a change in administration?

One readily identifiable area with untapped potential is in the enforcement of state laws in ways that are particularly meaningful to immigrant communities, such as:

- Protecting workers' rights and labor standards, especially in light of the vulnerability of immigrants who are essential workers during the current pandemic;
- Promoting language access in health care, education, and law enforcement settings, and enforcing legal requirements regarding such access;
- Combating immigration practitioner fraud and hate crimes through both civil and criminal enforcement;
- Disseminating information about educational access requirements and enforcing such requirements; and
- Addressing consumer fraud targeting immigrant communities.

In each of the areas listed above, certain state AG offices have worked extensively and are able to provide their peers in other states with a roadmap. These offices have substantive knowledge of the issues (law, types of violations, best ways to investigate, targets); experience dealing with specific communities and partners (how to conduct outreach, potential collaborations); sample documents (subpoenas or civil investigative demands, pleadings, briefs, settlement agreements, etc.); and ideas about how to effect long-lasting change.

¹⁸³ Letitia James, *El Día del Trabajo es También un Feriado para Inmigrantes en EEUU*, EL DIARIO (Sept. 1, 2019).

¹⁸⁴ See AM. CONSTITUTION SOC'Y, *PROGRESSIVE FEDERALISM* (2019); see also Gary Gerstle, *The New Federalism*, ATLANTIC (May 6, 2020).

In addition, in light of the pandemic, action to decrease the population in immigration detention and efforts to address poor detention conditions are also critically important, given the heightened spread of Covid-19 in such settings.

Regarding the question of a change in administration: The current administration's legal violations and targeting of immigrants have been extreme and highly unprecedented. It is difficult to imagine a new administration engaging in this level of excesses necessitating, as a matter of law and basic decency, immediate intervention by state AGs. However, immigration involves an extremely complex set of issues. Immigrants' rights advocacy groups have certainly criticized and sued the federal government under prior administrations, so it is possible to imagine a scenario in which certain AGs, particularly in immigrant-dense states, would continue to monitor and act in response to federal immigration policy even under a more reasonable administration.

In addition, the current administration's policies have left a wake of human suffering and damage to immigrant communities that will not instantly be remedied if and when there is new national leadership. The trauma and fallout are severe and will require ongoing attention. What will it take for people in immigrant communities to feel comfortable reaching out to government for help? Will people continue to fear potential immigration consequences resulting from appearing in court, receiving public benefits, or calling the police? What ongoing needs will exist and what repairs will be needed? Even before the pandemic, the crisis impacting immigrant communities afforded immigrant advocates little bandwidth to explore such questions. Regardless, there will continue to be, far into the foreseeable future, an important role for state AGs in protecting the basic rights of immigrants in their states.

About the Author

Terri Gerstein is the Director of the State and Local Enforcement Project at the Harvard Law School Labor and Worklife Program and a Senior Fellow at the Economic Policy Institute. She recently completed an Open Society Foundations Leadership in Government Fellowship. Previously, she was the Labor Bureau Chief in the New York State Attorney General's Office and a Deputy Commissioner in the New York State Department of Labor. Prior to her government service, Terri worked at nonprofit organizations in Miami, representing immigrant workers and domestic violence survivors and co-hosting a Spanish-language radio show on workers' rights. She was a law clerk to the Hon. Mary Johnson Lowe in the U.S. District Court for the Southern District of New York, and she is a graduate of Harvard College and Harvard Law School. Her writing on workers' rights issues has appeared in publications including *The New York Times*, the *Washington Post*, *NBC News Think*, *Slate*, the *Guardian*, the *American Prospect*, *The Hill*, the *Nation*, and the *Daily News*. She serves on the advisory board of the American Constitution Society's State Attorneys General Project. Twitter handle: @TerriGerstein

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