

# LEARNING IN “BABY JAIL”: LESSONS FROM LAW STUDENT ENGAGEMENT IN FAMILY DETENTION CENTERS

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*Between 2014 and 2017, more than 40 law schools and likely well over 1000 law students engaged in learning within immigration family detention centers. The Trump Administration’s “zero tolerance” policy and implementation of wide-scale family separation in 2018 led to increased involvement by professors and students in the constantly shifting landscape of immigration detention. As the detention of immigrant families becomes increasingly entrenched, this article hits the pause button and assesses the benefits and challenges of the various approaches to, and proposes some principles for, law student engagement in this crisis lawyering in immigration detention centers, for families, and beyond.*

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INTRODUCTION

In an era of increased focus on immigration and immigration enforcement, this article explores the proliferation of law school service-learning trips, clinical programs, and spring or semester break projects involving students working within family detention centers. These centers, referred to by advocates as “baby jails,” and by the government as “family residential centers,” house immigrant women and children, the vast majority of whom are fleeing violence in their home countries and seeking asylum or other protection in the United States.

Due to a perfect storm of indigent detainees without a right to appointed counsel, remote detention centers far from any counsel, and under-resourced non-profits, legal representation within detention centers is scarce. While the Obama administration largely ended the practice of family detention in 2009, the same Administration resurrected the detention of families just five years later.<sup>1</sup> In response to

<sup>1</sup> For a discussion of the U.S. history of detaining families, stretching back to Ellis Island, see Rebecca Sharpless, *Cosmopolitan Democracy and the Detention of Immigrant Families*, 47 N.M. L. REV. 19, 19-21 (2017); see also AMERICAN BAR ASSOCIATION COMMISSION ON IMMIGRATION, FAMILY IMMIGRATION DETENTION: WHY THE PAST CANNOT BE PROLOGUE (July 31, 2015), [https://www.americanbar.org/content/dam/aba/publications/commission\\_on\\_immigration/FINAL%20ABA%20Family%20Detention%20Report%208-19-15.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/publications/commission_on_immigration/FINAL%20ABA%20Family%20Detention%20Report%208-19-15.authcheckdam.pdf).

the rise in numbers of child migrants seeking protection in the United States, arriving both with and without their parents, and with the purported aim of deterring future flows, the Obama administration reinstated the policy of detaining families;<sup>2</sup> this policy has remained in place under Trump. Indeed, family detention centers came into the spotlight in Spring 2018, when the Trump Administration formally instituted a policy of family separation – detaining children separately from their parents while the parents were prosecuted for illegal entry or illegal re-entry.<sup>3</sup> The Administration later abandoned this policy<sup>4</sup> after public outrage<sup>5</sup> combined with litigation<sup>6</sup> to challenge family separation, but the detention of parents and children together has remained in place. Further, in September 2018, the government proposed regulations that would enable the long-term detention of children with their parents,<sup>7</sup> undermining the 20-day limit currently imposed on detention by judicial interpretation of the 1997 *Flores* settlement.<sup>8</sup> It is now clearer than ever that family detention is here to stay.

The advocacy community’s response to the mass detention of children and their parents beginning in 2014 was overwhelming and swift; lawyers from all over the country traveled to the detention centers, in remote New Mexico and later Texas, to respond to the urgent need for representation of these asylum-seeking families.<sup>9</sup> Law stu-

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<sup>2</sup> Statements from high-level officials, including then-Secretary of the Department of Homeland Security, Jeh Johnson, along with then-Vice President Joe Biden, made it clear that the arrival of women traveling with their children was unwelcome and that they would be sent back to their countries of origin. See Sharpless, *supra* note 1, at 32-34.

<sup>3</sup> See Miriam Jordan, *Breaking Up Immigrant Families: A Look at the Latest Border Tactic*, New York Times, May 12, 2018, <https://www.nytimes.com/2018/05/12/us/immigrants-family-separation.html>.

<sup>4</sup> Exec. Order No. 13841, 83 Fed. Reg. 29,435 (June 20, 2018), <https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/>

<sup>5</sup> See, e.g., Phil McCausland, Patricia Guadalupe and Kalhan Rosenblatt, *Thousands Across U.S. Join ‘Keep Families Together’ March to Protest Family Separation*, NBC News (June 30, 2018), <https://www.nbcnews.com/news/us-news/thousands-across-u-s-join-keep-families-together-march-protest-n888006>.

<sup>6</sup> See, e.g., *Ms. L v. ICE*, No. 3:18-cv-00428 (S.D. Cal. filed Feb. 26, 2018), <https://www.aclu.org/legal-document/ms-l-v-ice-joint-status-report-4>.

<sup>7</sup> See Proposed Rule by Department of Homeland Security and Department of Health and Human Services, Apprehension, Care, and Custody of Alien Minors and Unaccompanied Alien Children, Sept. 7, 2018, <https://www.federalregister.gov/documents/2018/09/07/2018-19052/apprehension-processing-care-and-custody-of-alien-minors-and-unaccompanied-alien-children>.

<sup>8</sup> See Settlement Agreement at 12–18, *Flores v. Reno*, No. 2:85-CV-04544 (C.D. Cal. filed Jan. 1, 1997), [https://www.aclu.org/files/pdfs/immigrants/flores\\_v\\_meese\\_agreement.pdf](https://www.aclu.org/files/pdfs/immigrants/flores_v_meese_agreement.pdf); see also *Flores v. Lynch*, 212 F. Supp. 3d 907, 908 (C.D. Cal. 2015), *aff’d in part, rev’d in part*, 828 F.3d 898 (9th Cir. 2016).

<sup>9</sup> Ingrid Eagly, Steven Shafer, & Jana Whalley, *Detaining Families: A Study of Asylum*

dents have played a large and indispensable role in this surge. The scale of law student involvement in family detention centers, particularly in Texas, has been massive, with approximately 40 schools engaging in some way in the first three years alone. Different schools have adopted different models. Some have become repeat players while others offered one-time experiences. Some have incorporated family detention representation into their existing immigration clinics and programs. Students in many programs have traveled great distances to engage in this work, with some law students returning repeatedly to volunteer. A small group of Yale Law School students, now graduates, even started a non-profit organization focused on assisting these families after they are released from detention and living with family and friends in the community.

Schools and student groups have engaged in intensive volunteering efforts at detention centers, often over spring break or another week, in a variety of ways, including through clinical programs, service-learning programs, practicums, student organizations, and other varied modalities. The efforts have been largely organic, ad hoc, and reactive to this crisis of representation. The vacuum of legal representation for detained immigrants is only deepening, and, particularly in light of the recent heightened attention on detained families, law students will continue to engage in this arena. This article hits the pause button and assesses the benefits and challenges of the various approaches and proposes some principles for law student engagement in this crisis lawyering in immigration detention centers, for families, and beyond.

This is not, of course, the first time that lawyers and law students have responded to a crisis, nor will it be the last.<sup>10</sup> As will be discussed in this Article, lawyers and law students mounted a massive response to Hurricane Katrina, to the earthquake in Haiti and the creation of Temporary Protected Status for Haitians in the aftermath, and to various other natural disasters. Law schools and law students are uniquely situated to respond to crisis, having the strategic advantages of resources, eager and comparatively flexible students and professors, typically strong public interest goals, and a good deal of expertise within the law school and often the wider university campus. The outpouring of volunteer resources and response to the mass incarceration of im-

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*Adjudication in Family Detention*, 106 CAL. L. REV. 785, 815 (2018) [hereinafter Eagly et al., *Detaining Families*] (finding that almost all of the attorneys providing representation to families held in detention between 2001 and 2016 had traveled “long distances” to provide representation).

<sup>10</sup> Indeed, in light of Hurricanes Harvey, Irma, and Maria in 2017, clinicians began organizing and strategizing regarding law school responses to the inevitable new legal needs arising from these disasters.

migrant children and their mothers can thus be situated within the larger context of what I will call crisis lawyering. By crisis lawyering, I intend to refer to emergent situations, whether man-made or natural disasters, that require a rapid and large-scale response by lawyers.

Given the success of intensive representation at the family detention centers, advocates are now experimenting with similar models in other locations. For example the Southern Poverty Law Center, in conjunction with four other organizations,<sup>11</sup> has launched the Southeast Immigrant Freedom Initiative (SIFI). SIFI enlists and trains lawyers to provide free legal representation to immigrants detained in the Southeast who are facing deportation proceedings. The American Immigration Lawyers Association and the American Immigration Council have partnered to create the Immigration Justice Campaign, where pro bono attorneys are trained and mentored when providing representation to detained immigrants in typically underserved locations.<sup>12</sup> Given the expansion of the volunteer model of providing legal services to detained immigrants,<sup>13</sup> opportunities will continue to arise for law students to engage in crisis lawyering and learning.

This Article serves to provide a framework for law student engagement in immigrant detention centers, specifically, although the lessons learned can be applied to crisis lawyering more broadly. Part I briefly outlines the access to counsel vacuum for families in detention and the subsequent response by attorneys to help fill the justice gap.<sup>14</sup>

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<sup>11</sup> These organizations are the American Immigration Lawyers Association, the American Immigration Council, the Innovation Law Lab, and the American Immigration Representation Project. Details are included in the SPLC’s press release on March 7, 2017, <https://www.splcenter.org/our-issues/immigrant-justice/southeast-immigrant-freedom-initiative>. The Project began at the Stewart detention center in Lumpkin, Georgia, and has already expanded to other immigration detention centers throughout the Southeast. As of October 2017, the Project has a presence at the Irwin County Detention Center in Ocala, Georgia, at the LaSalle Detention Center in Jena, Louisiana, and aims to launch at the Folkston ICE Processing Center, in Folkston, Georgia, by January 2018. Email correspondence with SIFI Lead Attorney Brian Hoffman, Oct. 2, 2017 (on file with author).

<sup>12</sup> See *The Immigration Justice Campaign*, <http://immigrationjustice.us/>.

<sup>13</sup> Several organizations collaborated to launch the American Immigration Representation Project (AIRP) to provide representation to detained immigrants. See <https://airp.law>. Since 2013, in New York, the New York Immigrant Family Unity Project, a collaboration of several organizations, has worked to provide universal representation for respondents appearing before the New York City Varick Street Immigration Court without an attorney who meet income threshold criteria. See NAT’L IMM. L. CTR., *BLAZING A TRAIL: THE FIGHT FOR RIGHT TO COUNSEL IN DETENTION AND BEYOND* 14-17 (Mar. 2016), <https://www.nilc.org/wp-content/uploads/2016/04/Right-to-Counsel-Blazing-a-Trail-2016-03.pdf>. The Project has been expanded to representation to a detention center in Buffalo, NY. *Id.* at 18. Also in the Northeast, in New Jersey the American Friends Service Committee (AFSC) launched the Friends Representation Initiative of New Jersey (FRINJ), a pilot project offering representation to all detained immigrants who appear before the Elizabeth, New Jersey, immigration court two days a week. *Id.*

<sup>14</sup> A more detailed exploration of the advocacy in response to family detention since

Sharing the results of a national survey of law professors and students along with the my own research and personal knowledge, Part II describes the various models of law school volunteer responses, ranging from trips incorporated into an existing legal clinic, to part of a service-learning program or practicum, to student-led models with varying degrees of formal engagement. Part III highlights the shortcomings and benefits of the various models. Finally, Part IV proposes a framework for law student engagement in legal services crisis response for detained immigrant populations.

I. CRISIS AT THE BORDER – THE NEED FOR REPRESENTATION OF DETAINED MOTHERS AND CHILDREN

In a previous article, *Contemporary Family Detention and Legal Advocacy*, I situated family detention within the current era of extremely aggressive immigration enforcement, and collaboration between the U.S. government and private prison contractors.<sup>15</sup> Further, that article described the urgent need for legal representation for detained immigrants and stressed the outcome determinative effects that representation often has.<sup>16</sup> *Contemporary Family Detention* outlined four main phases of family detention from the summer of 2014 to late 2017 and described the various attendant modes of advocacy.<sup>17</sup> Here, a brief explanation of who the detained families are and the legal work that must be done on their behalf will suffice to situate law student engagement in this particular crisis lawyering context.

First, families are detained at the three remotely located detention centers in Texas and Pennsylvania.<sup>18</sup> The majority of these fami-

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the summer of 2014 is discussed in a companion article. See Lindsay M. Harris, *Contemporary Family Detention and Legal Advocacy*, 21 HARV. LATINO L. REV. 135 (2018) [hereinafter Harris, *Contemporary Family Detention*]; see generally Stephen Manning & Kari Hong, *Getting It Righted: Access to Counsel in Rapid Removals*, 101 MARQ. L. REV. 673 (2018).

<sup>15</sup> See Harris, *Contemporary Family Detention*, *supra* note 14.

<sup>16</sup> *Id.* at 161. See also Manning & Hong, *supra* note 14, at 676-79; Ingrid Eagly & Steven Shafer, *A National Study of Access to Counsel in Immigration Court*, 164 U. PA. L. REV. 1, 1 (2015) (“Among similarly situated respondents, the odds were fifteen times greater that immigrants with representation, as compared to those without, sought relief and five-and-a-half times greater that they obtained relief from removal.”).

<sup>17</sup> Harris, *Contemporary Family Detention*, *supra* note 14, at 146-58. For an overview of family detention predating 2014, see Eagly et al., *Detaining Families*, *supra* note 9, at 813-15.

<sup>18</sup> Two detention centers are located in southwest Texas in Dilley and Karnes City, and are larger facilities. The Dilley detention center can hold up to 2400 women and children, while Karnes can hold over 1100. The third family detention center is in Berks County, Pennsylvania, and has 96 beds for mothers, fathers, and children. These detention centers are discussed in more detail in Harris, *Contemporary Family Detention*, *supra* note 14, at 147-56; see also Manning & Hong, *supra* note 14, at 673-676 (describing Dilley and Karnes).

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lies are asylum seekers fleeing violence in Central America and seeking protection in the United States. Asylum seekers are individuals forced to flee their countries and hope to meet the refugee definition under U.S. immigration law by proving that they fear or have suffered persecution on account of their race, religion, nationality, political opinion, or membership in a particular social group.<sup>19</sup>

Upon arrival, these asylum-seeking families are subjected, like almost all other immigrants, to a system called “expedited removal.”<sup>20</sup> If an asylum seeker expresses a fear of return to her home country, an immigration officer should refer her to an asylum officer for a credible fear interview.<sup>21</sup> If Department of Homeland Security (DHS) officials decide to subject an individual who has attempted re-entry without inspection and has a prior removal order to a process called “reinstatement of removal,” the interview is called a “reasonable” fear interview and will assess eligibility for relief called “withholding of removal” or relief under the Convention Against Torture.<sup>22</sup> Either way, both credible and reasonable fear interviews typically take place, for parents arriving with children, at one of the three family detention centers. During the credible or reasonable fear interview, an asylum seeker must establish a significant possibility that she will establish eligibility for asylum or withholding relief at a later full hearing.<sup>23</sup>

If the asylum officer determines that the asylum seeker meets this threshold test, the officer issues charging documents and places her in regular removal proceedings, where she may apply for asylum as a defense to removal.<sup>24</sup> If the asylum-seeking individual or family does *not* receive a positive result following a credible or reasonable fear interview, she has the opportunity to go before an immigration judge for a negative fear review within 7-10 days.<sup>25</sup> The immigration judge reviews the decision of the asylum officer *de novo*, with the represen-

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<sup>19</sup> The Immigration and Nationality Act defines a refugee as:

[A]ny person who is outside any country of such person’s nationality . . . and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

Immigration and Nationality Act (INA) of 1965 § 101(a)(42)(A), 8 U.S.C. § 1101(a)(42) (2012).

<sup>20</sup> For a more detailed description of this process, see Harris, *Contemporary Family Detention*, *supra* note 14; Dree K. Collopy, *Crisis at the Border, Part II: Demonstrating a Credible Fear of Persecution or Torture*, 16-04 IMM. BRIEFINGS 1 (Apr. 2016).

<sup>21</sup> 8 U.S.C. § 1225(b)(1)(A)(ii); 8 C.F.R. § 253.3(b)(4) (2016).

<sup>22</sup> See 8 U.S.C. §§ 1230, 1231(b)(3). See generally Lindsay M. Harris, *Withholding Protection*, COLUM. HUM. RTS. L. REV. (forthcoming Spring 2019).

<sup>23</sup> 8 U.S.C. § 1225(b)(1)(B)(v).

<sup>24</sup> *Id.* § 1229a(a)(1).

<sup>25</sup> 8 C.F.R. § 1003.42(e); *id.* § 208.31(g).

tation of counsel permitted at reasonable fear reviews,<sup>26</sup> and counsel's presence merely tolerated for credible fear reviews,<sup>27</sup> and decides whether to affirm or vacate the decision.<sup>28</sup> If the decision is affirmed, no additional administrative or judicial review of an expedited removal order is permitted, and the family is typically quickly removed from the U.S. However, at various stages in the history of family detention, advocates have had some success in filing a request for reconsideration (RFR) with the asylum office following the judge affirming a negative credible or reasonable fear decision.<sup>29</sup> In response to this filing, the asylum office has, somewhat inconsistently, asked U.S. Immigration and Customs Enforcement (ICE) to effectuate a stay while the RFR has been considered, and at times, has granted an RFR and given a new interview to the asylum seeker, which can result in a positive credible fear finding.

Some asylum seekers are eligible for release on bond, while others are not, depending on how the asylum seeker entered the country and came to the attention of immigration authorities.<sup>30</sup> Currently, even after the family separation and zero tolerance chaos since Spring 2018, ICE releases most asylum-seeking families (under a system called parole) after a positive result at the credible or reasonable fear interview from either an asylum officer or after a review by an immigration judge. Those families then await the adjudication of their asylum claims in court outside of a detention center, typically wearing a cumbersome ankle monitor<sup>31</sup> and with other supervision

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<sup>26</sup> See EXEC. OFF. IMM. REV., IMM. CT. PRAC. MAN. Ch. 7.4(e)(iv)(c) (August 2, 2018), <https://www.justice.gov/eoir/page/file/1084851/download> ("Subject to the Immigration Judge's discretion, the alien may be represented during the reasonable fear review at no expense to the government.").

<sup>27</sup> See *id.* Ch. 7.4(d)(iv)(c) ("Prior to the credible fear review, the alien may consult with a person or persons of the alien's choosing. In the discretion of the Immigration Judge, persons consulted may be present during the credible fear review. However, the alien is not represented at the credible fear review. Accordingly, persons acting on the alien's behalf are not entitled to make opening statements, call and question witnesses, conduct cross examinations, object to evidence, or make closing arguments.").

<sup>28</sup> In the family detention context, a recent study revealed that from 2001-2016, immigration judges vacated 48% of all credible fear findings for detained families and 58% of negative reasonable fear findings made by asylum officers. See Eagly et al., *Detaining Families*, *supra* note 9, at 831-32.

<sup>29</sup> This is based on the asylum office's regulatory authority to reconsider. See 8 U.S.C. § 1208.30(g)(2)(iv)(A).

<sup>30</sup> See Harris, *Contemporary Family Detention*, *supra* note 14, at 143-44. For more detail on release on bond in the family detention context, see Eagly et al., *Detaining Families*, *supra* note 9, at 833-44.

<sup>31</sup> See, e.g., Fatma E. Marouf, *Alternatives to Immigration Detention*, 38 CARDOZO L. REV. 2141, 2163-64 (2017) (discussing how ankle monitors are restrictive, an invasion of privacy, and an affront to dignity); see also Tiziana Rinaldi, *Many women seeking asylum in the US have been released from detention — but with ankle monitors*, THE WORLD, March 10, 2016, <https://www.pri.org/stories/2016-03-10/many-women-asylum-seekers-have-been->

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requirements.

Law students engaging in work at family detention centers typically assist with a broad range of lawyering activities, including:

- intake of new families;
- preparation and counseling for credible and reasonable fear interviews;
- representation at those interviews, including delivering closing statements;
- preparation for and declaration drafting in advance of immigration judge review of negative credible or reasonable fear determinations;
- preparation of requests for reconsideration with the asylum office following a judge affirming a negative credible fear finding;
- preparation for and representation within bond hearings;
- counseling families regarding the process of seeking asylum, appearing in court, check ins with deportation officers, and other relevant issues upon their release from detention.

Law students have also engaged in work around the longer-term detention of families. Although at the time of writing families are typically detained for under three weeks, in recent years some have been detained anywhere from a few months to more than two years, and signs indicate that longer-term detention could be on the horizon.<sup>32</sup>

Law students are starting to engage in work more consistently at all three family detention centers. The focus historically has been on the Texas detention centers in Dilley and Karnes City, which are the larger centers. Dilley and Karnes volunteers undergo phone orientations before arriving at the detention centers. This covers a variety of issues, including training on using the Innovation LawLab’s case management software,<sup>33</sup> which is used at all three family detention centers

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<sup>32</sup> The Administration’s latest proposed regulations, to terminate the *Flores* Settlement Agreement, would remove barriers to longer-term detention of children and their parents and very likely lead to much longer term detention of families throughout the adjudication of their removal proceedings. See *supra* note 7. The Attorney General is also hard at work to try to ensure that asylum seekers are detained on the whole for much longer. See, e.g., *Matter of M-G-G-*, 27 I&N Dec. 469 (A.G. 2018) (inviting amicus briefing to address the issue of whether *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018), overrules *Matter of X-K-*, 23 I&N Dec.731 (BIA 2005), which held that immigration judges may hold bond hearings for individuals who had positive fear results following credible and reasonable fear interviews).

<sup>33</sup> The Innovation LawLab was founded in 2014 to try to “bring new technology to the fight for justice.” See <https://innovationlawlab.org/about/>. The Innovation LawLab’s legal director, Stephen Manning, was recognized with the Financial Times’ 2017 Legal Innovator award. See Michael Skapinker, *FT Top 10 Legal Innovators for North America*, FIN.

as a centralized case management system that also guides and supports advocacy on a national level to end family detention and to raise issues within the system.

At Dilley, the Dilley Pro Bono Project typically requires first-time volunteers to arrive on a Sunday and take part in a lengthy orientation to the work and a group dinner to prepare them for the week. On Monday morning, they arrive at the detention center by around 7 a.m. and begin engaging with families shortly afterwards. Typically, volunteers have remained in the visitation trailer until 7 p.m. After leaving the detention center, volunteers often work on motions to be filed in court, declarations to support negative credible or reasonable fear reviews or requests for reconsideration, entering case notes into the Innovation LawLab's case management software, or other work. Twice a week, although somewhat inconsistently, project staff facilitate a "big table" meeting, during which volunteers debrief on the day's challenges and highlights.<sup>34</sup> This piece of the week is quite reflective, and echoes rounds discussions in law school clinics. Guided by staff members, who facilitate the discussion, volunteers share experiences, including high points and low points of the day or week, troubleshoot issues, and often generate ideas or solutions to improve operations for the next day's work.

In Karnes City, staff members with the local non-profit Refugee and Immigrant Center for Education and Legal Services (RAICES) typically rotate the days on which they work at the family detention center. Because Karnes less routinely sees large groups of weekly volunteers, the staff developed a more ad hoc way of preparing volunteers. RAICES holds regular phone orientations to discuss logistics and the work, and to answer questions. Monday mornings have become an informal orientation to the work week. Staff members also lead in-person trainings with local partners such as the University of Texas and St. Mary's School of Law. RAICES has also developed materials available on their website to guide volunteers, including an intake form, retainer agreement, scripts for preparing families for credible and reasonable fear interviews, and scripts to guide families through the post-release process for asylum seekers.<sup>35</sup>

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TIMES, Dec. 12, 2017, <https://www.ft.com/content/acb41cb6-cb94-11e7-ab18-7a9fb7d6163e>.

<sup>34</sup> For a description of the "Big Table" concept, see STEPHEN MANNING, *THE ARTESIA REPORT* (2015) Ch. 10, "The Mechanics of Artesia," <https://innovationlawlab.org/the-artesia-report/the-artesia-report/> ("Big Table was a nightly meeting of all the advocates on-the-ground that would last until the early morning hours. It was a meeting held in round-table fashion in which each advocate at the table spoke in equal measure on the day's successes and failures, on critiques of the arguments and case theories, on mapping strategy for difficult fact patterns, and on setting a plan for the next day.").

<sup>35</sup> These documents are on file with the author and also available on the RAICES

At Berks, volunteers are less frequent and so a more flexible model for volunteer engagement is in place. When the University of the District of Columbia School of Law service-learning class spent a week at Berks in Spring 2018, we met with ALDEA People’s Justice Center staff the night before entering the detention center. At the detention center, on most days an on-the-ground (non-attorney) advocate ran the floor in conjunction with me as the professor and the detention center staff permitted us to use the gymnasium in addition to the visitation rooms for meetings with families. ALDEA provided intake forms and materials for use inside the detention center but I also provided training within class over nine weeks in advance of the week at Berks.

Law student volunteers, often accompanied or led by their professors and instructors, have engaged in each of the above stages of advocacy and representation within family detention centers. This has been a large-scale, but ad hoc rapid response. In general, law professors have not organized themselves or their approaches to this work, and thus the way in which law students have participated in work inside family detention centers lacks uniformity.<sup>36</sup> The various ways in which law students have engaged are discussed in the following Part of this article.

## II. MODELS FOR RESPONDING TO LEGAL CRISIS FOR DETAINED IMMIGRANT FAMILIES

The ways in which law students have engaged in learning within family detention centers are varied. From June to August, 2017, I conducted a survey<sup>37</sup> of law professors throughout the United States who

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website. See <https://spark.adobe.com/page/6vbpzvxcBumWf/>. RAICES’ operations at Karnes have pivoted during the summer months of 2018 as Karnes has been re-purposed as a reunification center of sorts for separated fathers and children.

<sup>36</sup> One notable exception is that Karla McKanders, then at the University of Tennessee, Lisa Graybill, then at the University of Denver, and Sioban Alboil from Depaul University collaborated to conduct a survey of professors who had led trips to the now-closed Artesia detention center and then presented their findings at the American Association of Law Schools clinical conference in May 2015 during session called “Pedagogical Responses to Crisis at the Border: Clinical Work in Artesia, New Mexico.” See <https://www.youtube.com/watch?v=JWvEUW6U7WE&feature=youtu.be>. In May 2016, clinicians presented another session at the AALS Clinical Conference titled, “Reimagining Advocacy: Adapting Clinical Models to Meet Community Needs,” focused on various responses to the human rights crisis related to Central American migration and the return of family detention. Presenters included Farrin Anello, Kate Evans, Denise Gilman, Jennifer Lee, Ranjana Natarajan, Sarah Paoletti, Elissa Steglich, Philip Torrey, Michael Vastine, and Sheila Velez-Martinez.

<sup>37</sup> I shared draft versions of the surveys with personal contacts – law professors and law students who had participated in trips to Dilley and Karnes primarily – and received some helpful feedback that I used to adjust the survey. I used SurveyMonkey as the instrument

have led trips to family detention centers and law students<sup>38</sup> who have participated. Twenty-six law professors and 45 law students responded to the survey. The results of that survey inform this Part of the article.<sup>39</sup>

In addition to the surveys, I conducted a review of publicly available information about law students and law schools who had engaged in family detention work. Further, I reached out to contacts working within detention centers at Dilley,<sup>40</sup> Karnes,<sup>41</sup> and Berks<sup>42</sup> to try to build a more comprehensive picture of the number of schools and students that have engaged in learning in family detention centers. In my estimation, between summer 2014 and summer 2017, in a three-year-period, approximately 40 schools and more than 800 students have engaged in learning, in one form or another, in family detention centers.<sup>43</sup> Some schools, for example Columbia Law School, Fordham Law School, Lewis & Clark Law School, the University of the District of Columbia David A. Clarke School of Law, University of Houston Law Center, University of Texas at Austin School of Law, and St.

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through which I gathered responses. In the month of June 2017, I sent emails out to various listservs for family detention volunteers (the “Artesia-OTG” and the “Karnes Pro Bono” listservs, specifically) and law professors (through “immprof,” “iclinic,” and “lawclinic”) in order to elicit responses. I also reached out to personal contacts and contacts shared by the Dilley Pro Bono Project and RAICES at Karnes and encouraged those individuals to take the survey and to have their students do the same.

<sup>38</sup> Although I chose to focus exclusively on law student involvement in family detention centers, I have been in touch with social work graduate students and professors from both the University of Houston and the University of Chicago who have spent time at the Texas family detention centers. There is likely a great deal to be gleaned from their experiences and potentially of students from other disciplines who have engaged in volunteer work in the family detention arena.

<sup>39</sup> The survey was initially designed to focus on the experience of law students and professors who “parachute” in to spend a full week at one of the detention centers. As I started gathering the responses, however, I received communications from several professors based in Texas who engaged in the work in a more sustained manner, taking their students to spend one or two days at a time at either Dilley or Karnes, over a more prolonged period of time. Given the richness of that experience and the likelihood that there would be a great deal of insight to be gained from including those professors and their students, I encouraged them to take the survey and have included their insights.

<sup>40</sup> For Dilley, I spoke with the project’s volunteer coordinator, Crystal Massey, along with Erin Lynum, former volunteer coordinator and currently working with the American Immigration Lawyers Association.

<sup>41</sup> For Karnes, I spoke with RAICES’ volunteer coordinator, Barbara Pena and consulted with former Equal Justice Works Fellow, Andrea Meza.

<sup>42</sup> At Berks, I consider the attorney team to be led primarily by Reading-based attorneys Bridget Cambria, Carol Anne Donohoe, and Jacqueline Kline, in coordination with an advocate working at the Berks detention center. Collectively, they formed in 2016, the ALDEA People’s Justice Center. More information on ALDEA is available on their website: <http://aldeajc.org/#about>.

<sup>43</sup> See Appendix I for a list of schools who engaged in family detention work between summer 2014 and summer 2017.

Mary’s University School of Law, have incorporated family detention work into the fabric of their clinics, service-learning programs, or student organizations, and have engaged in family detention work on an ongoing basis.

Below I provide a brief explanation of the various models of engagement, including clinical programs, service-learning projects, practicums, and student-led and organized efforts. Throughout the article where specific comments or quotes from professors or students are included, unless otherwise noted, these refer to the responses to the survey, which are on file with the author.

### *A. Engaging Through Law School Clinics*

#### *1. Clinical Legal Education Principles and Pedagogy*

This section aims to provide a framework for understanding signature clinical pedagogy techniques and principles to situate family detention engagement within the clinical realm. It does not attempt an exhaustive review of the history of clinical legal education.<sup>44</sup> Clinical legal education is now fairly firmly established in law schools. Indeed, 187 schools reported 1,433 distinct clinics operating during the 2016-2017 academic year.<sup>45</sup> In 2007, the Carnegie Report on legal education recommended that law schools integrate three types of apprenticeship throughout the law school curriculum, including the “practice apprenticeship,” which addresses experiential learning.<sup>46</sup> Further, in 2015, the American Bar Association’s Section of Legal Education issued new standards, 303 and 304, requiring all law school graduates to earn six credits of experiential education.<sup>47</sup> Thus, clinical education arguably has a stronger foothold within law schools than ever before.<sup>48</sup>

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<sup>44</sup> As a starting point to understand the origins of clinical legal education, see Jerome Frank, *Why Not a Clinical Lawyer-School?* 81 U. PA. L. REV. 907 (1932-33); Margaret Martin Barry, Jon C. Dubin & Peter A. Joy, *Clinical Education for This Millennium: The Third Wave*, 7 CLINICAL L. REV. 1 (2000) (discussing three waves of clinical legal education).

<sup>45</sup> CTR. FOR THE STUDY OF APPLIED LEGAL EDUC., 2016 SURVEY OF APPLIED LEGAL EDUCATION (Sept. 2017), [http://www.csale.org/files/Report\\_on\\_2016-17\\_CSALE\\_Survey.pdf](http://www.csale.org/files/Report_on_2016-17_CSALE_Survey.pdf).

<sup>46</sup> WILLIAM M. SULLIVAN ET AL., CARNEGIE FOUNDATION FOR THE ADVANCEMENT OF TEACHING, EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007).

<sup>47</sup> See, e.g., AMERICAN BAR ASSOCIATION, SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, MANAGING DIRECTOR’S GUIDANCE MEMO: STANDARDS 303(A)(3), 303(B), AND 304 (March 2015), [https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/governancedocuments/2015\\_standards\\_303\\_304\\_experiential\\_course\\_requirement\\_authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/governancedocuments/2015_standards_303_304_experiential_course_requirement_authcheckdam.pdf).

<sup>48</sup> Indeed, one of the most recent new law schools to be established, the University of California, Irvine School of Law, has an explicit focus on clinical education. See Carrie Hempel, *Writing on a Blank Slate: Creating a Blueprint for Experiential Learning at the*

The ABA's Standard 304(b) states that a law clinic "provides substantial lawyering experience that (1) involves advising or representing one or more actual clients or serving as a third-party neutral, and (2) includes the following: (i) direct supervision of the student's performance by a faculty member; (ii) opportunities for performance, feedback from a faculty member, and self-evaluation; and (iii) a classroom instructional component." In discussing law clinics, then, this article focuses on those which are offered for credit, supervised by faculty members within law schools, and including a seminar component.

Perhaps the most important goal of clinical education is the principle of "learning by doing." Clinical education is in many ways the opposite of traditional legal education, which has involved studying appellate cases, through engaging in the Socratic method of questioning, by a "podium" professor, typically with a high student to faculty ratio. Clinical education, conversely, involves students wrestling with evolving facts, through the representation of real individuals or organizations, under the supervision of a clinician, typically with a much lower student to faculty ratio.

Some of the most commonly recited mantras of clinical education include teaching "reflective lawyering"<sup>49</sup> and practicing "law in slow motion."<sup>50</sup> Essentially, a critical goal of clinical education is for students to engage in "ends-means thinking," meaning when presented with a factual scenario, the student analyzes the various ways in which the problem might be solved.<sup>51</sup> Further, the student attempts this analysis and application of law to facts that may still be evolving or require clarification.<sup>52</sup> Other goals include learning from experience, engaging and recognizing social justice and access to justice issues,<sup>53</sup>

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*University of California, Irvine School of Law*, 1 U.C. IRVINE L. REV. 147 (2011); see also Erwin Chermersky, *Why Not Clinical Education?*, 16 CLINICAL L. REV. 35 (2009).

<sup>49</sup> See, e.g., Association of American Law Schools, Section on Clinical Legal Education, *Report of the Committee on the Future of the In-House Clinic*, 42 J. LEGAL EDUC. 508, 511 (1992) [hereinafter *Future of the In-House Clinic*].

<sup>50</sup> PHILIP G. SCHRAG & MICHAEL MELTSNER, REFLECTIONS ON CLINICAL LEGAL EDUCATION 152 (1998) (discussing the necessity to practice law in "slow motion").

<sup>51</sup> See, e.g., *Future of the In-House Clinic*, supra note 49.

<sup>52</sup> *Id.* at 511.

<sup>53</sup> See, e.g., Jane H. Aiken, *Provocateurs for Justice*, 7 CLINICAL L. REV. 287 (2001) (discussing the aim of instigating and inspiring students to recognize injustice and work towards a legal solution to that injustice.). Professors Morin and Waysdorf describe the dual goals of clinic as "hands on training in lawyering skills with the provision of access to justice for traditionally unrepresented clients." Laurie Morin & Susan Waysdorf, *The Service-Learning Model in the Law School Curriculum*, 56 N.Y.L. SCH. L. REV. 561, 568 (2011/12) [hereinafter Morin & Waysdorf, *Service-Learning Model*] (citing Margaret Martin Barry et al., *Clinical Legal Education for This Millennium: The Third Wave*, 7 CLINICAL L. REV. 1, 12 (2000)).

understanding professional responsibility and the attorney’s role, improving collaboration, understand one’s own professional identity, and encouraging an understanding of a lawyer’s obligation to engage in pro bono service for indigent clients.<sup>54</sup> Clinicians often try to facilitate and maximize the positive gains to be made from “disorienting moments,” from which students are able to make great strides in learning.<sup>55</sup>

The goals articulated above present a dizzying challenge for any experiential educator attempting to deliver on those goals within a semester, or even an entire academic year. We now have a rich body of scholarship on clinical methodology and pedagogy from which clinicians can draw, but the manner in which clinics actually implement those approaches are wide-ranging and diverse. Even within the immigration arena specifically, clinics vary from school to school as to how they engage in representation of clients in the subject area. Many clinics focus on direct representation of indigent immigrant clients.<sup>56</sup> Others focus on policy issues or impact litigation.<sup>57</sup> Some clinics offer a hybrid direct client and policy experience.<sup>58</sup>

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<sup>54</sup> *Id.* For more on clinical education, see generally, Roy Stuckey and Others, Best Practices for Clinical Education: A Vision and a Roadmap (Clinical Legal Education 2007), [http://www.cleaweb.org/Resources/Documents/best\\_practices-full.pdf](http://www.cleaweb.org/Resources/Documents/best_practices-full.pdf).

<sup>55</sup> Clinical law professor Fran Quigley originally coined this term, “disorienting moment,” as a time when “the learned confronts an experience that is disorienting or even disturbing because the experience cannot be easily explained by reference to the learner’s prior understanding – referred to in learning theory as ‘meaning schemes’ of how the world works.” Fran Quigley, *Seizing the Disorienting Moments*, 2 CLINICAL L. REV. 37, 51 (1995).

<sup>56</sup> See, e.g., <https://www.law.georgetown.edu/academics/academic-programs/clinical-programs/our-clinics/CALS/index.cfm> (Georgetown’s Center for Applied Legal Studies clinic students represent only individuals seeking asylum in defensive removal proceedings); <https://law.wisc.edu/eji/ijc/> (University of Wisconsin’s Immigrant Justice Clinic represents individuals in various stages of removal proceedings or seeking protection from the United States government).

<sup>57</sup> See, e.g., <http://www.law.uci.edu/academics/real-life-learning/clinics/immigrant-rights.html> (UC Irvine’s Immigrant Rights Clinic represents individuals and organizations on “critical issues affecting low-income immigrants in the region.”); <https://pennstate-law.psu.edu/practice-skills/clinics/center-immigrants-rights> (Penn State Law’s Center for Immigrants’ Rights Clinic students produce white papers, practitioner toolkits, and primers for institutional clients as well as engage in community outreach and education and representation of individual immigrants seeking protection or removal defense).

<sup>58</sup> See, e.g. <http://law.ubalt.edu/clinics/immigrantrights.cfm> (University of Baltimore’s Immigrant Rights Clinic offers direct client representation and systemic law reform issues specific to Baltimore and Maryland); <https://www.wcl.american.edu/clinical/ijc/> (American University’s Washington College of Law Immigrant Justice Clinic offers direct client representation, but also takes on policy projects and impact litigation). For a discussion of integrated clinical models, see Marcy Lynn Karin & Robin Runge, *Toward Integrated Law Clinics that Train Social Change Advocates*, 17 CLINICAL L. REV. 563 (2011).

## 2. *Clinical Programs Engaging in Family Detention Centers*

Just as clinics themselves vary in their structure and subject matter focus, even within the field of immigration, the ways in which immigration clinics have engaged in student learning in family detention centers also greatly vary.

### a. *Repeat Players: Clinics That Have Made Family Detention Work Part of their Ongoing Clinical Work*

Professor Elora Mukherjee at Columbia University first took her students to Dilley in January 2015 and has since returned with students four more times. The trip was part of Columbia's Immigrants' Rights Clinic and was integrated into the clinic curriculum. Students discuss and reflect on their detention center experience throughout the semester. Notably, Professor Mukherjee led her first trip to Dilley prior to the establishment of the CARA Project, and she and her students were the only pro bono legal counsel on site at the detention center during the week they spent there at the end of January 2015. Following the first trip, Professor Mukherjee and her students authored a White Paper outlining the urgent need for pro bono representation for women and children detained at Dilley.<sup>59</sup> This clinic's experience served as a fact-finding mission and the White Paper clearly outlines the problems facing detained families and the barriers to access to counsel during that time period. Visiting Professor Jason Parkin has also led Columbia student trips to Dilley, following the same model, which includes rigorous preparation ahead of time and at least one seminar reflecting on the experience upon return. Further, the clinic continued to engage in remote representation of detained families, as well as representation of families who had been released and relocated to the New York area. The clinic traveled to provide representation to detained families at Berks in March 2018.

Another New York based clinician, Professor Vanessa Merton at Pace University School of Law, has led her Immigration Justice Clinic students on two trips to Dilley in 2016 and 2017. Professor Merton fundraised to cover the cost of the trips herself, and clinic students received clinic credit for their work. Students prepared for the clinic through readings and the regular clinic curriculum. Although they were not required to keep journals or write reflections during the trip, many did. Upon return to the law school, the students conducted a presentation for the law school community. The clinic also retained several families who were formerly detained at Dilley following their release and relocation to New York. According to Professor Merton,

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<sup>59</sup> On file with the author.



“We call [the Dilley trip] (jokingly) the Clinic Final Exam. They come out of it very strong and confident. And more angry. . .” The participants of the trips have had several dinners together following the trip itself.

*b. Repeat “Local” Players: Texas-based Law School Clinics Engaging in Family Detention Work*

The University of Texas School of Law (UT) has been involved in family detention work since before the surge in 2014. Indeed, Professor Emeritus, Barbara Hines, current clinic Director, Denise Gilman, and their students, engaged in work at the family detention center at Hutto,<sup>60</sup> which was closed as a family detention center in 2009. More recently, however, as part of the Immigration Clinic, under the supervision of Professors Gilman and Elissa Steglich, and Professor Hines, UT students participate in day trips to the Karnes detention center. Other trips, detailed below, have been pro bono trips of a longer duration outside of the clinic. Prior to the clinic trip, students are intensively trained on family detention, in terms of representation and policy considerations. Students also prepare a notebook or binder for their use within the detention center. They receive sample documents, which include forms used by RAICES, and instruction in using LawLab software.

The UT clinic travels in a large passenger van from Austin to Karnes, which allows for some additional informal training on the way to the detention center and debriefing on the way back. The UT team plans their visits on days when no one from RAICES is staffing the detention center and function as a self-contained operation, although RAICES sends a list of detained families to be seen the night before. UT students work in pairs with detained families, matching one Spanish speaker with one non-Spanish speaker. On some trips, law students worked alongside social work students, and Professor Hines reports that students enjoyed this collaboration and found that the social work students contributed a different perspective to client interviewing. The clinic is working to integrate social work students more completely into their trips to Karnes and also to prepare students with more readings on working with survivors of trauma.

Another program at a Texas-based school, the University of Houston Law Center (UHLC) Immigration Clinic, engaged in work at

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<sup>60</sup> See THE LEAST OF THESE: FAMILY DETENTION IN AMERICA (2008), <http://theleastofthese-film.com/>; Jazmine Ulloa, *Duo from UT immigration clinic plays key role at detention centers*, AUSTIN AMERICAN-STATESMAN, Jan. 31, 2016, <http://www.mystatesman.com/news/crime—law/duo-from-immigration-clinic-plays-key-role-detention-centers/PZPCT1Vd5DQex0ZSAqGJYO/>.

both Dilley and Karnes family detention centers on five occasions between 2014 and 2017. Clinic students typically arrive at the detention center on Friday and work through the weekend, leaving on Sunday afternoon. On several occasions, students from the University of Houston Graduate School of Social Work served as interpreters. The UHLC coordinates the trips with the non-profit organizations serving immigrants held within the detention centers to gather the names of the women who requested to be seen. To prepare for the experience, Professor Janet Beck lectures on the credible and reasonable fear process, asylum, bond hearings, as well as motions to reopen. She also simulates mock interviews. In the clinic, she often shows the film *Sin Nombre*, so that students can understand the power of the transnational criminal organizations in Central America (“gangs” or “maras”). Students are assigned reading ahead of time. The clinic also represents a number of women and children released from Dilley and Karnes who have settled in Houston. In addition to informal debriefing sessions, students describe their detention center experiences in journals, which are submitted to the professors. Following the weekend spent at the detention center, a licensed clinical social worker comes to class to discuss secondary trauma, without the professors present.

The Immigration and Human Rights Clinic at the St. Mary’s University School of Law, in San Antonio, also incorporates work at Karnes family detention center into their regular clinic coursework. Every semester since Fall 2015, clinic students have traveled to volunteer on a Friday, usually two or three times during the semester, at either Dilley or Karnes. Typically, the students staff Fridays at Karnes, when RAICES staff are not present at the facility. In preparation, Professor Erica Schommer lectures on asylum law, the credible and reasonable fear process, conducts mock interviews, and discusses working with survivors of trauma. She also prepares the students on declaration drafting, and students review all the necessary scripts and forms from RAICES. Professor Schommer has found that assigning students to detained families one on one, rather than in partners, means that students more meaningfully engage in the work.

In the summer of 2017, Professor Schommer integrated family detention work even more deeply into her clinic’s work, offering a ten-week, four-credit version of the Immigration and Human Rights Clinic and including students who had just finished their first year of law school. The vast majority of the casework for the clinic included spending 10-12 hours every Friday of the summer term at the Karnes detention center.

c. *Other Engagement through Clinical Programs*

In 2014, the American University Washington College of Law International Human Rights Law Clinic and Immigrant Justice Clinic jointly traveled twice within a short period of time to Artesia, New Mexico, as part of their clinic work.<sup>61</sup> In addition to the regular clinic coursework, professors prepared training simulations related to working with detained women and children, and assigned readings on the credible fear interview process. Upon return, students presented at a report-back event to the law school, which took place in February 2015. The clinic also integrated the trip into their ongoing work by taking on remote bond work, telephonic hearings, and appeals. American has continued to engage in representation of families released from Artesia.<sup>62</sup>

In early 2015, Professor Elizabeth McCormick of the University of Tulsa College of Law (TU) led a trip to Karnes, mostly with students enrolled in the Immigrant Rights Project Clinical Program, but also with some students who volunteered to come without receiving credit. Prior to leaving for the trip, clinic students were assigned relevant readings and received substantive training on asylum law, interviewing simulations, bond hearings, and conducting credible fear interviews, in addition to a full day orientation program for all participants. Professor McCormick also arranged for a team of faculty from TU’s Psychology and Social Work Departments to speak with the students about working with trauma survivors and provided exercises and advice on coping and self-care. The TU group took a videographer with them and produced a video upon return.<sup>63</sup> For the remainder of the semester, clinic students continued to represent several of the detained families.

Professor Benjamin Harville from the University of Wisconsin led five of the six students enrolled in the Immigrant Justice Clinic on a trip to Karnes in early 2017. The trip was not a mandatory component of clinic, but the students had been trained in asylum law as part

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<sup>61</sup> Families were detained at Artesia between June and December 2014, as detailed in *Contemporary Family Detention*, *supra* note 14, at 146-50. See also MANNING, *supra* note 34. American University’s Washington College of Law’s International Human Rights Clinic and Immigrant Justice Clinic students traveled twice in the fall of 2014 with their professors to Artesia. See *Where Justice Hits the Road: Clinic Students in Artesia, New Mexico*, AM. U. CLINIC BLOG (Oct. 24, 2014), <https://auwclclinic.org/2014/10/24/where-justice-hits-the-road-clinic-students-in-artesia-nm/>; *Libre Soy*, AM. U. CLINIC BLOG (Oct. 31, 2014), <https://auwclclinic.org/2014/10/31/libre-soy>; *Some Things Should Never Be Normal*, AM. U. CLINIC BLOG (Dec. 14, 2014), <https://auwclclinic.org/2014/12/08/some-things-should-never-be-normal/>.

<sup>62</sup> Email correspondence with Jayesh Rathod, Oct. 2017 (on file with author).

<sup>63</sup> The video can be viewed at <https://www.youtube.com/watch?v=GHZEI5MF884&feature=youtu.be>.

of the clinic curriculum and reviewed the materials RAICES made available in preparation for the experience. Students discussed their experience at Karnes within regular class time upon return to campus. One student published a written reflection in the school's clinical newsletter, but written reflection was not required. Because the population of Karnes was low at the time of the trip and some of the students did not speak Spanish, some of them struggled with having enough to do during their time at the detention center. Students shared their experience informally with other law students upon their return to Wisconsin, but also discussed their jail visit during an information session for the clinic.

Modes of engagement through clinical programs have been varied; this article will now examine law student engagement in crisis lawyering within family detention centers through service-learning or other practicums for credit.

### B. *Engaging For Credit: Service-Learning and Practicums*

Service-learning within law schools is in no way new,<sup>64</sup> and indeed the aftermath of Hurricane Katrina on the Gulf region demonstrated the power of harnessing law student willingness to volunteer and engage in advocacy for those who need it the most.<sup>65</sup> Law students also engaged in service-learning in response to subsequent disasters, including the 2010 Haitian earthquake<sup>66</sup> and the 2011 tornado in

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<sup>64</sup> Indeed, leaders at my very own institution – the University of the District of Columbia's David A. Clarke School of Law – helped to pioneer and champion this model. *See, e.g.,* Laurie Morin & Susan Waysdorf, *Teaching the Reflective Approach Within the Service-Learning Model*, 62 J. LEGAL EDUC. 600 (2013) [hereinafter Morin & Waysdorf, *Teaching the Reflective Approach*]; Morin & Waysdorf, *Service-Learning Model*, *supra* note 53. In their article on students as first legal responders to the Haitian earthquake, Melissa Gibson Swain and JoNel Newman chronicle the history of law student response to disaster to as far back as 1911 and the Triangle Shirtwaist Factory fire and highlight the Student Hurricane Network, “which engaged hundreds of law students from more than 60 schools.” *Helping Haiti in the Wake of Disaster: Law Students as First Responders*, 6 INTERCULTURAL H.R. L. REV., 141 (2010).

<sup>65</sup> Davida Finger, Laila Hlass, Anne S. Hornsby, Susan S. Kuo, & Rachel A. Van Cleave, *Engaging the Legal Academy in Disaster Response*, 10 SEATTLE J. SOC. JUSTICE (2011) (estimating that between Dec. 2005 and Spring 2009, over 5500 law students volunteered in the Gulf region following Hurricane Katrina).

<sup>66</sup> Following the earthquake, the University of Miami Health & Elder Law Clinic engaged more than 60 University of Miami students in a mass intake drive for Haitians in the U.S. who may be eligible for Temporary Protected Status. This transitioned to an outreach model, whereby students and clinicians went out into the community going door to door in a get-out-the-vote style campaign to find eligible Haitians. Swain & Newman, *supra* note 64, at 146-54. Eventually, University of Miami hosted seven schools from all over the country for an alternative spring break week during the month of March 2010, during which time 70 students filed more than 90 TPS applications. *Id.* at 154-159. Finally, the project evolved to include ongoing policy advocacy. *Id.* at 168-169.

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Tuscaloosa.<sup>67</sup> Other students have engaged in service-learning within Spring Break (often termed an “Alternative Spring Break”) to provide assistance to migrant farm workers.<sup>68</sup>

The literature on service-learning trips in the law school context,<sup>69</sup> is not, however, extensive.<sup>70</sup> The AALS Section on Clinical Legal Education defines service-learning as:

Service learning is a teaching and learning strategy that integrates meaningful community service with instruction and reflection to enrich the learning experience, teach civic responsibility, and strengthen communities. In law schools, service learning can include law clinics and externships.<sup>71</sup>

One of the seminal articles on this topic comes from UDC Law professors Laurie Morin and Susan Waysdorf. They provide a history and definition of service-learning, describing service-learning as “a third apprenticeship model that resembles, but is not identical to, clinical legal education.”<sup>72</sup> For law students, Morin and Waysdorf believe that service-learning can function as a “capstone educational experience” in law school – following up “on the continuum of doctrinal

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<sup>67</sup> Kelly Alison Behre, *Motivations for Law Student Pro Bono: Lessons Learned from the Tuscaloosa Tornado*, 31 BUFF. PUB. INT. L. J. 1 (2012-2013).

<sup>68</sup> Karen E. Millard, *The Role Law Schools Should Play in Filling the Justice Gap*, 11 AVE MARIA L. REV. 411, 440 (Spring 2013) (discussing Florida Coastal’s Alternative Spring Break Migrant Worker Justice Immersion Program, an intense weeklong project supervised by law faculty in conjunction with Florida Legal Services attorneys. Students attend trainings ahead of time, learning how to interview client and the substantive law affecting migrant workers).

<sup>69</sup> For an overview of service-learning more broadly, see Morin & Waysdorf, *Service-Learning Model*, *supra* note 53, at 589-95, and Linda F. Smith, *Why Clinical Programs Should Enhance Civic Engagement, Service Learning and Community Based Research*, 10 CLINICAL L. REV. 723, 727-733 (2004) (discussing the definition and history of service-learning and the consistency with clinical legal education and law school’s goal to promote Professional Responsibility). Professor Tracy Bach’s article on service-learning in the context of teaching international environmental law also provides helpful background on problem-based service-learning as a concept, and as applied in law schools. See Tracy Bach, *Minding the Gap: Teaching International Climate Change Law Through Service Learning*, 18 VT. J. ENV’T L. 173, 177-183 (2016); see also Patricia Salkin & John R. Nolon, *Practically Grounded: Convergence of Land Use Law Pedagogy and Best Practices*, 60 J. LEGAL EDUC. 519 (2011) (explaining service-learning as one of several approaches to teaching land use law).

<sup>70</sup> In 2004, Professor Linda Smith, at the University of Utah, called for clinical professors to learn about civic engagement – including service-learning and community-based research – “to obtain support for and further insight about our pedagogical goals and models and to partner with colleagues in order to provide richer service to the community.” See Smith, *supra* note 69, at 753.

<sup>71</sup> AALS SECTION ON CLINICAL LEGAL EDUCATION, GLOSSARY ON EXPERIENTIAL EDUCATION 10, [https://memberaccess.aals.org/eweb/dynamicpage.aspx?webcode=ChpDetail&chp\\_cst\\_key=2546c8e7-1cda-46eb-b9f3-174fc509169b](https://memberaccess.aals.org/eweb/dynamicpage.aspx?webcode=ChpDetail&chp_cst_key=2546c8e7-1cda-46eb-b9f3-174fc509169b).

<sup>72</sup> See Morin & Waysdorf, *Service-Learning Model*, *supra* note 53 at 561, 565. (borrowing the apprenticeship concept from the Carnegie Report).

coursework, clinical practice, and externship programs.”<sup>73</sup>

At UDC Law, Morin and Waysdorf’s foray into service-learning was almost accidental. They began a Disaster Law course as a response to Hurricane Katrina as a doctrinal course with a service-learning component, which was neither emphasized nor required.<sup>74</sup> It was later renamed “Katrina and Beyond” and offered as a three-credit course with two-hour sessions, twice a week, and an additional credit offered for the alternative spring break to New Orleans or the Mississippi Delta.<sup>75</sup> It then evolved into a two-credit course, offered once a week, with an extra credit for the one-week trip experience.<sup>76</sup>

Following the massive outpouring of student energy and support post-Katrina, four scholars assessed their own various responses to disaster from the legal academy, including a doctrinal course, a clinic, and a student-led initiative with non-credit pro bono placements.<sup>77</sup> The student-led initiative, which came to be known as the Student Hurricane Network (“SHN”), facilitated placing students in week-long volunteer positions across the South and engaging in remote research projects.<sup>78</sup> In winter 2005, for example, 260 law students from about 60 schools were placed with 19 different social justice and legal services offices in Mississippi and Louisiana.<sup>79</sup> After this, SHN shifted to “providing structural support to schools so that students could organize their own trips.”<sup>80</sup>

Some argue that at least certain components of service-learning are consistent with definitions of clinical legal education. Linda Smith, for example, cites to Gary Bellow’s definition of clinical legal education, which includes reflection in the classroom, a key part of service-learning.<sup>81</sup> Likewise, the traditional clinical goal of “‘developing a profound understanding of the legal theory, economic implications and social dynamics of a given segment of the legal system’ that would result in ‘efforts to reform the process through their clinical work,’”

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<sup>73</sup> *Id.* at 593.

<sup>74</sup> *Id.* at 595-98.

<sup>75</sup> *Id.* at 597.

<sup>76</sup> *Id.* at 600.

<sup>77</sup> Finger et al., *supra* note 65, at 212.

<sup>78</sup> *Id.* at 224; *see also* Morin & Waysdorf, *Service-Learning Model*, *supra* note 53, at 564 (“Law students around the country were galvanized to action, descending on the Gulf Coast in droves to clean up debris, rebuilt houses, and provide pro bono legal services to victims of the disaster.”).

<sup>79</sup> Finger et al., *supra* note 65, at 212.

<sup>80</sup> *Id.* at 225-26.

<sup>81</sup> *See* Smith, *supra* note 69, at 753 (citing Gary Bellow, *On Teaching the Teachers; Some Preliminary Reflections on Clinical Education as Methodology*, in COUNSEL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, INC., CLINICAL EDUCATION FOR THE LAW STUDENT: LEGAL EDUCATION IN A SERVICE SETTING 375, 379 (1973)).

seems consistent with service-learning.<sup>82</sup> Further, service-learning seems designed to foster opportunities for students to experience “disorienting moments” that are so valued in clinical legal education.<sup>83</sup> In my experience, service-learning and clinic share many similarities but approaches to service-learning can certainly differ, and a spectrum exists as to how much traditional clinical pedagogy is imported into the service-learning context. How service-learning and other learning for credit programs have been implemented in the family detention context is discussed below.

### *1. Learning for Credit: Service-learning and Practicums in Family Detention Centers*

Despite the thoughtful literature on service-learning in the law school context, few law schools embarking on family detention center trips have named what they are doing as “service-learning.” Many law schools have engaged through existing clinical programs, as described above, and many have also created courses or practicums around the family detention volunteer experience, which could fit into the realm of “service-learning,” and are discussed in this article under this umbrella.

The only school to explicitly name their student trips as “service-learning” is my own institution. UDC Law faculty members have led four student trips to family detention centers in Dilley, Karnes, and Berks, most recently as a formal part of the service-learning program.<sup>84</sup>

The 2017 and 2018 UDC Law detention center work was formally folded into the law school’s service-learning program, and students received two credits for their enrollment in the seminar and one credit for their participation in the trip to Karnes in 2017 or Berks in 2018. In 2017, the seminar met once a week and relevant readings were as-

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<sup>82</sup> *Id.* (citing Stephen Wizner & Dennis Curtis, “Here’s What We Do:” *Some Notes About Clinical Legal Education*, 29 CLEV. ST. L. REV. 673, 678-79 (1980)).

<sup>83</sup> See Quigley, *supra* note 55.

<sup>84</sup> Prior to the trip’s formal incorporation into the existing service-learning program, in 2015, the trip was part of a Gender Asylum and Family Detention summer seminar. Following the 2015 summer trip to Karnes, the students met to present their ten-page reflection papers to one another in class and also conducted a report-back for the wider law school community. In 2016, students traveled to Dilley as a stand-alone alternative spring break. The 2016 UDC Law trip was structured quite differently and was limited to students who had already taken the immigration clinic, although no credit was given. There were two sessions prior to leaving on asylum law and no required reflection papers or report-back. The trip was 100% funded by the law school again. In 2017, the trip was folded into the wider service-learning seminar, which, as discussed above, prepares students for service-learning experiences in other locations. (In 2017, for example, other students in the service-learning course traveled to Biloxi, Mississippi. The course consequently covered a broad array of social justice topics.)

signed, along with an additional half-day session on substantive asylum law. Students produced a reflection paper and jointly planned a report-back session to the law school community. In 2018, 12 UDC Law students traveled to serve detained families at Berks during Spring Break and the service-learning course solely focused on preparing students for their trip and debriefing and reflecting following their travels.<sup>85</sup> The Spring 2018 Berks trip piloted a version of the framework proposed in Part IV of this article.<sup>86</sup>

At other institutions, professors similarly have led trips within a practicum or seminar course. Formally, a practicum focuses on “a single course focused on a discrete area of law that integrates a requirement that students engage in practical fieldwork or complex simulations on the topic of study.”<sup>87</sup> In some instances, practicums actually may meet the ABA definitions for a law clinic, where students are supervised by faculty working on live client cases.

An example of such a practicum comes from the University of New Mexico, where professor Jennifer Moore led a group of four law students on a service-learning trip to Karnes during their Spring Break in 2015. The students staffed a detainee hotline, assisted in the preparation of bond applications, prepared mothers for their credible fear interviews at the detention center, did art work with children while their mothers were sharing their personal stories, provided Spanish interpretation for a monolingual English attorney’s pre-asylum hearing interview with her client, and visited at the hospitality center and the local bus station with released-on-bond detainees in transition from detention to family reunification. The trip was the culmination of the Family Immigration Practicum, an optional one-credit component linked to professor Moore’s Human Rights research seminar. Students in the Family Immigration Practicum met for an extra hour per week during which they mastered the fundamentals of refugee law and asylum procedures, and the credible and reasonable fear process, as well as studied conditions in the Northern Triangle countries, and discussed Post-traumatic Stress Disorder and secondary trauma. The Practicum students presented to the rest of their class-

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<sup>85</sup> See Spring 2018 Service-Learning Trip Report, Mar. 15, 2018, <http://www.law.udc.edu/news/391197/Spring-2018-Service-Learning-Trip-Report.htm>.

<sup>86</sup> See *infra* notes 130-176 and accompanying text.

<sup>87</sup> The AALS Section on Clinical Legal Education defines a law practicum as “Experiential education is an integral part of the [practicum] class but not the only method of instruction. Where students work on real world problems or for real clients under the supervision of a faculty member, the course shares characteristics with law clinics and may in fact meet the ABA’s definition of a law clinic in Standard 304(b).” AALS SECTION ON CLINICAL LEGAL EDUCATION, GLOSSARY FOR EXPERIENTIAL EDUCATION, *supra* note 71, at 12.



mates in the Human Rights seminar informally and formally upon return from their trip to Karnes and wrote a reflection paper on their experiences in the Practicum.

Students at Brigham Young University’s J. Reuben Clark School of Law have traveled to volunteer in Dilley, Texas in October 2016, and February, August, and October 2017, with additional trips planned for 2018. Students have traveled with professors Kif Augustine-Adams, Carolina Núñez, and Carl Hernandez and receive two credits for their work at Dilley. Following the trip, they write a ten-page reflection paper and meet with the professor to debrief. Returning students have been instrumental in helping to prepare the next group of students to travel to Dilley, also serving as teaching assistants and, after graduation, as adjunct professors on later trips. Returning students have also made presentations across the University campus about their experiences and have been interviewed by local media in their hometowns.

In March 2017, professor Natalie Nanasi of the Southern Methodist University Dedman School of Law (SMU) led a group of law students to Karnes for a week as part of a two-credit seminar. Prior to the trip, students attended eight hours of class, which included sessions on family detention, trauma, and intimate partner violence. During the trip, they kept a nightly video journal and engaged in group debriefing sessions led by a counselor from a Dallas domestic violence shelter who had joined the group. Upon return to campus, they participated in a two-hour group debriefing session and gave a presentation on their experience to the law school community. The course associated with this trip has now been institutionalized at SMU and the school plans to send students each Spring Break.<sup>88</sup>

Students from the University of Minnesota Law School’s Center for New Americans<sup>89</sup> accompanied by two clinical instructors, Kate Evans and Rebecca Scholtz, spent a week in Dilley in January 2016.<sup>90</sup> The law school funded the trip entirely and students received one credit for their work. Although the trip was not part of the immigration clinic, all of the students had either been enrolled in the immigration clinic or had extensive immigration legal service experience outside of clinic, and all spoke Spanish. Prior to the trip, Evans and Scholtz led a three-hour session on asylum law, the credible fear process, and self-care, as well as engaging in a conference call with

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<sup>88</sup> Email correspondence with Natalie Nanasi, Oct. 27, 2017 (on file with author).

<sup>89</sup> See <https://www.law.umn.edu/james-h-binger-center-new-americans>.

<sup>90</sup> See *U of M Center for New Americans Defends Asylum Seekers Targeted by Federal Immigration Raids*, Jan. 12, 2016, <https://www.law.umn.edu/news/2016-01-12-center-new-americans-defends-asylum-seekers-targeted-federal-immigration-raids>.

CARA Project staff for database training and logistics. Upon return to the law school, students met regularly to prepare for a large continuing legal education presentation that they conducted related to their trip.

Law students engaging through their law school's clinical program or through a practicum or service-learning program receive credit for their work within the detention centers. Many students, however, have traveled individually or more often as part of a law school group, and volunteered their time without receiving law school credit. These pro bono trips are discussed in the following section.

### *C. Pro Bono Engagement*

Some of the trips to family detention centers that students have made are outside of clinic or any kind of course (service-learning, practicum, or otherwise), but even within this category, the trips varied greatly. Many of the trips, although not involving law school credit, looked very similar to the trips that occurred within clinics or practicums, and, more often than not, involved law school faculty. Some received formal recognition for a law school's pro bono program, while others did not.

For example, the Cardozo Law School trip to Dilley in 2017 consisted entirely of students who had either completed or were currently enrolled in the immigration clinic to ensure they entered the experience with significant grounding in the substance and skills needed to engage with clients at the family detention center. Aside from the 2015 trip led by professor Elizabeth McCormick with the Immigrant Rights Project Clinical Program, students at the University of Tulsa College of Law also organized a trip to Karnes in 2017 under the guidance of professor Mimi Marton, receiving financial support from, among others, the College of Law Public Interest Board and the TU Center for Global Studies. While the trip was not part of any clinic or course for credit, the students were required to participate in ten hours of training on substantive law, interviewing skills, working with trauma survivors, and self-care and secondary trauma. Further, they were assigned reading materials from RAICES to prepare for their Karnes trip, along with current asylum case law, along with materials on interviewing and trauma. Upon return to the law school, TU students chartered a new student organization, the Immigration Law Society, to raise awareness and prepare other students to volunteer at detention centers in the future.

St. Thomas University School of Law's professor Lauren Gilbert has worked with student leaders to bring two groups of students down to Karnes. In June 2015, prior to the first student trip, Professor Gil-

bert and three students conducted a “scouting mission” at Karnes before bringing ten students later that summer. Student leaders organized the logistics and while the students received no credit, the law school recognized their pro bono hours. Before the trip, Gilbert prepared students on substantive asylum law, as well skills based reviews of negative credible fear interview transcripts and declarations. Gilbert used case files and materials created during the first trip to train the second group of fifteen students, including first year law students, who traveled to Karnes in late 2016. Students from the first trip produced a video for students going on the second trip. Students from the second trip wrote a piece for the law school website.<sup>91</sup> On the second trip, a trauma counselor accompanied the students and conducted mindfulness exercises in the morning and helped them to address any secondary trauma symptoms. Professor Gilbert has since led student groups to Karnes again, including during the summer of 2018 and the family separation crisis.

In 2016, nine students from Loyola University New Orleans College of Law spent a week volunteering at Karnes. This was outside of any formal course and was simply a pro bono opportunity for the students and professor M. Isabel Medina. The students underwent a brief preparatory session with the professor before embarking on the trip, along with watching the training materials prepared by RAICES. During the trip, they engaged in debriefing and processing informally over lunch and group dinners.

Similarly, Professor Ingrid Eagly, at UCLA School of Law, has led trips to Dilley during the summers of 2015 and 2017. Both trips were funded by the law school, but not connected to any course or clinic. Prior to the trips, students were given minimal orientation on the substantive law and logistical matters, and also studied the training materials provided by first the CARA Project and then the Dilley Pro Bono Project. After the first trip, students were required to write a blog about their experience, and after the second trip, the students sponsored a school-wide panel on family detention. Shaylyn Fluharty, the Managing Attorney of the Dilley Pro Bono Project, came to speak with interested students.<sup>92</sup> The UCLA Law Students for Immigrant Justice group is continuing to engage in family detention work by organizing a fundraiser to assist Dilley families released from attention with onward travel costs.<sup>93</sup>

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<sup>91</sup> See <http://stthomaslawnews.blogspot.com/2017/01/st-thomas-law-students-experience-life.html>.

<sup>92</sup> See <https://law.ucla.edu/news-and-events/3751/2017/9/18/Student-and-Practitioner-Perspectives-on-the-Detention-of-Asylum-Seekers-in-Dilley-Texas/>.

<sup>93</sup> See <https://www.youcaring.com/caradilleyprobonoproject-971033>.

Elon University's Professor Heather Scavone, who directs the Humanitarian Immigration Law Clinic,<sup>94</sup> led law students on an alternative spring break to Karnes in 2015. Although students could claim pro bono hours towards the law school's pro bono certificate, the trip was not part of a course and no credit was given. Students and faculty fundraised for the trip independently of the law school. Prior to the trip, students received a substantive law overview and were assigned practice advisories and redacted briefs to read. They also read and discussed an article on secondary trauma. Although they were not required to produce any written reflection while at the detention center, the students created their own blog.<sup>95</sup> While at Karnes, the group decided to focus on more in-depth representation of two detained families in particular. One of the families is scheduled for her individual asylum merits hearing in Texas in 2019, and Professor Scavone plans to return to Texas with a group of students to represent the family in their ongoing case. Upon return to the law school, the group held a debriefing meeting and then organized a panel for the community, along with a screening of the film, *No Sanctuary*.<sup>96</sup>

In addition to their regular clinic work at Karnes, Professors Elissa Steglich, Denise Gilman, and Barbara Hines from the University of Texas School of Law's Immigration Clinic<sup>97</sup> engage in multiple trips a semester to Karnes, including a one-week trip in early 2017. This is part of the law school's Pro Bono in January program.<sup>98</sup> This longer trip was not connected to any course or credit but was supported financially by the law school's pro bono program, and students received pro bono hours recognized by the law school for their work. Prior to the trip, supervising professors conducted a three-hour training and assigned reading materials including news articles, flow charts, sample documents (credible fear interview samples, intake forms, etc.), and other materials on asylum law. Upon return, students completed an evaluation for the pro bono program but did not engage in any group or formal written reflection. Following a Fall training, UT routinely conducts four or five trips to Karnes each semester, including first- and second-year law students.<sup>99</sup> These experiences also serve as a de facto recruiting tool for the Immigration Clinic.

Students at Lewis & Clark Law School describe volunteering at Dilley as a "rite of passage" at their school; indeed by May 2017, 31

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<sup>94</sup> See <https://www.elon.edu/e/law/academics/clinics/immigration-clinic.html>.

<sup>95</sup> See <https://elonlawspringbreak.wordpress.com/>.

<sup>96</sup> See <http://vimeo.com/user36179554/nosanctuary>.

<sup>97</sup> See <https://law.utexas.edu/clinics/immigration/>.

<sup>98</sup> See <https://law.utexas.edu/probono/projects/service-trips/pro-bono-in-january/andhttps://law.utexas.edu/probono/projects/service-trips/other-service-trips/>.

<sup>99</sup> Phone call with Barbara Hines, Oct. 6, 2017 (notes on file with author).

students had traveled to Dilley.<sup>100</sup> One student surveyed explained that the law school has no immigration clinic, and so the frequent student-led trips to Dilley act as a substitute for that curricular absence. Students from Lewis & Clark have traveled in groups and often individually to volunteer at the detention center with the pro bono project. Lewis & Clark students fundraise for the trip and receive pro bono credit for the trip, which goes towards eligibility for the school’s pro bono award. The repeat trips typically include at least one student who is a veteran of family detention work. Students who have returned from Dilley prepare a detailed packet of training and orientation materials, including detailed logistical information, for future groups of students.<sup>101</sup> In Spring 2017, students worked with immigration law professor Juliet Stumpf to create a student-led reading group class called Asylum and Family Detention, which included relevant readings, class discussions, and guest speakers.<sup>102</sup> Before the next trip in mid-December 2018, the Immigration Student Group plans to hold training on secondary trauma.

Howard Law School student Diana Saavedra approached her law school’s pro bono program and connected with the chapel at the Howard main campus, the entity in charge of approving alternative spring break plans planned by the students. Saavedra and her classmates then planned the trip to Dilley, along with Professor Anibal Rosario-Lebron, over Spring Break in 2017. The students were required to keep daily journals but did not do any preparation ahead of time or debriefing upon return from the trip. Similarly, three students at the Roger Williams University School of Law, in Rhode Island, traveled under the supervision of Professor Deborah Gonzalez, a clinician, to Karnes in Spring 2015. Professor Gonzalez planned to lead a second trip in Spring 2018.

Five Stanford Law School students traveled to Dilley to volunteer during their Spring Break as part of the Alternative Spring Break Program, and received pro bono hours to count towards the Law school’s pro bono distinction. They were not accompanied by a professor or instructor, but engaged in a 1.5 hour substantive asylum law training with an attorney from the law school’s Immigrants’ Rights Clinic prior to their trip. Upon return, they engaged in a debriefing session with 23 students who traveled elsewhere over Spring Break. Four Stanford students went to Dilley in September 2017 and the school planned to

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<sup>100</sup> Dan Sadowsky, *Law on the Border*, CHRONICLE MAGAZINE, May 26, 2017, <http://www.lclark.edu/live/news/36349-law-on-the-border>.

<sup>101</sup> This packet is on file with the author.

<sup>102</sup> Email correspondence with Lewis & Clark student, Tessa Copeland, Oct. 22, 2015 (on file with author).

send more students in March 2018.

Sponsored by the Public Service Law Center,<sup>103</sup> six Brooklyn Law School students traveled to Karnes during their winter break in early 2017 to volunteer.<sup>104</sup> The group included first year law students. During the trip, the students conducted daily debriefings with the site leader from RAICES. Reflecting on the trip, one student who responded to the survey felt that advance preparation on asylum law would have been helpful.

Some students find their way to Dilley or Karnes as volunteers without being a part of any organized group. A few of these students responded to the survey. One had taken an asylum law course, while another had been enrolled in the asylum clinic at her law school. The students reported a lack of any reflection on their experience, along with a lack of training. One student in particular noted the absence of training on the concept of unauthorized practice of law and what non-attorneys could advise detained families, as well as the absence of secondary trauma training. All students reported a lack of any preparation, other than reviewing materials provided in advance by the Dilley Pro Bono Project or RAICES.

Some student engagement in family detention centers defies categorization and represents hybrid models and organic responses to the crisis. Yale Law School students, in particular, have been pioneering in the family detention sphere.<sup>105</sup> In March 2015, three Yale students traveled to Dilley, prior to the establishment of a formal staff permanently located at the detention center. The three students worked under the supervision of two experienced immigration attorneys who agreed to supervise the trio. A couple of months later, in May 2015, six more Yale students traveled to Dilley, this time under the supervision of Columbia law professor Elora Mukherjee. During this second trip, five of the students represented a mother and child in their merits trial while detained.<sup>106</sup> The Yale Law School Worker and Immigrant Rights Advocacy Clinic<sup>107</sup> organized these two initial trips, although students did not receive credit or pro bono hours. Following these trips, the Yale students, in coordination with professor Mukherjee,

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<sup>103</sup> See <https://www.brooklaw.edu/intellecualife/public-service-law-center/about?>

<sup>104</sup> See <https://www.brooklaw.edu/newsandevents/news/2017/01-27-2017a>.

<sup>105</sup> The following information regarding Yale students and Asylum Seeker Advocacy Project (ASAP) is drawn from email correspondence with Dorothy Tegeler, one of ASAP's founders, on file with the author, from July 2016, in addition to the author's own personal experience working with Yale students while a Legal Fellow at the American Immigration Council as part of the CARA Project.

<sup>106</sup> During this time, many withholding only mothers were forced to undergo their merits hearings while detained and the CARA Project lacked the capacity to provide full representation.

<sup>107</sup> See <https://law.yale.edu/wirac>.

formed a volunteer team to remotely represent families forced to have their merits trials while detained. From May to August, 2015 (after which time, the government stopped routinely forcing families to go to a merits hearing while detained), the Yale student volunteer team, under Professor Mukherjee’s supervision, represented each family forced to go to trial and won every case they accepted or placed.

This intensive remote work at Dilley laid the foundation for what would become the Asylum Seeker Advocacy Project (ASAP). ASAP was initially a student organization and was funded through Yale by the Gruber Project for Global Justice and Women’s Rights.<sup>108</sup> The group continued to take on remote work, including volunteering with the CARA Project’s remote bond team and providing administrative support. For a period, ASAP coordinated the remote drafting of requests for reconsideration, where families had not passed a credible fear interview and requested reconsideration of that decision with the asylum office. The work ballooned and ASAP eventually also took on briefs directed towards immigration judges and other strategies for families who failed their initial credible or reasonable fear interview, including complaints under the Federal Tort Claims Act and with the Department of Homeland Security’s Office of Civil Rights and Civil Liberties and Office of Inspector General. They also drafted habeas petitions for the ACLU for families who had been detained at Berks for months, which went on to become the *Castro* case in the Eastern District of Pennsylvania, and later the Third Circuit.<sup>109</sup>

In addition to the remote work, the ASAP student group organized and funded three additional trips to family detention centers – two to Dilley in 2016 and 2017, and one trip to Berks in 2017. These trips were larger than the two initial 2015 trips, and ASAP prepared students, arranged for debriefing, and recruited a clinical professor to accompany each trip. By the end of 2015, ASAP began shifting to focus on post-release work. In Fall 2016, the Asylum Seeker Advocacy Project became a project of the Urban Justice Center, founded by four Yale law students, now graduates, who were veterans of family detention work.<sup>110</sup>

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<sup>108</sup> See <https://law.yale.edu/centers-workshops/gruber>.

<sup>109</sup> *Castro v. Dep’t of Homeland Sec’y*, 835 F.3d 422 (3d Cir. 2016) (affirming the holding by the district court that the court lacked jurisdiction over the habeas claims and that petitioners could not invoke the Suspension Clause).

<sup>110</sup> See <https://law.yale.edu/yjs-today/news/yale-law-students-launch-asylum-seeker-advocacy-project>.

### III. LIMITATIONS AND BENEFITS OF THE MODELS OF ENGAGEMENT

As discussed above, at least 40 schools have conducted trips to family detention centers as part of a clinic, service-learning program or practicum or other student-led model. Over the course of just three years, more than 800 students have traveled to family detention centers and engaged in this work.<sup>111</sup>

Of course, there are downsides that apply to each of these models. By its very nature, family detention and the legal services model involving volunteers that has sprung up in response, require that detained families work with a constantly revolving door of lawyers, students, and other volunteers. This inconsistency is far from a best practice when it comes to the provision of legal services.

Further, as Professor Barbara Hines notes, it is “important to explain to students that experience at family detention center is not [the] ideal way to deliver legal services, but rather a triage operation. As a lawyer, you need to have time to develop trust, manage the case etc. . . . At family detention centers, client centered lawyering and other lawyering goals cannot be attained.” This is a reality regardless of how students engage at the family detention centers, but their understanding of this less than ideal mode of providing legal services may differ according to *how* they have engaged – through a service-learning program, a practicum, clinic, or in another manner.

#### A. *Clinical Model*

Although the ways in which law school clinics have engaged in work at family detention centers has varied, this article considers any participation by law students through their existing legal clinic, for credit, as part of the clinic’s work, to fall under this model. There are some clear benefits and some potential downsides to engagement through clinics as compared with a separate practicum, service-learning program, or student-led initiative. These are discussed below.

Some of the broader critiques and concerns regarding clinical legal education could apply to engaging in family detention, or work in immigration detention centers more broadly, through clinics. First, engaging through a clinic, rather than through a different program, could potentially be more expensive. Clinical pedagogy suggests a low stu-

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<sup>111</sup> This is likely an underestimate. CARA Project data shared with the author from March 2015 to August 2017 reflected 366 law student volunteers, just at Dilley. RAICES reported more than 90 law student volunteers between just January and May 2017. Data keeping has not been consistent, but given the continuing engagement of law students at the time of writing and at Karnes before and after January to May 2017, 800 students is a likely a very conservative estimate.



dent to faculty ratio (typically 8:1)<sup>112</sup> at the most, throughout the semester. This may limit the number of students able to participate in learning in detention centers through clinic, by virtue of the school not having enough clinicians to supervise all willing and interested students throughout the semester.

Another potential downside is that clinics are typically offered after the first year, and sometimes with other pre or co-requisites, meaning that first year law students typically do not engage in clinical work. Given the power of connecting to the reasons a law student went to law school, which can be realized through working in a fast-paced client-focused setting, this is a downside of engaging only through clinics. Clinics are also offered for an entire semester, or, in some cases, the whole academic year, which may be too much of a commitment for some students to undertake, despite having an interest in engaging in crisis lawyering.

Further, clinics struggle to add detention work as a component of their clinic because clinics already have to manage their existing, often over-burdened dockets. The immigration court backlogs have exacerbated this challenge – clients that any immigration lawyer, or law school clinic, have retained, may not have their hearing dates until years out into the future.<sup>113</sup> The need for immigration legal services has been especially high beginning in January 2017 with the inauguration of Donald J. Trump as President and the various ways in which his administration has engaged in aggressive enforcement of existing immigration laws and repeatedly attempted to take anti-immigrant actions.<sup>114</sup> Existing clinics may therefore struggle to quickly pivot to respond to a pressing demand for representation in detention centers

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<sup>112</sup> See Peter A. Joy, *The Cost of Clinical Legal Education*, 32 B.C. J. L. & Soc. JUST. 309, n.1 (2012) (“the most common student-to-faculty ratio for in-house clinical courses is eight to one.”) (citations omitted).

<sup>113</sup> See Lindsay M. Harris, *The One-Year Bar to Asylum in the Age of the Immigration Court Backlog*, 1183 Wisc. L. REV. 1204-08 (2017) [hereinafter Harris, *The One-Year Bar*]; see also See TRAC, *Growth in Immigration Court Backlog Varies Markedly By State*, <http://trac.syr.edu/immigration/reports/526/>.

<sup>114</sup> For a few examples of the recent changes (or, in some cases, attempted changes) in laws and policies adversely affecting immigrants, see Executive Order: Border Security and Immigration Enforcement Improvements, Sec. 5, Jan. 25, 2017, <https://www.whitehouse.gov/the-press-office/2017/01/25/executive-order-border-security-and-immigration-enforcement-improvements>; Executive Order: Protecting the Nation from Foreign Terrorist Entry into the United States, January 27, 2017, <https://www.whitehouse.gov/the-press-office/2017/01/27/executive-order-protecting-nation-foreign-terrorist-entry-united-states> (the first iteration of the “Muslim Ban”); Department of Homeland Security, *Memorandum on the Rescission of Deferred Action for Childhood Arrivals (DACA)*, Sept. 5, 2017, <https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca>; Ashley Edwards & Emily C. Singer, *Exclusive: Army Bans Green Card Holders from Enlisting – A Move that May Break Federal Law*, Oct. 18, 2017, <https://mic.com/articles/185297/exclusive-army-bans-green-card-holders-from-enlisting-a-move-that-may-break-federal-law#.cyZvLm8j1>.

because of their previous commitments, combined with emerging pressures to engage elsewhere on behalf of the immigrant community. Some professors who have engaged in student-led family detention trips have expressed that they wish they could create an entirely new clinic to engage in family detention work.

There are, however, numerous reasons why engaging in family detention work through a law school clinic makes a great deal of sense.

First, students are generally better prepared to participate in the work, given their whole semester focused on engaging with live clients, albeit, typically outside of the detained setting. Clinicians report that embedding the family detention work within the clinic allows for students to start to understand some of the context and policy considerations regarding the detention of families and detention in general. Thus, students presumably engage in the work feeling grounded and prepared for their experience.

Second, students will continue to engage with their clinic supervisors and peers in a substantively meaningful way for the remainder of the semester, allowing ample opportunity for the necessary reflection following an intense experience at a detention center.

Third, logistically, engaging through an existing clinic is easier because clinicians often have a great deal of free reign within their clinics, so there would typically be no need to get a course approved by a faculty committee and/or the full faculty. Some of the other logistics may also be easier, for example, ensuring that students and professors are covered with malpractice or liability insurance may be easier if the work is an extension of an existing clinic.

Fourth, engaging through law school clinics may help to mitigate some of the concerns regarding “voluntourism.” This concept is discussed below,<sup>115</sup> when considering learning for credit, but essentially voluntourism captures the idea that individuals may take more from the community they intend to serve than they give, and that they move in and out of the community quickly, sometimes doing more damage than good. The ways in which clinics have engaged work within family detention centers, however, do seem to potentially mitigate some of that concern. Several clinics have, for example, continued to represent detained families once released, and others have worked with families released from detention centers that relocate within the area in which their clinic typically provides services.<sup>116</sup>

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<sup>115</sup> See *infra* notes 121-124 and accompanying text.

<sup>116</sup> University of Tulsa, Pace Law, Columbia, and University of Texas have taken on representation of families released from Dilley and Karnes. UDC Law’s Immigration and Human Rights Clinic has done the same, but, like Elon University’s Humanitarian Immi-

Professors who have incorporated family detention trips, whether of short or longer duration, into their clinic work, felt that it added a valuable component of student learning in the clinics. Indeed, work inside a detention center is the antithesis of traditional notions of clinical legal education in some ways and provides something that we cannot under the traditional clinical model. In referring to traditional notions of clinical legal education, I do so acknowledging that clinical education is not monolithic and that many clinics reject some or all aspects of a traditional approach of one case at a time and practicing law in "slow motion." Working within family detention centers, students must learn how to exercise independent judgment in a fast-paced environment, juggling multiple clients, with high stakes and incredibly limited resources, in a hostile environment where the rules are arbitrary and in constant flux.

Professor Lindsay Nash at Cardozo Law School shared that engaging in work in a detention center was a valuable addition to their traditional model of year-long representation for an immigration client, and that in particular, "[l]earning how to triage compelling emergency cases is great experience for students who are entering the field." Professor Mimi Marton from the University of Tulsa College of Law agreed, stating, "I think this is so important for students to see because, in practice, you do not always have hours each week to spend on one case, nor can your client necessarily afford to have you do so." As a former clinician, Professor Lauren Gilbert at the St. Thomas University School of Law also agreed, noting "I think it's important for students to have the experience of having a high demand for their services, rather than having a small number of cases where they can spend as much time as they need in prepping the client."

Professor Kate Evans, now at the University of Idaho College of Law, reflected in her survey response that "[s]tudents experienced front-line crisis lawyering. It does not look like the ideal from their lawyering process class but it is good for students to see how you can do good even when the conditions are not ideal." Professor Denise Gilman at the University of Texas School of Law echoed these sentiments:

It's definitely more of a triage situation. We talk to the students about how different it is from the deliberate thoughtful way we practice in the clinic when representing clients. By making the difference explicit, we hope to show them the value of the more deliberative model of representation while also exposing them to the reality of representation for many service providers.

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gration Clinic, have also taken on representation of at least one family who remained in Texas and have then traveled back and forth to provide out-of-state representation.

Finally, Professor Elizabeth McCormick at the University of Tulsa College of Law reflects, “[u]rgent situations are a part of law practice and immigration practice in particular. Students and faculty need to learn to deal with that reality.”

Embedding the family detention center experience within clinic may be a powerful way for students to understand the difference between best practices in lawyering and triage lawyering. Professor Barbara Hines of UT explains that at the family detention centers, clinic students engage in triage, and lack the time to “develop a relationship” or to “provide in depth analysis of a case” and must pass the case on to another person. In contrast, in clinic, “students work all semester with [the] same clients. We spend time on interviewing skills, rewriting affidavits many times, [and creating] the absolute best legal product possible.” There is value, however, to introducing student to what Hines calls “real world lawyering” in less than ideal circumstances that the family detention center work provides. As a clinician who has led service-learning trips outside of the clinic, Professor Kristina Campbell at UDC calls this “Clinic on the Road” and considers the biggest difference from clinic to be that “we take the clients as they come, rather than carefully selecting clients as we do in Clinic. It’s a true triage experience.” Professor Elizabeth McCormick from the University of Tulsa College of Law agrees:

The impact for students was powerful. They were simultaneously horrified and motivated by what they encountered. They connected on a very deep level with the families they worked with. They learned the power of teamwork in getting things done on tight deadlines. They experienced the power that lawyers can bring as advocates. We were successful in obtaining the release of many of the families we worked with but there were others that we couldn’t help. Learning to keep going in an atmosphere with widely fluctuating results and emotions taught the students about resilience in a very real way.

Engaging in the fast-paced work at family detention centers as a part of a larger clinical experience also provides students with the opportunity to learn by observing their faculty supervisor in action. Although some clinicians hesitate to step in and take control of a client interview in a regular clinic, at the detention centers, sometimes this is necessary. As professor Erica Schommer at St. Mary’s University School of Law explains,

In the moment, you have to be more directive than you can be with your regular cases. It provides opportunities for observation for the students to see you jump in and interview and get to facts that they could not draw out.

Where possible, engaging in detention work within the frame-

work of an existing clinic provides many advantages. But, the clinic is not the only way in which this type of work can be done and offering the service-learning or practicum-based model below provides various distinct opportunities for learning, along with other challenges.

### *B. Engaging for Non-Clinic Credit*

The service-learning model of engagement in family detention centers, which I will define to include any effort by law schools to situate the family detention volunteer experience within a non-clinical for-credit course or seminar, provides numerous clear benefits.

First, structurally, it is likely easier for the law school to find funding and support for a service-learning course than to create an entirely new clinic around student engagement in detention work, or student response to any other crisis or disaster. Most schools would be reluctant to set up an ongoing clinic without secure and long-term funding. Service-learning provides a way to engage without an ongoing institutional commitment. Certainly, any type of course likely still requires faculty approval, so attaching any credit to student engagement in detention centers may require some process within the law school that is above that which may be required by a student-led trip, discussed in the next section, for example. The service-learning model thus may provide a middle-ground between the presumably intensive required law school process and curricular approval for a new clinical program, and the minimal-to-no faculty or administrative involvement in some of the student-led modes of engagement.

Second, service-learning may be a more economical way than traditional law school clinics to provide an experiential learning credit to students. Professors Morin and Waysdorf point out that a one-week service learning experience potentially opens up experiential education to more students because the work can be done outside of the traditional 6- or 8-to-one student: faculty ratio in clinical education. Further, while the seminar course accompanying the one-week intensive service-learning experience may require a faculty member or two to engage throughout the semester, faculty may be willing to volunteer a week of time during Spring Break, or another designated time period, to supervise students.<sup>117</sup>

Third, service-learning may enable the involvement of students who would not ordinarily be able or willing to participate in a clinical program. While law school clinical programs typically require students to have completed their first year, service-learning opportunities could be made available to first-year law students. As Morin and Waysdorf

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<sup>117</sup> Morin & Waysdorf, *Service-Learning Model*, *supra* note 53, at 574.

recognize, service-learning provides a way for students to reconnect with their purpose of coming to law school and to gain confidence in their own skills and abilities.<sup>118</sup> This may be particularly important for first-year law students, who can become disillusioned, confused, and overwhelmed by the traditional first year curriculum. As professor Lauren Gilbert explains, “[l]aw school can be such a disappointing experience for people who went to law school seeking to change the world.” Observing the first-year law students who went to Karnes in December 2016 with her, Gilbert notes, “It was great for the 1Ls to see just what they could do with their law degrees, and many students ended up flourishing during their second semesters.”

Of course, reasonable minds can disagree regarding where first-year law student attention should be directed, and whether devoting a week during Spring Break or at some other time to volunteer work for credit is a wise allocation of their limited bandwidth. Indeed, at UDC Law, first-year law students typically have not gone on the service-learning trips.<sup>119</sup> I simply note that the service-learning model makes the engagement of first-year law students a possibility. It also ensures that should first-year law students engage in this work, they do so with some grounding, faculty guidance, and supervision.

The service-learning model also poses potential challenges in the context of immigration detention centers. A core belief in service-learning is that “those who are being served control and define the service that is being provided and that the needs of the ‘host community’ rather than the academic program come first in defining the priorities of the work students engage in while serving.”<sup>120</sup> Ensuring that those being served can control and define the service being provided is difficult in the detained context. Detention itself, of course, dramatically limits the power and agency of individuals and communities to define the services provided. Legal access to detention centers is negotiated with ICE and the agency exerts control over the nature and scope of services that can be provided. Finally, the ever-changing population of a detention center means that change is the only constant. Although at various times families have been detained for longer periods of time, ideally, families are detained for as short amount a time

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<sup>118</sup> Morin & Waysdorf, *Teaching the Reflective Approach*, *supra* note 64, at 606.

<sup>119</sup> This year, however, three first-year law students participated in the March 2018 trip to Berks in part to fulfill their first year 40-hour community service requirement and to assist with interpretation for the eight students enrolled in the three-credit service-learning seminar.

<sup>120</sup> Morin & Waysdorf, *Service-Learning Model*, *supra* note 53, at 591-92 (citing Timothy Stantion, *Service Learning: Groping Towards a Definition* in 1 *COMBINING SERVICE AND LEARNING: A RESOURCE BOOK FOR COMMUNITY AND PUBLIC SERVICE* 66 (Jane C. Kendall et al. eds., 1990) (internal citation omitted)).

as possible, so it is difficult for a constantly changing population to control and define how law student volunteers engage on their behalf. Of course, defining "those being served" as the partner organizations, who are routinely working within detention centers, such as the Dilley Pro Bono Project, RAICES, and ALDEA, may make this easier. Regardless, however, the risk of coming into a community and taking more than you give is real.

Here the literature regarding the phenomenon of "voluntourism" in examining overseas temporary volunteer work is instructive. Voluntourism is typically distinguished from volunteer development work overseas by the short length of time spent volunteering and often the packaging of the experience into semester breaks.<sup>121</sup> Critiques of voluntourism, typically leveled at western college students embarking on trips of short duration,<sup>122</sup> often overseas, are instructive for the service-learning arena and in thinking about how to do most good and avoid harm in the family detention context. Specifically, academics have critiqued programs where volunteers engage with children orphaned by the AIDS epidemic in sub-Saharan Africa for a short period of time, exacerbating attachment issues for the children.<sup>123</sup> The same problem presumably exists in the family detention context, where volunteers are typically present for only one week at a time, and the population is highly transient with new families coming in to the centers and being released constantly. This problem is difficult to address in the service-learning or practicum context, where students typically engage in substantive work only during the time in which they are physically located at the volunteer site.<sup>124</sup> Professors leading such trips could consider incorporating some remote work into the experience, but even then, the problems raised by critiques of voluntourism may remain. In order for students to contribute to the larger cause and avoid taking more than they contribute, providing

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<sup>121</sup> Colleen McGloin & Nichole Georgeou, 'Looks Good on Your CV: The Sociology of Voluntourism Recruitment in Higher Education', 3 J. SOCIOLOG. 1, 3-5 (2015) (critiquing various aspects of the recruitment of students by "Voluntourism" entities on college campuses in Australia).

<sup>122</sup> *Id.* at 1-15 (critiquing various aspects of the recruitment of students by "Voluntourism" entities on college campuses in Australia).

<sup>123</sup> Linda M. Richter & Amy Norman, *AIDS Orphan Tourism: A Threat to Young Children in Residential Care*, 5 VULNERABLE CHILDREN & YOUTH STUD. 217-29 (Sept. 2010) (describing how short-term attachments between orphaned children in sub-Saharan Africa and volunteers may worsen exacerbate preexisting attachment issues, especially where volunteers are not adequately prepared or educated for their service on child development, attachment, trauma, and abandonment issues).

<sup>124</sup> Where the detention experience is a part of clinic, lacking context is less of a concern as students may travel to a detention center to engage in a week of intensive work and then can continue to provide representation to those detained individuals or individuals post-release after that trip is over.

some context for their work may be beneficial. Inviting students to observe court hearings for individuals released from detention, or engage with the immigrant community outside of detention in other ways, may help students start to understand the intensity and longevity of the immigration process. Students can also be encouraged to engage in community outreach and activism to raise awareness of detention issues, conducting town hall meetings, for example, or speaking with their local media outlets.

Of course, none of the models discussed in this article are mutually exhaustive. Indeed, service-learning proponents Professors Morin and Waysdorf have found that experiences of clinic and service-learning complement one another. UDC Law students on service-learning trips between 2007 and 2011 found that the “client impact in the service-learning context felt more immediate and powerful,” than in their clinics.<sup>125</sup> At the same time, however, the students “recognized that they were able to be so effective as legal advocates because of the clinical skills they had previously gained.”<sup>126</sup>

### C. *Pro Bono Model*

This section will analyze the pros and cons of pro bono engagement in family detention centers. This category is perhaps the hardest to describe as students have engaged in trips in a variety of models and circumstances. Using “student-led” to categorize these trips would be a misnomer in some ways. Although law students have typically initiated the trips, which universally do not include course credit, more often than not, faculty members have been involved. Students at Stanford, Brooklyn, and Lewis & Clark, for example, have traveled to detention centers, but have received faculty mentoring, training, and advice, before and after their trips. Even more frequently, faculty members have traveled with students as supervisors. Law students and faculty from Loyola New Orleans, the University of Tulsa, the University of Texas, Yale, Roger Williams, Elon, UCLA, and Howard have all engaged in this way.

There are some clear positives with law students leading the way. Law school administrations are notoriously slow, and so having this engagement led by students in response to student interest and enthusiasm may mean that the efforts are more timely and responsive to the needs posed by the “crisis” or disaster. Student-led efforts may naturally facilitate a greater sense of student ownership and engagement in the endeavor. Given the constantly shifting conditions within deten-

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<sup>125</sup> Morin & Waysdorf, *Teaching the Reflective Approach*, *supra* note 64, at 602.

<sup>126</sup> *Id.*



tion centers, a model with more flexibility might be desirable. Further, if students lead the efforts, they may potentially be likely to remain engaged after the trip is over and continue their volunteer efforts to support detained and released families.

The drawbacks with student-led trips are perhaps obvious. One concern is a lack of adequate supervision. In the work of the Student Hurricane Network following Hurricane Katrina, organizers found that “[o]ne of the most vital roles that faculty served in this student-led initiative was that of a supervisor.”<sup>127</sup> The Student Hurricane Network struggled at times to provide adequate supervision for law students, as well as enough orientation on topics like “cultural and anti-racism training.”<sup>128</sup> The various ethical quagmires involved in student engagement in client-work are familiar to clinicians, and involve, of course, a perpetual concern regarding the unauthorized practice of law. Many student-led trips have mitigated this concern by engaging faculty members or other attorneys as supervisors for the week. Further, organizations such as the Dilley Pro Bono Project, RAICES, and ALDEA employ highly qualified attorneys who do engage with all volunteers, including law students, on a daily basis. Given the frantic nature of detention work, however, a lack of clear supervision structure remains a heightened concern with student-led trips. The lack of a clear supervising faculty member or attorney may have other less obvious ramifications. For example, one student without a faculty member or leader during their week at the detention centers reported that there was tension with other volunteer attorneys, who the law student felt treated the law students as “servants” and expected them to perform paralegal type functions. A faculty member could have perhaps mitigated some of this tension.

Another concern, expressed by some of the student responses to the survey, along with some of the professors who had engaged with students on student-led trips, was a lack of adequate preparation to engage in the work. Professor Isabel Medina from Loyola New Orleans reflected, for example, that better preparation ahead of time would probably strengthen the experience, including more time spent on the credible fear and expedited removal process. Some students agreed that they needed more of a background and understanding of the processes involved in expedited removal and credible/reasonable fear before hitting the ground running within the detention centers.

One concern that applies to all of the models is the concern that students are left with what professor Natalie Nanasi at SMU describes as a “false sense of success.” In the family detention setting in recent

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<sup>127</sup> Finger et al., *supra* note 65, at 229.

<sup>128</sup> *Id.* at 231.

years, the overwhelming majority of clients (close to 90%), especially with access to counsel and some guidance through the process, receive positive results in credible and reasonable fear interviews and are released.<sup>129</sup> As Nanasi explains, the students are not then privy to the “countless post-release struggles clients face - emotional and financial challenges, significant wait times before adjudication, the difficulty of securing counsel, and the challenge of making gender and gang-based [particular social group] asylum claims.” This concern is alleviated when students engage in post-release work or when the work is part of a larger clinical or service-learning experience. Through ongoing work outside of the detention center, students are exposed to the context and realize that the success won for their detained clients is really just the beginning of the long and difficult road to obtaining permanent protection and justice.

#### IV. BEST PRACTICES: A MODEL FOR LAW STUDENT ENGAGEMENT IN DETENTION CENTERS

The experiences of law students engaging in family detention settings gives us a wealth of information on which to draw out best practices, particularly as law students begin to engage in work in other detained settings. A threshold question should be whether law students should engage in this type of work at all. This question is quite easily answered. Aside from the very positive accounts of the experience from law students themselves, who usually describe their time at the detention center as “transformational” or “life-changing,” the students make a very real difference. Professors Ingrid Eagly and Steven Shafer’s pioneering study of access to counsel in immigration court paints a bleak picture of the justice gap for immigrants in terms of legal representation.<sup>130</sup> Only 37% of all immigrants secure representation, but for detained immigrants specifically, only 14% are represented. The need is most dire in locations outside of cities.

One of the goals of clinical legal education, as discussed above in Part II, is to address unmet legal needs. Eagly and Shafer’s national study on access to counsel in immigration courts revealed that law school clinical programs had the highest success rate, when compared

<sup>129</sup> This is certainly not the case following the *Matter of A-B-* decision, 27 I. & N. Dec. 316 (A.G. 2018) (significantly restricting social group-based asylum claims), and implementing guidance from USCIS in the summer of 2018, and preliminary numbers indicate that the percentage of those passing credible fear interviews has dramatically decreased. See, e.g., Noah Lanard, *Jeff Sessions Has Been Targeting Asylum Seekers Fleeing Domestic Violence. It's Been Devastating*, MOTHER JONES, (July 26, 2018), <https://www.motherjones.com/politics/2018/07/jeff-sessions-has-been-targeting-asylum-seekers-fleeing-domestic-violence-its-been-devastating/>.

<sup>130</sup> See generally Eagly & Shafer, *supra* note 16.

with all other types of representatives, for relief applications on behalf of non-detained clients.<sup>131</sup> This type of success can be replicated for detained individuals. Law schools thus should prepare students to work within detention centers, holding both families and adults, and this article considers *how* exactly that work should be done.<sup>132</sup>

This is not to say that the work has not already begun, and, in some cases, student engagement in non-family detention centers preceded the family detention work. For example, the University of Connecticut School of Law partnered with the social work school over Spring Break in 2016 and offered legal and psychosocial assistance to female Central American asylum seekers held at a federal detention center in York County, Pennsylvania.<sup>133</sup> Law students at Southern Illinois University School of Law routinely volunteer at the Tri-County Justice and Detention Center in Mullin, Illinois, through a partnership with the National Immigrant Justice Center.<sup>134</sup> In the Washington, D.C. metropolitan area, law schools, including American University Washington College of Law, UDC Law, and Georgetown University Law Center, partner with the Capital Area Immigrants’ Rights (CAIR) Coalition each semester, sending students on “jail visits” to conduct intakes and assist with pro se representation.

This part of the article sets forth a framework for optimal law student engagement in immigrant detention centers. The framework is

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<sup>131</sup> *Id.* at 54. The Innovation LawLab’s database, which captures advocacy on behalf of detained families at both Dilley and Karnes, could potentially be mined to generate success rates for families in credible and reasonable fear interviews for law students versus attorney volunteers. This type of metric would be helpful in understanding the efficacy of law students and clinical programs, as suggested by Colleen F. Shanahan, et al., *Measuring Law School Clinics*, 92 *TULANE L. REV.* 547 (2018) (sharing the results of an empirical study aiming to answer the question of whether clinics meet their goals – teaching students to be good lawyers and serving an unmet legal need through their representation).

<sup>132</sup> It is worth noting that this work *is* being done. By early October 2017, the month of March was full with law school volunteer groups at the Dilley detention center. The SIFI Project, barely off the ground and having just launched several offices in the space of a few months, is also almost full for law student volunteers around Spring Break. Email correspondence with Crystal Massey, Dilley Pro Bono Project (Oct. 4, 2017) (on file with author); email correspondence with Natalie Lyons, Southern Poverty Law Center (Oct. 3, 2017) (on file with author). According to an email report from SIFI, five law schools engaged at four of the detention centers where SIFI operates over the March 2018 Spring Break. By mid-summer of 2018, the Dilley Pro Bono Project reported that despite doubling capacity for volunteers, volunteer slots were full until 2019, including many law students.

<sup>133</sup> See <http://today.uconn.edu/2016/03/helping-asylum-seekers-prepare-for-the-courts/>.

<sup>134</sup> See <http://www.law.siu.edu/academics/field-experiences/immigration-detention.html>. Students in Professor Jennifer Moore’s Fall 2017 Refugee Law class had the opportunity to visit the Cibola County Immigration Detention Center outside of Grants, New Mexico during a weekend conference devoted to the protection needs of queer and trans asylum seekers in detention. Email correspondence with Jennifer Moore, Oct. 16, 2017 (on file with author).

informed by three main goals:

- Ensuring adequate preparation and supervision for law students engaging in detention work;
- Avoiding a “false sense of success” that may be a risk where students only engage in family detention work and nothing more; and
- Avoiding “voluntourism,” or, simply, law students taking more than they give from a client population.

This framework focuses on 1) preparation on the part of both faculty and students, prior to the experience at the detention center, in order to provide the best possible and most flexible legal services, 2) trip design and logistics, 3) reflection during and after the trip, and 4) modes of continued engagement with detained or formerly detained immigrants. A one-page reference to the various components of the framework is included at Appendix II.

This framework assumes some level of faculty engagement in the trip. As discussed above, when analyzing student-led trips, the majority of those trips had some, if not robust, faculty participation, similar to the trips under clinical models and service-learning or practicum structures. The framework takes into account some of the advantages of the student-led trip, including student enthusiasm and the potential for continued engagement with detained, or formerly detained immigrants, and attempts to incorporate factors to maximize those positives into this framework.

#### *A. Pre-Experience Planning & Preparation*

Preparation is not always possible, particularly in the early days of a crisis. The unfortunate continuation of detaining immigrant children and their parents, combined with consistent law student engagement in representing those families, affords us the great privilege of being able to stand back and assess what has been done. Thus, this section examines the ideal preparation to undertake student work within immigrant detention centers.

Before laying out that framework, it is valuable to note that the inherent value in recognizing a lack of ideal preparation. As Professor Elizabeth McCormick points out, in leading a trip to Karnes in early 2015: “[t]he urgency of the situation caused all of us to think differently about what it means to be prepared and how effective lawyering is not always a matter of time spent preparing.” Nonetheless, some preparation is likely better than no preparation, and as the detention of families becomes further entrenched, Professors and students now have the time and learn from the previous efforts described in this

article to better prepare for student engagement in this work. Below are suggestions for preparation for faculty/attorney supervisors leading the trip along with preparation for student participants.

### 1. Preparation for Faculty/Supervising Attorneys

For law professors and supervising attorneys to be best prepared to lead a trip to an immigrant detention center, this article proposes the following steps: (1) conduct a scouting mission or consult with individuals who have previously led these trips, (2) engage in thoughtful collaboration with non-profit partners, (3) consider incorporating a non-legal component to the detention center experience, and (4) consider continuing engagement with detained families or other ways to provide context and avoid the “false sense of success.”

In the service-learning context, Professors Finger, Hlass, Hornsby, Kuo, and Van Cleave emphasize the importance of planning in taking on travel to an “affected region,” which here could be replaced with “detention center:”

Key aspects of such a plan would include: institutional support for faculty to supervise students who want to travel to affected regions, faculty supervisions to help vet the feasibility of travel versus remote support, and the provision of pre-travel briefings, trip supervision, and logistical support.<sup>135</sup>

Several professors responding to the survey recommended undertaking a “scouting mission,” to better prepare to take students, but also, for some professors to ensure that they would be able to properly play their supervisory role by engaging in the work themselves first. For some professors, engaging in the work themselves first also means that they have relieved their own urge to engage so that when they supervise students, they can truly take a backseat and advise and support the students, rather than engaging in casework themselves.<sup>136</sup>

Clearly, a “scouting mission” does not come without some considerable downsides. Funding the cost of an additional trip, for example, is a challenge. Potentially, however, a trip to scout out the location ahead of time might assist with avoiding unanticipated costs during the actual trip with students. Further, there may also be other

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<sup>135</sup> Finger et al., *supra* note 65, at 222.

<sup>136</sup> In their various service-learning trips, UDC Law faculty have attempted to take on the role of the supervisor as “facilitators and senior collaborators” rather than as “clinical supervisors, externship advisors, or, certainly, classroom lecturers.” Morin & Waysdorf, *Teaching the Reflective Approach*, *supra* note 64, at 601. As in traditional clinical pedagogy, they attempted to take on a non-directive approach to supervision during the service-learning experience. *Id.* (“We were particularly careful not to be too directive as supervisors while in New Orleans by hovering over the students, dictating their priorities, and micro-managing their work assignments.”).

ways to potentially gain the benefits of a scouting mission without actually traveling. At this point, for the family detention centers at least, we have an entire community of law professors who have led these trips before. Connecting by phone or in person with someone, or multiple attorneys, who have already led or participated in these trips is advisable preparation regardless of whether a scouting mission is possible.

Second, professors or others leading a law student trip to a detention center must ensure that they have established ties to the community that they plan to serve. Scholars who engaged in student responses to Hurricane Katrina underscored the importance of strong connection to the local community in order for students and faculty to provide meaningful assistance in “disaster-impacted areas,” which again here, could be replaced with “detention centers.”<sup>137</sup> Similarly, Professors Morin and Waysdorf emphasize that creating and maintaining strong relationships with community partners can assist in efforts to respond to the uncertainty of the nature of the work and legal services to be provided at any specific time.<sup>138</sup> Of course, in working with a detained and highly transient population, detained individuals have inherently less agency than individuals affected by a recent disaster. It must be recognized that attempts to engage with the advocates and legal service providers serving a detained population will not permit engagement with the community served equivalent to what may be possible when serving a disaster-affected area, or any non-detained population for that matter. Despite these difficulties, efforts to engage with the population students plan to represent prior to embarking on an intense week of representation are worthwhile.

One idea to attempt to gain insight and perspective from detained individuals specifically is to engage with families or individuals released from an immigrant detention center before the law student trip. This may be most easily facilitated in a law school clinic during the course of representation for clients formerly held in detention. Professor and/or student interaction with these clients and discussing their experiences in detention may provide key insight to prepare both supervisors and students for the detention center experience. For the 2018 UDC Law trip to Berks, we engaged in 25-plus hours of substantive class preparation, along with frequent communication with ALDEA’s on the ground advocate, including setting up a shared

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<sup>137</sup> Finger et al., *supra* note 65, at 222-23 (“Neither students nor faculty can provide meaningful assistance or support in disaster-impacted areas without a strong connection to the local community; developing relationships and partnerships serves as important groundwork.”).

<sup>138</sup> Morin & Waysdorf, *Teaching the Reflective Approach*, *supra* note 64, at 609.

drive. Although we did not have a formal orientation, we arranged dinner with the on the ground advocate and three of ALDEA’s volunteer attorneys the Sunday evening before entering the detention center on Monday morning.

Ideally, law professors would follow the model of professor Elora Mukherjee, who carefully set up representation of four families seeking bond ahead of time, through RAICES, the local service provider. In January 2015, Mukherjee was able to assign her Columbia Law School Immigrants’ Rights Clinic students in pairs to work with each family prior to, during, and after the trip, to gather evidence, write briefs, and gain trial experience at the bond hearings, making the trip much more akin to a more traditional clinical experience.

For the most part, however, law school clinics and programs engaging in family detention trips to date have not set up a special relationship with either of the organizations operating within Karnes or Dilley. Rather, students followed the model that is used for all legal volunteers. At Dilley, this is, as discussed above, a phone orientation, an intensive orientation Sunday evening, and then hitting the ground running on Monday morning.<sup>139</sup> At Karnes, this tends to be a phone orientation, with written materials, combined with a less formal orientation onsite Monday morning. Professors have typically followed this model.

This Article does not propose necessarily doing anything outside of this model, and, indeed the service providing organizations may lack the bandwidth to do anything more to prepare students to engage. Instead, this article proposes that professors and others leading these trips take the time to speak to professors and even students who have previously participated in this work. It must be emphasized, however, that a consistent presence by an organization is vital to the success of the one-week “alternative Spring Break” mode of engagement. Local partners have established systems and protocol to best engage with the ever-changing needs of the detained population and to negotiate access to counsel with ICE or the private prison contractors operating the detention center. Unless a law school can establish an ongoing presence and engagement at a detention center, coming in for a week to provide legal services without a local partner would likely not work well at all.

In the service-learning context, Professors Morin and Waysdorf

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<sup>139</sup> The author’s understanding of this process comes from having participated in the training and orientation herself as an employee of the American Immigration Council and the CARA Project in October 2016, but also more recently in listening in on a phone orientation in 2017. CARA and the Dilley Pro Bono Project have also made available all training materials for volunteers, which are on file with the author.

emphasize that students must relate to the place they are visiting and people with whom they are interacting as human beings. To that end, they included a non-legal component in the volunteer work in which the students engaged, such as rebuilding homes, “After all, we were traveling to New Orleans as people first, law students, lawyers, and law professors second. . .”<sup>140</sup> Professor Mary Treuthart at Gonzaga Law School took this a step further and incorporated largely non-legal based service-learning component into her Women and the Law course.<sup>141</sup> In the family detention context, the closest thing to this “non-legal” component has been where professors have had law students visit the Greyhound station in San Antonio, where released families await transportation to their final destination, or where students have visited the halfway house, maintained now by RAICES, where families stay following release and await onward transportation. This type of continuity and engagement may also mitigate some of the pitfalls of “voluntourism” discussed above.

## 2. Law Student Preparation

This framework suggests the following for optimal law student preparation to engage in this work: 1) engaging in the substantive law and procedures relevant to the detained population whom they will represent; 2) acquiring and practicing skills needed to engage with detained immigrants; 3) gaining an awareness of secondary or vicarious trauma; and 4) consulting with individuals who have already participated in a volunteer experience at a detention center, and/or with formerly detained individuals.

### a. Substantive Preparation in Relevant Areas of Law and Procedures

Perhaps the most obvious part of law student preparation to engage in work at an immigration detention center is the substantive law and procedures students must master to work effectively.

In response to the survey, professors shared their various modes of preparing students. No student survey respondents lamented their

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<sup>140</sup> Morin & Waysdorf, *Service-Learning Model*, *supra* note 53, at 598; Finger et al, *supra* note 65, at 234 (describing the disaster law seminar at Golden Gate University School of Law, where students traveled to New Orleans over Spring Break and engaged in legal research but also gutted homes to prepare for rebuilding and “count[ed] crayons in a school that had flooded to support claims for reimbursement money.”).

<sup>141</sup> Mary Pat Treuthart, *Weaving a Tapestry: Providing Context Through Service-Learning*, 38 GONZ. L. REV. 215 (2003) (discussing the various benefits of having law students engage in non-legal volunteer work, including recognizing that “social justice is broader than legal justice” and “enabling students to value the professionalism of non-lawyers who staff nonprofit and public agencies.”).



being over-prepared. Students enrolled in an immigration clinic, already engaging in similar work, may be adequately prepared by virtue of their other clinic work within and outside the clinic seminar. Some of the procedures with which students will engage within a family detention center specifically, differ from those a typical law school clinic handles. Students will need a far more rigorous understanding of the expedited removal system, in addition to an understanding of the elements of the refugee definition and key concepts in asylum law. They also need to understand the law governing custody and detention, and the procedures for bond, parole, and release.

Ideally, the content of the substantive preparation with which students engage should reflect the law and procedures more applicable to the detained population at the time students are engaging. This is another reason that close communication and collaboration with a local partner organization is important – to ensure that students are adequately prepared to meet the reality at the detention center.<sup>142</sup> For example, for the 2018 UDC Law trip to Berks, given that most of the families held at Berks during that time period were indigenous language speakers, in hindsight our course should have focused more on ethnicity-based asylum claims.

*b. Skills-based Training to Ensure Readiness to Engage at the Detention Center*

Many professors reported engaging in simulation exercises to provide students with an opportunity to practice working with clients in a fast-paced environment. Students must be prepared to issue spot and to respond quickly to red flags raised during an intake conversation with detained clients.

If the detention center experience is offered as a part of the clinic, likely most of the following skills will be covered during the course of the clinic seminar. If the experience is instead part of a practicum or a service-learning model, unless students had already completed a relevant clinical experience, many of these substantive skills should be addressed in preparation for the trip. These substantive areas include:

- Working in another language with clients
- Best practices for working with an interpreter
- Cultural competence
- Interviewing
- Client counseling

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<sup>142</sup> But, as Professor Emeritus Barbara Hines notes, you cannot prepare for the number or type of cases. Preparing students and having them understand asylum law makes them more efficient, but planning only goes so far. Students who engage in repeat jail visit trips become more efficient.

Working in another language with clients, even where the student is a native speaker, requires preparation and discussion to ensure that the students have the relevant terminology and ways of expressing legal concepts in another language in a way that clients can understand.<sup>143</sup> Likewise, working with an interpreter is a learned skill and one that students should practice and master prior to hitting the ground in a fast-paced detained setting.<sup>144</sup>

Recognizing that cultural competence is a constantly evolving process, rather than a destination, faculty leading these trips should be prepared to engage students in the relevant cultures prior to leaving for the trip.<sup>145</sup> In recent years, family detention centers have overwhelmingly held families fleeing violence in Central America. Some faculty members have screened *Sin Nombre*, a film addressing the dangers of life in Central America and the journey north to the United States. Another film to prepare students for their experience and to understand the history of family detention is *The Least of These*,<sup>146</sup> which follows the story of the Don T. Hutto detention center when it detained immigrant families back from 2006-2009. Other ideas include assigning reading and discussing news articles, or even books,<sup>147</sup> prior to embarking on the trip. Faculty should maintain flexibility and contact with the local organization working within the detention center to understand the shifting nature of the population. In 2017, for example, at the Dilley detention center, the Dilley Pro Bono

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<sup>143</sup> To understand some of the difficulties presented by detained families who do not speak English, particularly for indigenous language speakers, see Eagly et al., *Detaining Families*, *supra* note 9, at 822-26.

<sup>144</sup> Clinical professors have provided guidance for teaching students about working across language barriers. See, e.g., Muneer I. Ahmad, *Interpreting Communities: Lawyering Across Language Difference*, 54 UCLA L. REV. 999 (2004); Angela McCaffrey, *Don't Get Lost in Translation: Teaching Law Students to Work with Language Interpreters*, 6 CLINICAL L. REV. 347 (Spring 2000).

<sup>145</sup> An excellent starting point for professors teaching cultural competence is Sue Bryant and Jean Koh Peter's work on the five habits. See Sue Bryant, *The Five Habits: Building Cross-Cultural Competence in Lawyers*, 8 CLINICAL L. REV. 33 (Fall 2000).

<sup>146</sup> See *THE LEAST OF THESE* (2009), <http://theleastofthese-film.com/>. Another short film that might prepare students for work within family detention center, *No Sanctuary*, is produced by Grassroots Leadership, and is available online. See <http://vimeo.com/user36179554/nosanctuary>.

<sup>147</sup> The UDC Law 2018 service-learning course assigned Lauren Markham's *THE FAR-AWAY BROTHERS* (2017) (following the journey of two brothers from El Salvador in fleeing violence in their home country and seeking protection in California). Other potential books to consider include: SHANTI SERKARAN, *A LUCKY BOY* (2017) (a novel focusing on a young Mexican mother who is detained and separated from her son as she undergoes removal proceedings); MARK DOW, *AMERICAN GULAG: INSIDE U.S. IMMIGRATION PRISONS* (2004) (an examination of the U.S. immigration detention industry); SUSAN J. TERRIO, *WHOSE CHILD AM I? UNACCOMPANIED, UNDOCUMENTED CHILDREN IN U.S. IMMIGRATION CUSTODY* (2015) (focusing on unaccompanied children, rather than those arriving with their parents).

Project reported seeing families from Vietnam, Belarus, Romania, Kyrgyzstan, Uzbekistan, Vietnam, Egypt, Haiti, Turkey, and the Democratic Republic of the Congo.<sup>148</sup> At Berks, ALDEA has seen clients from Brazil, Armenia, and Russia in the last year, in addition to those fleeing the Northern Triangle. Understanding the detained population at the time of planned student engagement will help to improve student and faculty cultural competence.

Law school clinics often teach interviewing skills through simulation-based exercises and often during more than one class. While this could be replicated specifically for the family detention trip, another mode of preparation could be modeling.<sup>149</sup> Given the large numbers of detained immigrant families, advocates at detention centers have set up ways for individuals to volunteer remotely. At the family detention centers currently, it is possible to volunteer to remotely conduct a preparatory session for a credible fear interview by phone. For the UDC Law 2018 Berks trip, I arranged to conduct prep sessions with detained families by phone and invited students to listen in on speaker-phone and debrief afterwards. These sessions also involve a heavy element of client counseling, as the attorney must advise the client what to expect during a credible fear interview and to help the client understand how her story fits within the relevant legal criteria. Thus, these sessions not only demonstrate interviewing skills and cultural competence, but also client counseling. Doing this could also strengthen ties between the faculty member leading the trip and the local organization at the detention center and lead to more effective collaboration.

Other skills focused on for the UDC Law 2018 Berks trip included oral advocacy in immigration court. Retired immigration Judge Paul Schmidt generously volunteered his time to conduct six negative credible fear reviews in our moot courtroom, so teams of students got to work with real (redacted) fact patterns and documents in making a case to overturn the asylum office’s negative credible fear determination. Given how many credible fear interviews the students attended during the week, in hindsight it would have been a good idea to add a class exercise focused on preparing and delivering closing statements

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<sup>148</sup> Emails to Artesia OTG listserv from Katy Murdza, Advocacy Coordinator, Dilley Pro Bono Project (Oct. 4, 2017, Sept. 27, 2017) (on file with author).

<sup>149</sup> For a discussion of the benefits of modeling, see Harriet N. Katz, *Reconsidering Collaboration and Modeling: Enriching Clinical Pedagogy*, 42 GONZ. L. REV. 315, 336 (2006); see also Serge A. Martinez, *Why Are We Doing This? Cognitive Science and Non-Directive Supervision in Clinical Teaching*, 26 KAN. J. L. & PUB. POL’Y 24 (2016) (questioning clinical legal education’s traditional reliance on nondirective supervision and highlighting the value, based on cognitive science and learning theory, of other approaches, including modeling).

at the end of the interview.

*c. Gaining an Awareness of Secondary or Vicarious Trauma*

Many survey respondents, professors and students alike, highlighted the importance of self-care and of understanding the phenomenon of secondary trauma. Of course, this is not the first time that clinicians have had to prepare students to engage with traumatized clients and guidance exists for this work.<sup>150</sup> In addition to preparing students to effectively interview, counsel, and represent traumatized individuals, clinicians and leaders of these intensive trips to detention centers must also educate students as to the phenomenon of vicarious traumatization. Laurie Pearlman and Karen Saakvitne define vicarious traumatization as the “negative effects of caring about and caring for others.”<sup>151</sup> Other terms are also used to express the effects of working with traumatized individuals, and include “burnout”<sup>152</sup> and secondary traumatic stress or compassion fatigue.<sup>153</sup> The phenomenon of countertransference can also come into play where an individual helper (lawyer’s) own unresolved issues influence their response to working with trauma survivors, sometimes leading to avoidance and overidentification with the client.<sup>154</sup> One of the important pieces of vicarious or secondary trauma is that awareness of the phenomenon can actually prevent the onset of symptoms. Thus, it is important to

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<sup>150</sup> See, e.g., Lynette M. Parker, *Increasing Law Students’ Effectiveness When Representing Traumatized Clients: A Case Study of the Katharine & George Alexander Community Law Center*, 21 GEORGETOWN IMM. L. J. 163 (2007); Ingrid Loreen, *Therapeutic Jurisprudence and the Law School Asylum Clinic*, 17 ST. THOMAS L. REV. 835 (2005); Sarah Katz & Deeya Haldar, *The Pedagogy of Trauma-Informed Lawyering*, 22 CLINICAL L. REV. 359 (2016); Carol M. Suzuki, *Unpacking Pandora’s Box: Innovative Techniques for Effectively Counseling Asylum Applicants Suffering from Post-traumatic Stress Disorder*, 4 HASTINGS RACE & POVERTY L. J. 235 (2007); Julie Marzouk, *Ethical and Effective Representation of Unaccompanied Immigrant Minors in Domestic Violence-Based Asylum Cases*, 22 CLINICAL L. REV. 395 (2016).

<sup>151</sup> Dena J. Rosenbloom, Anne C. Pratt & Laurie Anne Pearlman, *Helpers’ Responses to Trauma Work: Understanding and Intervening in an Organization*, in SECONDARY TRAUMATIC STRESS: SELF-CARE ISSUES FOR CLINICIANS, RESEARCHERS AND EDUCATORS 65-79 (B. Hudnall Stamm ed., 1999).

<sup>152</sup> “Burnout is often defined as a prolonged response to chronic emotional and interpersonal stressors on the job which consists of three components: Exhaustion, depersonalization (defined as: disengagement or detachment from the world around you) and diminished feelings of self-efficacy in the workplace. It reflects a form of ‘energy depletion’” DONALD MEICHENBAUM, SELF CARE FOR TRAUMA PSYCHOTHERAPISTS AND CAREGIVERS: INDIVIDUAL, SOCIAL AND ORGANIZATIONAL INTERVENTIONS (undated), [https://www.melissainstitute.org/documents/Meichenbaum\\_SelfCare\\_11thconf.pdf](https://www.melissainstitute.org/documents/Meichenbaum_SelfCare_11thconf.pdf).

<sup>153</sup> Charles R. Figley & Rolf J. Kleber, *Beyond the “victim”*: Secondary traumatic stress, in BEYOND TRAUMA: CULTURAL AND SOCIETAL DYNAMICS 75-98 (Rolf J. Kleber et al. eds., 1993) (using compassion fatigue to refer to the adverse reaction of helpers, which can of course include lawyers, to working with trauma survivors).

<sup>154</sup> MEICHENBAUM, *supra* note 152, at 3.

properly prepare law students for the intensive experience of engaging, repeatedly and in a high-stakes environment, with survivors of trauma.

Many of the law professors who have led trips to family detention centers have done just that. Professor Mimi Marton, from the University of Tulsa College of Law, shared that as a former social worker herself she conducted several “training sessions on working with traumatized clients, self-care and vicarious trauma. We talked about coping mechanisms, and students were required to participate in a nightly processing session that dealt not only with legal questions that may have arisen during the day, but with their emotional reaction to the stories they were hearing.” Marton suggests that ideally there would also be a social worker or therapist on call to process with students by phone if there were aspects of what they are experiencing that they would prefer not to discuss with their professors.<sup>155</sup> For TU Law’s May 2018 trip, they planned to include a psychology professor and one of her graduate students, both specializing in trauma and vicarious trauma.

Similarly, during their most recent trip to Karnes in 2016, St. Thomas University School of Law, led by Professor Lauren Gilbert, arranged for a trauma counselor to accompany the students on the trip. The trauma counselor engaged substantively with the detained families, but also with the law students, helping them to work through secondary trauma and conducting mindfulness exercises with them each morning. In the same vein, professor Natalie Nanasi at Southern Methodist University Dedman School of Law invited a mental health expert (who was a counselor at a Dallas domestic violence shelter) to join the group of students that she led to Karnes in early 2017. The counselor led nightly debriefing sessions with the student, which Nanasi believes made the trip an “empowering, as opposed to demoralizing” experience.

Similarly, after her first trip with students to Dilley, Texas, in January 2015, Professor Elora Mukherjee at Columbia realized the emotional toll the work took on students and subsequently “invited a psychiatrist to speak with [the] clinic about vicarious trauma, compassion fatigue, and related issues.”

Professors who have led trips without a great deal of preparation on trauma and self-care expressed in the survey that they would integrate that component in more depth if they led another trip in the

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<sup>155</sup> The mental health professional can also play several key roles in actually providing assistance in representation of the asylum seekers. See Sabrineh Ardan, *Access to Justice for Asylum Seekers: Developing an Effective Model of Holistic Asylum Representation*, 48 U. MICH. J. L. REFORM 1001 (Summer 2015).

future. Thus, integrating a component to educate students on the concept of vicarious or secondary trauma, in addition to providing them with tools (or having them brainstorm their own)<sup>156</sup> to cope with their feelings is a valuable piece of the preparation to engage in work within an immigrant detention center. Faculty who have led such trips have done so in a variety of ways – from a preparatory session with a mental health professional to a debriefing session following the trip, to live-debriefing while immersed in the week at the detention center and a mental health professional, or even social work students, accompanying law students on the trip itself.

*d. Interacting with Individuals Who Have Previously Engaged in Detention Work*

One recommended mode of preparation is for students who have already gone on a trip to a family detention center to be involved in preparing the next group of students to go. Both professors and student respondents to the survey seemed to think that this preparation was effective. It was invaluable for the UDC Law 2018 Berks trip to have two students in the service-learning course and on the trip who had already spent a week volunteering inside Karnes the previous year. This type of interaction is possible even if a law school is launching a trip for the first time. In September 2018, for example, as Pennsylvania State Dickinson's School of Law's Professor Shoba Wadhia Sivaprasad prepared to take her clinic students to Berks, she held a question and answer session for her students with me and a UDC Law student who had gone on our Berks trip earlier in 2018. This type of peer-to-peer education has been provided in a variety of formats and also connects with the "report back" events discussed below.

Another potential mode of preparation is to have students interact with formerly detained families or individuals before embarking on their stint inside the detention center. For trips conducted as part of a clinic, this may occur naturally as it is foreseeable that a direct service immigration clinic would represent individuals or families released from detention. For trips outside of a clinic, or where the clinic does not represent any such individuals, setting this up may be more difficult to do. In the family detention context, however, the CARA Project maintains a Facebook page through which it may be possible

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<sup>156</sup> Within my own law school clinic each semester I have students engage in a self-care exercise which involves brainstorming the ways in which their life well – their residue of energy is depleted and ways in which their well is filled. Students engage in the exercise on their own and then share any of the activities or issues that fill and deplete their well with the whole class. I adapted this exercise from Liala Buoniconti, LICSW with the Harvard Immigration and Refugee Clinical Program.

to connect with released families throughout the United States. Some of the released mothers are quite eager to raise awareness and educate the public regarding the plight of detained families and may potentially be interested in interacting with law students preparing to advocate for these families.

### B. Design and Logistics

Elements of structure or design of a student volunteer experience at a detention center should be carefully considered. This section discusses the timing of a detention center trip, the logistics of accommodation, faculty-to-student ratio and supervision by non-faculty, malpractice or liability insurance, and planning for interpretation.

First, a question that arises is *when* to travel to a detention center with students. Obviously a logical time to travel is over Spring Break, as this provides a natural break in the semester and is nicely positioned, if offering this opportunity as part of a clinic or a practicum/service learning course, to prepare students and then have some time within the semester to debrief. However, only so many volunteers are needed at any one time at Dilley, Karnes, Berks, or any other detention center with staff present to facilitate this type of student engagement. Consider traveling over the winter break, in December or January, in May after the finals period, or over the summer.

Second, the question arises as to *where* exactly to stay when engaging in detention work. At Dilley and Karnes, the option of staying in San Antonio is possible, although this requires more than an hour of driving to the detention center each way. This drive time can be used for more information preparation, debriefing, or reflection, but it may be more ideal to stay closer to the detention centers themselves to allow for more immediate access and a slightly more low-key week. In Berks, there are a number of accommodation options within a fifteen minute or less drive of the detention center in Reading and the surrounding towns. One consideration is having the space to conduct nightly debriefs and to consider confidentiality concerns. Depending on the size of the group, it may or may not be possible to do this within a hotel room and a conference room may be required.

Third, ideally the student to faculty/supervisor ratio should not exceed the typical maximum ratio in clinic, again, an 8:1 ratio.<sup>157</sup> Professor Isabel Medina of Loyola New Orleans took nine students on her trip and recommends less than that for adequate supervision.<sup>158</sup>

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<sup>157</sup> See Joy, *supra* note 112, at 309, n. 1.

<sup>158</sup> I took 12 students to Berks in Spring 2018, with an attorney alumna and with our law school Dean, Shelley Broderick. The alumna and Dean were wonderful, but not fully qualified to supervise students in immigration work, so, 12 students was a large number to take.

Other professors prefer a 4:1 ratio, or, if there are 8 students, for the students to work in pairs. The number of students also depends on the space allowed. At Karnes, for example, there are only five private rooms, so with a large number of volunteers privacy may be sacrificed if having to work with clients in the corner of a larger shared space. Within Berks, there are only three legal visitation rooms, which are often in use for credible fear interviews or for meetings with detention center staff. Thus, when large groups of volunteers come, they are typically set up in the gymnasium with tables scattered around the gym floor, which can be noisy and lead to a lack of total privacy.

If there are non-profit partners present at a detention center, the staff and attorneys may indeed engage with and at times supervise students, but that engagement will be inherently inconsistent. As one window into supervision during these trips, of the 42 students who responded to the survey, 24 felt that they were adequately supervised. 16 of the students responded that their supervision was “sort of” adequate, and two students felt that the supervision was lacking or that there was none at all. In terms of who was doing the supervision, 55% of student survey respondents reported that they were primarily supervised by their professor or the attorney who accompanied them on the trip, while 19% said their primary supervision was by project staff or attorneys, and 21% reported primary supervision by staff members who were *not* attorneys. This raises concerns about the unauthorized practice of law, so care should be exercised to ensure that where students are engaged in legal work, a licensed attorney acts as the supervisor.

Fourth, some institutions may be concerned about malpractice or liability insurance for the attorneys supervising students on the trip. This is an issue that should be explored before committing to a trip. The Dilley Pro Bono Project does not require attorney volunteers to have malpractice coverage, but, if they do not, the staff make efforts to avoid staffing those attorney volunteers on cases requiring court appearances or attending an interview with the asylum office with a client.<sup>159</sup> RAICES, at Karnes, have negotiated with their insurer to cover 500 volunteer attorneys a year working within Karnes.<sup>160</sup> This topic was not covered in the original survey of law professors leading the trips, but the author reached out in an email on January 22, 2018,

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The most appropriate analogy was that supervising students felt like waiting tables, day and night, matching students with clients and interpreters, troubleshooting and giving feedback on their work within and outside the detention center.

<sup>159</sup> Email correspondence with Crystal Massey, Volunteer Coordinator, Jan. 18, 2018 (on file with author).

<sup>160</sup> Email correspondence with Manoj Govindaiah, Director of Family Detention Programs, RAICES, January 23, 2018 (on file with author).



to survey respondents regarding the issue of malpractice insurance or liability coverage. Responses were varied, but, in general, professors who had led trips through their existing clinical program were covered by the malpractice insurance already covering their clinical work. For professors leading trips outside of clinic, they typically had to ensure that they were covered by the school's more general malpractice or liability coverage. Either way, this is an issue that should be on the radar of any professor or institution planning to undertake a trip with students engaging in work in a detention center.

Finally, careful thought and planning must be made with regards to interpretation. Some professors shared that their non-Spanish speaking students struggled to have meaningful work within the detention centers. Students themselves frequently reflected that they wished they had learned or improved their Spanish before going on a family detention center trip. It is possible, of course, to partner a Spanish-speaking and non-Spanish speaking law student, but some ground work should be done to ensure that the Spanish speaker does not become only the interpreter for the non-Spanish speaker and likewise that the non-Spanish speaker feels he/she is an active participant. Professor Medina from Loyola New Orleans had students work in groups of three, with one student as interpreter, one as a note-taker, and the third-year law student in the team operating as a student attorney. During the 2018 UDC Law trip to Berks, four students participated in the trip with the knowledge that they are primarily working in an interpretive capacity to support the students enrolled in the service-learning course. Clinicians are accustomed with confronting these language issues and can manage them in any number of ways. Working with a partner can of course foster collaboration and potentially be less overwhelming for students, but can of course also be somewhat less efficient and result in seeing fewer clients.<sup>161</sup>

In an effort to preempt this issue, it may be wise to include Spanish-speaking undergraduate or other students to assist in interpretation. A successful, but unanticipated collaboration occurred at Dilley when undergraduate Spanish majors from the University of South Dakota were volunteering at Dilley at the same time as a law school group. The end result was that undergraduates from one institution and non-Spanish speaking law students worked together effectively. The Dilley Pro Bono Project has been suggesting this model for other law schools coming with non-Spanish speaking law students.<sup>162</sup>

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<sup>161</sup> For a detailed analysis of student collaboration in clinical work, see David F. Chavkin, *Matchmaker, Matchmaker: Student Collaboration in Clinical Programs*, 1 CLINICAL L. REV. 199 (1994).

<sup>162</sup> Email correspondence with Crystal Massey, Dilley Pro Bono Project, Oct. 5, 2017.

If schools are not able to arrange for an adequate number of interpreters to travel to the detention center, for whatever language needs exist at the time of the trip, they should arrange to have volunteer interpreters remotely available to provide interpretation services as needed.

### C. Continued Engagement

Continued engagement with individuals who are or were detained is important to provide context for law student engagement in detention work. In the family detention center context, where in the past close to 90% of families receive a positive result in a credible fear interview and are now released, the story does not end there. Instead, families are released and struggle to secure representation and understand the convoluted process of applying for asylum relief. The immigration court backlogs mean that often families wait for years to have their claims adjudicated.<sup>163</sup> Giving law students an understanding of the long struggle for justice and protection is possible through continued engagement through the clinic, practicum, or even pro bono trip.

Half of the 42 law student survey respondents reported that they have continued to participate in advocacy around family detention following their detention center trip. This includes working remotely to: draft requests for reconsideration or re-interview with the asylum office, prepare detained families for credible or reasonable fear interviews, translate written documents, interpret by phone, assist with data entry into the LawLab database, and prepare bond motions or supporting evidence. Students also reported continuing their work through internships or volunteering with other immigration-related NGOs, and starting or engaging with a student group at their law school, including working to recruit students for and organize subsequent trips to family detention centers. It is also worth noting that students who have gone on trips to family detention centers have gone on to launch their careers specifically in this work.<sup>164</sup>

The student survey did not capture the students' potential continuing work through their clinic, but a number of law school clinics have continued to incorporate work with detained or released families into their curriculum. For the Columbia Immigrants' Rights Clinic, for example, rather than parachuting in and remaining engaged for a short time period, the clinic retained clients that they met in Dilley deten-

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(on file with author).

<sup>163</sup> See Harris, *The One-Year Bar*, *supra* note 113, at 1204-08.

<sup>164</sup> Andrea Meza, for example graduated from UT in 2015 and then served for two years as the Equal Justice Works fellow deeply involved with work at Karnes with RAICES. Law students have also returned to Dilley, Karnes, and Berks as summer interns.

tion center and continued to provide representation in the months ahead. The clinic also set up a bond fund to raise money to pay the unreasonably high bonds set, at that time, for the release of the immigrant families. Following the January 2015 clinic trip, Clinic students authored a white paper.

Other clinics, including UDC Law and Pace Law School, have also retained clients released from the detention centers who relocated to within their jurisdiction. UDC Law and Elon University Law students have also continued to represent clients in Texas, traveling back to the state to represent released families at the merits stage of their asylum proceedings. Students at American University Washington College of the Law continued to engage with remote representation after they returned from their two trips to the Artesia, New Mexico detention center in Fall 2014.

Continued engagement may mean representation beyond the one-week trip of detained families or released families, but there are other less time and resource intensive ways to engage. Following the UDC Law 2018 Berks trip, students were required to observe an asylum merits hearing at our local immigration court, as part of the course, following their detention center experience. This court observation, combined with discussion and reflection, provided context for students following their week spent at a family detention center. Continued engagement may also include attending relevant events, lectures, or participating in webinars, on a related topic, and all of this can be built into clinic, practicum, or even pro bono trip requirements, particularly where the trip is funded even in part by the law school.

#### *D. Contemporaneous Reflection*

A critical part of experiential learning is reflection. Indeed, the ABA’s definitions for experiential courses, externships, clinics, and simulations mandate that each provide “opportunities for self-evaluation.”<sup>165</sup>

Of the 42 students who responded to the survey, only 33 responded to the question regarding whether they produced any reflection materials while at the family detention center. A third of the respondents indicated that they did not produce any reflection materials, leaving around half of the overall students surveyed reporting va-

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<sup>165</sup> The ABA has not provided a definition of “self-evaluation,” but the AALS Section on Clinical Legal Education suggests that it is: includes “two-inter-related aspects,” 1): “the capacity to assess a specific lawyering performance and make appropriate changes; and [2]) the capacity to reflect on experience more generally so as to improve insight, broaden understanding, and develop decision-making ability.” AMERICAN ASSOCIATION OF LAW SCHOOLS, SECTION ON CLINICAL LEGAL EDUCATION, GLOSSARY FOR EXPERIENTIAL EDUCATION, *supra* note 71.

rious modes of reflection. Some students wrote required daily journal entries, others spontaneously maintained a personal journal, others maintained video journals, and several produced blog posts, op eds, written reflections, and postings for their law school websites.

Professors Morin and Waysdorf consider reflection an “integral and indeed essential aspect of the service-learning pedagogy.”<sup>166</sup> They define reflection as “deliberate contemplation and self-examination of one’s actions, goals, and personal transformation. . .”<sup>167</sup> In their own service-learning program, from 2007-2011, the UDC Law professors had asked students to journal about their experiences, before, during, and after the service-learning trip itself. Professors Morin and Waysdorf found that students needed guidance as to what a journal entry was, and they suggested the students follow a “three-part timeline: (1) pre-service trip goals, issues, and preconceptions; (2) contemporaneous descriptions of the service-learning experience; and (3) post-service reflections, concerns, and lessons learned.”<sup>168</sup> They ultimately concluded that, “written journals and occasional videos were of limited value.”<sup>169</sup> And so, in 2011, Professors Morin and Waysdorf established a new component of the service-learning trip, which they termed “reflection circles.”<sup>170</sup> In these reflection circles, each morning of the service-learning trip itself professors and students met to “talk about the meaning of their experiences.”<sup>171</sup> The instructors acted as “coach/facilitator” and “raised questions to start students thinking about their experience, validated comments, encouraged a free exchange of ideas, and sometimes asked follow up questions to deepen the dialogue.”<sup>172</sup> The goal was to help students to develop “reflective judgment,” which they define as: “permit[ting] an expert to move easily between theoretical reasoning and a highly contextual understanding of client, case, and situation.”<sup>173</sup> Notably, the reflection circles also focused on professional growth and identity.<sup>174</sup>

Professors Waysdorf and Morin’s “reflection circles” idea is similar to the Big Table debriefing conducted by Dilley Pro Bono Project staff.<sup>175</sup> Law student groups have inconsistently participated in this exercise, which typically happens now only two evenings during the

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<sup>166</sup> Morin & Waysdorf, *Teaching the Reflective Approach*, *supra* note 64.

<sup>167</sup> *Id.* at 611.

<sup>168</sup> *Id.* at 604.

<sup>169</sup> *Id.*

<sup>170</sup> *Id.* at 605.

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

<sup>173</sup> *Id.* at 605-606 (citing Louise Howells & Laurie Morin, *The Reflective Judgment Project*, 9 CLINICAL L. REV. 623 (2002)).

<sup>174</sup> *Id.* at 606.

<sup>175</sup> See MANNING, *supra* note 34 (discussing the concept of “Big Table” at Artesia).

week – Monday and Thursday – as it is not always offered and Professors have sometimes opted out. In some instances, trip leaders are conducting their own debriefing sessions in less formal settings, including over shared meals or in the car/van while driving. Other trip leaders have incorporated an aspect of self-care into the contemporaneous reflection, including bringing a social worker to consult with students after a day’s work at the detention center, or to conduct mindfulness exercises in the morning, before the day’s work begins. During the UDC Law 2018 Berks trip, after each day within the detention center, we gathered in the hotel lobby to debrief the day, sharing highs and lows for the day and responding to one other question – i.e. “Monday: What surprised you today?, Tuesday: What felt different today?” Regardless of how precisely it is done, contemporaneous reflection is a central feature of these trips and is worth incorporating into the structure of the experience.

#### *E. Post-Trip Reflection*

Professors engaged with service-learning initiatives in the wake of Hurricane Katrina emphasize the importance of post-trip reflection and “other follow up at their home institutions.”<sup>176</sup>

Several professors responding to this survey shared that their students conducted or plan to conduct a report-back session at their law schools following their family detention trip, including Cardozo Law School, American University Washington College of Law, SMU Dedman School of Law, UDC Law, UCLA Law, and others. This model of synthesizing the experience and presenting it to others, who did not share the experience, has numerous benefits.

First, in terms of building students’ skill sets, requiring them to speak publicly about an intense experience is a good idea. A report-back event provides meaningful opportunities to teach and learn how to channel passion and anger around a topic into effective communication or advocacy. Second, this type of presentation involves collaboration among the students, and improving teamwork and communication skills is often a goal of many clinical programs. Third, a community report-back energizes and prepares the next group of students to go on the trip, and creates shared institutional memory and culture around the effort.

The report-back event may also be used to meet other goals. First, the event prepares future students to engage in detention center

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<sup>176</sup> Finger et al., *supra* note 65, at 222. This follow-up includes, for example, Golden Gate University School of Law students who reported back to their law school community following their March 2007 trip to New Orleans, which led to the organizing of another trip the following year. *Id.* at 234.

work. Second, if incorporating formerly detained individuals, the event provides an opportunity for better preparation for future students and continued engagement with the community served for students who worked in the detention center.

Typically, if the trip did not involve a post-trip reflection session or some sort of writing assignment on the experience, professors' survey responses indicated that they would add additional reflection and reflective writing. It is also a good idea to ask students to provide a written evaluation to provide insight for organizing the next trip.

### CONCLUSION

We are in an era of incredible need for immigration legal services. That need is most acute within detention centers located outside of major metropolitan areas. An overwhelming need remains for legal representation for detained families.<sup>177</sup> Law students can play a role in meeting this justice gap. This Article analyzes the efforts that have been made thus far, in the family detention arena, and proposes a framework for law students and their institutions to engage beyond family detention and into the detention centers at large. We must harness the energy and enthusiasm for protecting families and take that energy to provide a window to justice for immigrants detained throughout the nation. This will allow a better allocation of resources and energy. We do not need multiple law schools at Dilley or Karnes during the same week over Spring Break. The same basic principles, of preparation for a trip to a family detention center apply to engagement in detention work more broadly.

This Article leaves questions unanswered. Where should we draw the line in crisis lawyering between preparation and timely response? Should the work at immigration detention centers be left to law schools located within that region? Is engaging in frenetic and fast-paced crisis lawyering a valuable experience for law students, or does it send mixed messages about the practice of law? Rather than confusion, does the crisis lawyering actually provide a necessary complement to the more reflective, deliberate and slower-paced work traditionally undertaken in clinical legal education?

The author's intention here is to open up a conversation and share this article as an invitation for others to take up the mantle and share best practices and effective engagement for law students in crisis response. Sadly, recent events, in the immigration arena, but also nat-

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<sup>177</sup> See Eagly et al., *Detaining Families*, *supra* note 9, at 821 (reporting that although detained families have typically enjoyed higher rates of representation than non-family detained individuals, during the studied period, from 2001-2016, 47% of detained families never found counsel).

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ural disasters, including Hurricanes Irma, Harvey, and Maria, and most recently Florence, will provide ample opportunity for such engagement.

APPENDIX I: LIST OF LAW SCHOOLS WHO HAVE PARTICIPATED IN TRIPS TO FAMILY DETENTION CENTERS

American University Washington College of Law	Artesia, October 2014, <sup>178</sup> November 2014 <sup>179</sup>
Brigham Young Law School	Dilley, June 2016 (Law Professors), October 2016, February 2017, <sup>180</sup> August 2017, October 2017, Feb. 2018
Brooklyn Law School	Karnes, 2017
Cardozo Law School	Dilley, May 2015, February 2017, October 2017
Case Western Reserve Univ. School of Law <sup>181</sup>	Dilley, March 2016
Chicago Kent College of Law	Dilley, March 2018
Columbia Law School	Dilley, January 2015, <sup>182</sup> May 2015, August 2015 (x2), September 2015, January 2016, May 2016, September 2016, January 2017, March 2017
Duke Univ. Law School <sup>183</sup>	Dilley, March 2017
Elon Univ. – Elon Law	Karnes, March 2015
Fordham Law School	Dilley, March 2016, June 2016 (Law Professors/Staff), August 2016, January 2017, March 2017, <sup>184</sup> Nov. 2017, Jan. 2018, March 2018.
Gonzaga Law School	Karnes
Howard Law School	Dilley, March 2017
Harvard Law School	Karnes, Dec. 2014/Jan 2015, Dilley, August 2016
Idaho Law School	Dilley, March 2017
Lewis & Clark Law School <sup>185</sup>	Dilley, March 2015, <sup>186</sup> May 2015, August 2015, May 2016, August 2016, Dec. 2016, <sup>187</sup> March 2017, Dec. 2017

<sup>178</sup> *Where Justice Hits the Road: Clinic Students in Artesia, New Mexico*, Oct. 24, 2014, <https://auwclclinic.org/2014/10/24/where-justice-hits-the-road-clinic-students-in-artesia-nm/>; *Libre Soy*, October 31, 2014, <https://auwclclinic.org/2014/10/31/libre-soy/>.

<sup>179</sup> *Some Things Should Never Be Normal*, Dec. 14, 2014, <https://auwclclinic.org/2014/>

<sup>180</sup> Mariah Noble, *BYU Law Students Help Fleeing Immigrants Caught Between Countries*, The Salt Lake Tribune, April 5, 2017, <http://archive.sltrib.com/article.php?id=5001136&itype=CMSID>

<sup>181</sup> <http://thedaily.case.edu/law-students-devote-spring-break-to-immigration-detainees-at-family-residential-center-in-texas/>

<sup>182</sup> [http://www.law.columbia.edu/media\\_inquiries/news\\_events/2015/february2015/irc-dilley-trip-2015](http://www.law.columbia.edu/media_inquiries/news_events/2015/february2015/irc-dilley-trip-2015)

<sup>183</sup> <https://law.duke.edu/news/bakst-17-receives-two-year-equal-justice-works-fellowship/>

<sup>184</sup> <https://soundcloud.com/fordhamlawnyc/in-open-country> (students Alex Mintz and Emerson Argueta discuss their experiences volunteering at the Dilley detention center during various Fordham Law Schools in 2016 and 2017).

<sup>185</sup> <http://www.lclark.edu/live/news/36349-law-on-the-border>.

<sup>186</sup> <https://law.lclark.edu/live/news/29921-pro-bono-work-in-texas>.

<sup>187</sup> <https://law.lclark.edu/live/news/35211-pro-bono-at-the-border>.



Loyola University New Orleans	Karnes, 2016
Mitchell Hamline School of Law	Dilley, January 2018
Pace Law School	Dilley, March 2016, April 2017
New York Univ. School of Law	Dilley, January 2017
North Carolina State	
Roger Williams University School of Law	Karnes, Spring 2015
Santa Clara Univ. School of Law	Dilley, February 2017
Southern Methodist Univ. Dedman School of Law <sup>188</sup>	Karnes, March 2017
Stanford Law School	March 2017, September 2017, March 2018
St. Mary’s School of Law	Karnes, repeated engagement
St. Thomas Univ. School of Law	Karnes June 2015, Dec. 2015.
Univ. of California, Los Angeles Law	Dilley, July 2015, <sup>189</sup> June 2017
Univ. of the District of Columbia – David A. Clarke School of Law	Karnes, Summer 2015, <sup>190</sup> Dilley, March 2016, Karnes, March 2017, Berks, March 2018 <sup>191</sup>
Univ. of Florida Levin College of Law	Dilley, March 2017
Univ. of Houston Law	Dilley, July 2016, February 2017, Karnes (three trips between 2014-2017, over the weekend)
Univ. of Maine School of Law	Artesia, November 2014 <sup>192</sup>
Univ. of Minnesota	Dilley, January 2016, January 2017 <sup>193</sup>
Univ. of New Mexico	Karnes, Spring 2015
Univ. of San Francisco School of Law	Dilley, July 2016
Univ. of St. Thomas School of Law	Karnes, June 2015, Dec. 2016
Univ. of Tennessee	Artesia, Fall 2014
Univ. of Texas School of Law	Dilley, January 2017, Karnes, January 2017 <sup>194</sup> (and repeated day trips as a clinic)
Univ. of Tulsa College of Law	Karnes, 2015, <sup>195</sup> 2017

<sup>188</sup> <https://www.smu.edu/News/2017/law-students-spring-break-06march2017>.

<sup>189</sup> <https://law.ucla.edu/news-and-events/in-the-news/2015/07/professor-eagly-leads-group-of-ucla-law-students-on-trip-to-detention-center-in-dilley-texas/>.

<sup>190</sup> <http://lawatthemargins.com/perspectives-the-social-justice-law-school-experience-service-learning-at-the-karnes-detention-camp/>.

<sup>191</sup> <https://www.law.udc.edu/news/391197/Spring-2018-Service-Learning-Trip-Report.htm>

<sup>192</sup> <http://bangordailynews.com/2014/12/01/news/portland/most-shocking-thing-was-seeing-toddlers-babies-in-jail-umaine-law-students-share-their-experience-as-volunteers-at-immigration-detention-center/>.

<sup>193</sup> <https://www.law.umn.edu/news/2017-02-02-center-new-americans-students-and-staff-lead-winter-service-trips>.

<sup>194</sup> <https://law.utexas.edu/probono/projects/service-trips/other-service-trips/>.

<sup>195</sup> <https://law.utulsa.edu/2015/05/05/immigrant-rights-project-students-assist-detained-families-from-central-america/>.

Univ. of Wisconsin	Dilley, August 2015, January 2016, March 2017 <sup>196</sup>
Vermont Law School	March 2016
Yale Law School	Dilley, March 2015, May 2015, <sup>197</sup> January 2016, March 2016, May 2017, Berks, engagement at various times.
<b>Additional schools where at least one student has spent a week in family detention centers:</b> Capital University Law, Georgetown University Law Center, Loyola Marymount Law, Maine Law School, New England Law School, University of Akron, University of Baltimore Law, University of Cincinnati College of Law, University of Hastings School of Law, University of Massachusetts- Dartmouth, University of Michigan.	
<b>Other students have engaged in work in family detention centers, including:</b> University of Chicago School of Social Administration, graduate students (Dilley, March 2017, March 2018), University of South Dakota Spanish language majors (Karnes, Spring 2017).	
<b>Schools that have engaged in trips to non-family detention centers:</b> Several schools have begun volunteering with SIFI at the various detention centers in Louisiana and Georgia, including the following in March 2018: Folkston, GA: Vanderbilt University Law School, University of North Carolina Law La Salle, LA: Boston University Law School Irwin, GA: Roger Williams University School of Law Stewart, GA: Vanderbilt University Law School, Georgia State University College of Law	

<sup>196</sup> [https://law.wisc.edu/newsletter/Articles/Spring\\_break\\_at\\_the\\_border\\_UW\\_La\\_2017-06-06](https://law.wisc.edu/newsletter/Articles/Spring_break_at_the_border_UW_La_2017-06-06).

<sup>197</sup> <https://law.yale.edu/yls-today/news/yls-clinical-students-represent-immigrants-detain-ed-texas>.

## APPENDIX II: A FRAMEWORK FOR LAW STUDENT ENGAGEMENT IN IMMIGRANT DETENTION CENTERS

This framework proposes considerations for effective law student learning in an immigration detention setting. Various components will be applicable to other crisis-lawyering contexts. Each of the proposed ideas below is discussed at length in the preceding article.

### 1) Pre-Experience Planning and Preparation

#### a) For the Professor/supervising attorneys:

- i) Scouting mission or consultation with individuals who have previously led trips
- ii) Thoughtful collaboration with non-profit partners
- iii) Consider incorporating a non-legal component to the detention-center experience
- iv) Consider continuing engagement with the detained population

#### b) For the law students:

- i) Engaging in substantive law and procedures relevant to the detained population
- ii) Acquire and practice skills needed to engage with the detained population
  - (1) Working in another language with clients
  - (2) Best practices for working with an interpreter
  - (3) Cultural competence or humility
  - (4) Interviewing
  - (5) Client counseling
- iii) Understand secondary or vicarious trauma and working with survivors
- iv) Consult with individuals who have already participated in a trip, and/or with formerly detained individuals.

### 2) Design and Logistics

- a) Consider *when* to engage in this work
- b) Consider *where* to engage in this work
- c) Student: attorney supervisor ratio should not exceed 8:1.
- d) Arrangements should be made regarding malpractice insurance
- e) Interpretation needs should be addressed

### 3) Continued Engagement with the detained population, which can include continued representation, but also engaging with released individuals in various ways.

### 4) Contemporaneous Reflection, which can include “reflection circles,” debriefing, audio, written, or video journals, processing with a mental health professional, etc.

### 5) Post-Trip Reflection, which can include written assignments and/or discussion, writing for public outlets, and also speaking engagements and “report-back” events.

