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What Hope for Health in All Policies' Addition and Multiplication of Equity in an Age of Subtraction and Division at the Federal Level?: The Memphis Experience

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**WHAT HOPE FOR HEALTH IN ALL POLICIES' ADDITION AND
MULTIPLICATION OF EQUITY IN AN AGE OF SUBTRACTION
AND DIVISION AT THE FEDERAL LEVEL?: THE MEMPHIS
EXPERIENCE**

AMY T. CAMPBELL*

ABSTRACT

Increasingly, people recognize that social factors, such as poverty, the living environment, and educational status, substantially affect health outcomes. A “health in all policies approach” (HiAP) seeks structural reform of policymaking to require purposeful consideration, across an interconnected range of public sector actors, of the health equity and justice policy-level considerations of these factors. With the election of Donald J. Trump as 45th President in the United States, however, the U.S. entered a world where the math of the day is division and subtraction, rather than addition or multiplication. And yet, hope in HiAP remains through examples of innovative approaches at the local level, which shift the conversation from a federal “but/so” (subtract and divide) approach to a local “and (especially)/because” (add and multiply) approach.

This article illuminates the critical role for local communities in building toward HiAP, the integral role of cross-sector policy in this work, and its importance for enduring, equity-enhancing, sustainable health. Specifically, it addresses these issues through relevant case examples drawn from the Memphis experience. These local initiatives illustrate how identifying and addressing social determinants of health—and working towards a HiAP approach—suggest all hope is not lost. Hope remains through application of a different math that builds from addition to multiplication to a whole greater than the sum of its parts. However, it also suggests that the federal government still matters. HiAP is not a panacea to protect against “Trump-like” storms. Yet, through thoughtful, continued local action and vigilance, HiAP presents a critical opportunity to signal key values—and build supportive collaborations and enduring structures—that withstand these storms.

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I. INTRODUCTION

*“Healthy people live in healthy communities. ... Beyond the public health research, from a more common sense perspective, healthy communities are easy to recognize: they are, by and large, the places where people want to live.”*¹

Increasingly, people understand that social factors such as poverty, living environment, and educational status substantially affect health outcomes.² Public health advocates, thus, seek to address social determinants for the benefit of populations through partnership with non-health sector stakeholders (e.g., housing and community development officials, educators, and law enforcement officers). Why? “When people are healthy, society benefits. . . . Prevention pays.”³ Additionally, for systemic impact, public health looks increasingly to policy to reinforce efforts to address social determinants of health (SDOH), in recognition of policy’s critical role in addressing structural obstacles to health and well-being.⁴ Treated individually and collectively, addressing the impact of

1. Aaron Wernham & Steven M. Teutsch, *Health in All Policies for Big Cities*, 21 J. PUB. HEALTH MGMT. PRAC. Supp. I 2015, at S56, S56–57.

2. See Samantha Artiga & Elizabeth Hinton, *Beyond Health Care: The Role of Social Determinants in Promoting Health and Health Equity*, KAISER FAM. FOUND. 1 (2018), <http://files.kff.org/attachment/issue-brief-beyond-health-care>; Karen B. DeSalvo et al., *Public Health 3.0: A Call to Action for Public Health to Meet the Challenges of the 21st Century*, PREVENTING CHRONIC DISEASE, Sept. 7, 2017, at 1, 5, https://www.cdc.gov/pcd/issues/2017/pdf/17_0017.pdf; see also Hilary Daniel et al., *Addressing Social Determinants to Improve Patient Care and Promote Health Equity: An American College of Physicians Position Paper*, 168 ANNALS INTERNAL MED. 577, 578 (2018) (internal medicine professional society position statement recognizing importance of social determinants of health (SDOH) and offering recommendations for integrating this knowledge into patient care; notably, one of the policy recommendations includes a “health in all policies” approach); AGENCY FOR HEALTHCARE RESEARCH & QUALITY, PUB. NO.17-0001, NATIONAL HEALTHCARE QUALITY AND DISPARITIES REPORT 12 (2017) (“Poor people (at or below 100% of the Federal Poverty Level [FPL]) experienced worse access to care compared with high-income people [400% or more of FPL] for all access measures except one measure . . . [p]eople with a usual source of care Blacks experienced worse access to care compared with Whites for 50% of measures. . . . Hispanics experienced worse access to care compared with Whites for 75% of measures.”); see generally Michael McGinnis & William H. Foege, *Actual Causes of Death in the United States*, 270 J. AM. MED. ASS’N 2207, 2207 (1993) (considered by many to be the seminal argument for utilizing a population-based approach targeting factors outside the medical care system); NAT’L PREVENTION, HEALTH PROMOTION & PUB. HEALTH COUNCIL, U.S. DEP’T OF HEALTH & HUMAN SERVS., OFFICE OF THE SURGEON GEN., NATIONAL PREVENTION STRATEGY 6 (2011).

3. REBECCA JOHNSON ET AL., A ROADMAP FOR HEALTH IN ALL POLICIES: COLLABORATING TO WIN THE POLICY MARATHON 3 (2018).

4. See, e.g., David R. Williams et al., *Moving Upstream: How Interventions that Address the Social Determinants of Health Can Improve Health and Reduce Disparities*, 14 J. PUB. HEALTH MGMT. PRAC. Supp., Nov. 2008, at S8, S15 (“It is imperative that greater attention be given to the systematic evaluation of social and economic policies that might have health consequences. More importantly, the findings considered emphasize the need for policy makers, healthcare providers,

social factors presents a more complete response to building healthy communities.

The collective response to social determinants also increasingly recognizes the need for enduring change⁵, not just a scattershot response to the “hot” social determinant of the day or funding cycle, and not dependent on the goodwill of current leaders. What is preferable is changing the nature of policymaking to drive attention to the potential health consequences of policy decisions, both health and non-health-specific. A health in all policies (HiAP) approach reflects this vision. HiAP seeks structural reform of policymaking to require purposeful consideration, across an interconnected range of public sector actors, of the health equity and justice considerations in policymaking, whether explicitly about “health” or not.⁶ Critically, it recognizes the structural barriers associated with many poor health outcomes, including the influence of said barriers on so-called “individual choices.”⁷ It is easy to tell someone to eat “Five a Day.”⁸ It is harder to make sure individuals and families have access to healthy, affordable food.⁹ Public health leaders increasingly seek to work more broadly and deeply to address root causes that impact the health and well-being of populations. HiAP presents the frame and guide to get there, moving from a summative approach of social factors to a multiplying effect of structural reform.¹⁰

Communities across the globe recognize the power of a HiAP approach to make policymakers accountable for the “consequences of public policies on health systems, determinants of health, and well-being.”¹¹ In the U.S., HiAP “adds a framework for providing evidence-based health and equity information

and leaders from multiple sectors of society to use the currently available knowledge to improve living conditions and thus the health of populations. These approaches have the potential to improve health for all, reduce disparities in health and create more productive and rewarding lives.”).

5. See KERRY WYSS ET AL., *HEALTH IN ALL POLICIES: A FRAMEWORK FOR STATE HEALTH LEADERSHIP* 7, 1718 (2016).

6. See *id.* at 1; REBECCA JOHNSON & HEATHER WOOTEN, *FROM START TO FINISH: HOW TO PERMANENTLY IMPROVE GOVERNMENT THROUGH HEALTH IN ALL POLICIES* 2–3 (2015); WORLD HEALTH ORG., *HEALTH IN ALL POLICIES (HIAP) FRAMEWORK FOR COUNTRY ACTION* 1 (2014).

7. See JOHNSON & WOOTEN, *supra* note 6, at 2.

8. NAT’L INST. OF HEALTH, NAT’L CANCER INST., *5 A DAY FOR BETTER HEALTH PROGRAM* 1 (2001).

9. See Angela Hilmer et al., *Neighborhood Disparities in Access to Healthy Foods and Their Effects on Environmental Justice*, 102 AM. J. PUB. HEALTH 1644, 1652 (2012); see also Andrew Deener, *The Origins of the Food Desert: Urban Inequality as Infrastructural Exclusion*, 95 SOC. FORCES 1285, 1285, 1287 (2017) (considering the issues of food deserts and transportation barriers); Elaine S. Povich, *Decried as Unfair, Taxes on Groceries Persist in Some States*, PEW TRUSTS: STATELINE BLOG (Aug. 16, 2016), <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2016/08/16/decried-as-unfair-taxes-on-groceries-persist-in-some-states> (considering regressive food taxation).

10. See WYSS ET AL., *supra* note 5, at 3.

11. WORLD HEALTH ORG., *THE HELSINKI STATEMENT ON HEALTH IN ALL POLICIES* 1 (2013) http://www.who.int/healthpromotion/conferences/8gchp/8gchp_helsinki_statement.pdf.

to policy.”¹² In recognition of the power of this approach, there has been movement from theories to principles to guides for implementation.¹³ Those who endorse such systematic and enduring change in public policymaking and embrace an evidence-informed, equity-focused approach should anticipate bumps along the road, especially in the partisan, anti-elitist environment witnessed across the globe.¹⁴ Perhaps less prepared was the U.S., particularly for the turn of events on November 8, 2016 and the election of Donald J. Trump as the 45th President of the United States.

With Trump came an embrace of “alternative facts.”¹⁵ Enter a world where draining the swamp means lessening the ranks of the civil service sector.¹⁶ Enter a world where the math of the day is division and subtraction, rather than addition or multiplication. Enter a world where, when faced with observable fact or scientific evidence, the answer seems to be, “so?” Enter a world where budget priorities and regulatory actions signal a shift back to the idea of the “deserving poor” and suspicion of (federal) government’s role in securing equitable opportunity and outcomes across populations.

12. WYSS ET AL., *supra* note 5, at 1.

13. See, e.g., JOHNSON & WOOTEN, *supra* note 6, at 5; JOHNSON ET AL., *supra* note 3, at 4–5; WORLD HEALTH ORG., *supra* note 6, at 1, 6–11. See generally, LINDA RUDOLPH ET AL., HEALTH IN ALL POLICIES: A GUIDE FOR STATE AND LOCAL GOVERNMENTS, AM. PUB. HEALTH ASS’N & PUB. HEALTH INST. 20–102 (2013).

14. See, e.g., Edward Alden & James McBride, *What Brexit Reveals About Rising Populism*, COUNCIL ON FOREIGN REL. (June 29, 2016), <https://www.cfr.org/interview/what-brexit-reveals-about-rising-populism> (describing how the United Kingdom was the country least affected by the migration crisis, but has had the most political backlash); Zoltan Simon, *How Europe’s Populist Ringleader Transformed Hungary: QuickTake*, BLOOMBERG: QUICKTAKE (May 15, 2018), <https://www.bloomberg.com/news/articles/2018-05-16/how-europe-s-populist-ringleader-transformed-hungary-quicktake> (reporting how Hungary’s prime minister, who has emerged as the ringleader of European populism, has led the European Union to go into a type of “showdown” over political tensions); Carlo Bastasin, *Italy’s Hazardous New Experiment: Genetically Modified Populism*, BROOKINGS (June 1, 2018), <https://www.brookings.edu/blog/order-from-chaos/2018/06/01/italys-hazardous-new-experiment-genetically-modified-populism/> (discussing how Italy’s new political changes can highly affect the European Union); Jenny Hill, *Germany’s Rising Tide of Populism*, BBC NEWS (Jan. 31, 2017), <https://www.bbc.com/news/world-europe-38776251> (reporting Germany’s rise in populism).

15. Conway: *Press Secretary Gave ‘Alternative Facts’*, NAT. BROAD. CO. (Jan. 22, 2017), <https://www.nbcnews.com/meet-the-press/video/conway-press-secretary-gave-alternative-facts-860142147643> (transcript at <https://www.nbcnews.com/meet-the-press/meet-press-01-22-17-n710491>).

16. See *President Donald J. Trump is Reforming Civil Service to Work for the American People*, WHITE HOUSE (May 25, 2018), <https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-reforming-civil-service-work-american-people/>; Lisa Rein & Andrew Ba Tran, *How the Trump Era Is Changing the Federal Bureaucracy*, WASH. POST (Dec. 30, 2017), https://www.washingtonpost.com/politics/how-the-trump-era-is-changing-the-federal-bureaucracy/2017/12/30/8d5149c6-daa7-11e7-b859-fb0995360725_story.html?utm_term=.8b92cfc09aed.

The public health field, given actions emanating out of Washington, D.C. since that fateful Election Day, might justifiably believe the best approach is to keep a low profile to weather the storm.¹⁷ To be fair, health inequities from social factors pre-date the new administration.¹⁸ For example, the Flint, Michigan water crisis began before the Trump administration.¹⁹ There is a cyclical nature to support for public health, influenced by the political and economic climate of the day. Yet, the most recent national presidential election and ensuing experiences have taken this to an “unprecedented”²⁰ level of concern. Perhaps it is best to use the adage, “think globally, act locally.”²¹ Given

17. Others in the public health community have expressed fears and alternative possible responses. *See, e.g.*, Artiga & Hinton, *supra* note 2; David N. Sundwall, *Public Health Advocacy in the Tumultuous Times of the Trump Administration*, 108 AM. J. PUB. HEALTH 449, 449–50 (2018); Steffie Woolhandler & David U. Himmelstein, *Woolhandler and Himmelstein Respond*, 108 AM. J. PUB. HEALTH 451, 451 (2018).

18. *See* CTRS. FOR DISEASE CONTROL AND PREVENTION, CDC HEALTH DISPARITIES AND INEQUALITIES REPORT – UNITED STATES 62 (Supp. III 2013).

19. *See* Merrit Kennedy, *Lead-Laced Water in Flint: A Step-By-Step Look at the Makings of a Crisis*, NAT. PUB. RADIO (Apr. 20, 2016), <https://www.npr.org/sections/thetwo-way/2016/04/20/465545378/lead-laced-water-in-flint-a-step-by-step-look-at-the-makings-of-a-crisis> (providing a helpful history of the crisis.). While most blame focused on local and government authorities, the local EPA office is also implicated for early knowledge and concern, but little action. *Id.*

20. *See, e.g.*, David Von Drehle, *Donald Trump's Unprecedented, Divisive Speech*, TIME (Jan. 20, 2017), <http://time.com/4641547/inauguration-2017-donald-trump-america-first/>; Eamon Javers, *Trump Holds an Unprecedented Presidential Power*, CNBC (Nov. 8, 2017), <https://www.cnbc.com/2017/11/08/trump-holds-an-unprecedented-presidential-power.html>; Manuela Tobias, *Comparing Unprecedented Trump White House Turnover with Bush, Obama*, POLITIFACT (March 15, 2018), <http://www.politifact.com/truth-o-meter/article/2018/mar/15/trump-white-house-turn-over/>. This perception extends to the occasional Republican Party response to the Trump Administration. *See, e.g.*, Dan Balz, *A GOP Strategist Abandons His Party and Calls for the Election of Democrats*, WASH. POST (June 20, 2018), https://www.washingtonpost.com/politics/a-gop-strategist-abandons-his-party-and-calls-for-the-election-of-democrats/2018/06/20/b3f9fbd4-74c3-11e8-b4b7-308400242c2e_story.html?utm_term=.196e80be07b3&wpisrc=nl_most&wpm=1 (reporting on the recent announcement by Republican operative Steve Schmidt that he is leaving the party, saying, “[t]here’s a crisis of cowardice in the Republican Party that is profoundly un-American and, in my reading, unprecedented . . . No one is prepared to lay down their political career to do what’s right to oppose the corruption, the assault on institutions, the nonstop lying, the assault on objective truth.”); *see also* Kevin Kelleher, *George Will, Having Left Republican Party, Urges Conservatives to Vote Against Donald Trump*, FORTUNE (June 23, 2018), <http://fortune.com/2018/06/22/george-will-leaves-republican-party-donald-trump/> (reporting on George Will, longtime conservative commentator, having also abandoned the Republican Party, urging Republicans to vote for Democrats in upcoming elections). There are claims of overuse of how “unprecedented” things are in this administration. *See generally* Julian E. Zelizer, *What is Really Unprecedented About Trump?*, ATLANTIC (Oct. 27, 2017), <https://www.theatlantic.com/politics/archive/2017/10/what-is-really-unprecedented-about-trump/544179/>. However, the President’s reliance on tweets, embrace of division, and creation of a constant feeling of “what next” appear noteworthy.

21. Daniel Tarantola, *Thinking Locally, Acting Globally?*, 103 AM. J. PUB. HEALTH 1926, 1926 (2013).

the traditional locus of public health authority in the states²² and the U.S. tradition of federalism,²³ hope for addressing social determinants and working toward a HiAP approach takes on a local hue. Examples of innovative approaches exist, which shift the conversation from a federal “but/so” (subtract and divide) approach to a local “and (especially)/because” (add and multiply) approach.²⁴ What is happening in Memphis, Tennessee provides one such example.

With stark poverty numbers²⁵ and disparate racial impact across many measures,²⁶ Memphis leaders, in partnership with community leaders and

22. COMMITTEE ON PUBLIC HEALTH STRATEGIES TO IMPROVE HEALTH, INSTITUTE OF MEDICINE, FOR THE PUBLIC’S HEALTH: REVITALIZING LAW AND POLICY TO MEET NEW CHALLENGES 27–28 (2011); LAWRENCE O. GOSTIN & LINDSAY F. WILEY, PUBLIC HEALTH LAW: POWER, DUTY, RESTRAINT 9 (3rd ed. 2016); WENDY E. PARMET, POPULATIONS, PUBLIC HEALTH, AND THE LAW 79 (2009).

23. U.S. CONST. amend. X. *See also* PARMET, *supra* note 22, at 79–82.

24. *See, e.g., Health in All Policies*, BOS. PUB. HEALTH COMM’N, <http://www.bphc.org/whatwedo/healthy-eating-active-living/health-in-all-policies/Pages/default.aspx> (last visited Sept. 9, 2018); RICHMOND, VA., MUN. CODE Art. IX, § 9.14.010-030 (2014); OFFICE OF THE MAYOR, MAYOR’S ORDER 2013-209, SUSTAINABLE DC TRANSFORMATION ORDER (2013); *Program on Health, Equity and Sustainability (PHES)*, S.F. DEP’T OF PUBLIC HEALTH, <https://www.sfdph.org/dph/EH/PHES/PHES/default.asp> (last visited Sept. 23, 2018); Wernham & Teutsch, *supra* note 1, at §57. *See generally* OFFICE OF EQUITY & SOC. JUSTICE, EQUITY AND SOCIAL JUSTICE STRATEGIC PLAN 2016–2022: KING COUNTY (2016).

25. *See* ELENA DELAVEGA, MEMPHIS POVERTY FACT SHEET: 2017 UPDATE 1–2 (2017) (“The city of Memphis has a poverty rate of 26.9%. Child poverty is 44.7% . . . The City of Memphis poverty rate for non-Hispanic Blacks is 32.3% an increase in more than two percentile points from 2015. At the same time, the poverty rate for non-Hispanic Whites in the city of Memphis has increased slightly to 13.3%. . . . Memphis has reverted to being the poorest [Metropolitan Statistical Area] with a population over a million people.”).

26. *See, e.g.,* NAT’L CIVIL RIGHTS MUSEUM, THE POVERTY REPORT: MEMPHIS SINCE MLK HOW AFRICAN AMERICANS AND THE POOR HAVE FARED IN MEMPHIS AND SHELBY COUNTY OVER THE PAST 50 YEARS 4, 13, 17 (2018), <https://www.speakcdn.com/assets/2462/nationalcivilrightsmuseumpovertyreport02152018edrev.pdf?1520286487008> (finding that “the childhood poverty rate for African American children is more than four times greater than that for whites;” 85.5% of African Americans in Shelby County have at minimum the equivalent of a high school diploma compared to 94% of whites; 19.60% of African Americans in Shelby County have a bachelor’s degree or higher compared to 43.3% of whites in Shelby County; the percent of African Americans in professional and managerial occupations is half the percent of whites; median income for African Americans remains at about 50% of median income for whites in Shelby County; and “the incarceration rate for African Americans [in Shelby County] has increased 50% since 1980, while the incarceration rate for whites has fallen slightly); MICK NELSON, TENN. HOUS. DEV. AGENCY, TENNESSEE HOUSING NEEDS ASSESSMENT 36–37 (2012), <https://s3.amazonaws.com/thda.org/Documents/Research-Planning/Research-Publications/Housing-Needs-Assessment-web.PDF> (finding that 47.2% of non-Hispanic Black households and 46.3% of Hispanic/Latino households in Tennessee have housing problems, either cost-burden, overcrowding, or lacking kitchen/plumbing facilities, compared with 25.2% of non-Hispanic White households); SHELBY CTY. HEALTH DEP’T, COMMUNITY HEALTH IMPROVEMENT PLAN 2012–2018 23 (2015), https://www.shelbycountyttn.gov/DocumentCenter/View/22145/CHIP_FINAL_20150917

private actors, have seized upon tools such as health impact assessments (HIAs) and approaches building on collective impact to address SDOH.²⁷ In so doing, they embrace a math of “addition,” where all voices are valued. Further, through collective action in pursuit of structural reform comes a math of “multiplication”—i.e., HiAP presents an opportunity for moving beyond point-in-time or singular change to a rethinking of the making of policy itself, amplifying and deepening its effects.

Positive local actions do not imply that federal level actions are irrelevant. The federal government remains critical for providing baseline support, and its budget reflects key priorities and values that guide and influence local communities. Federal and state preemption, too, potentially impede local HiAP work.²⁸ Continued vigilance and advocacy are thusly needed for maximal effect. Also, while engaging in so forward-looking an enterprise as HiAP, lessons from years ago resonate today, suggesting that occasionally looking back can help clarify the way forward. The Memphis experience is illustrative here, too, in its reflective year on the legacy of Martin Luther King, Jr. and his movement’s relevance in current efforts to build health, equity, and justice within all policies.²⁹

This article discusses how a HiAP approach to health improvement, and not simply disease avoidance or mitigation, promotes an enduring, equitable vision of health, as well as how this is affected by the Trump administration. Specifically, it addresses these issues through relevant case studies drawn from the Memphis experience that include enhancements of health through housing and neighborhood improvement policy, investments in early childhood well-being, and anti-poverty, collective action efforts. Part II explores the growing recognition of the importance of SDOH leading, ultimately, to explain the power of a HiAP approach in building a “culture of health”³⁰ across populations. This

_FINAL [hereinafter COMMUNITY HEALTH IMPROVEMENT PLAN 2012–2018] (finding noticeably higher (two-to-three times) mortality rates in blacks for cancer, heart disease, diabetes, stroke, assault, and HIV/AIDS); SHELBY CTY. HEALTH DEP’T, SHELBY COUNTY INFANT MORTALITY RATE REACHES HISTORIC MILESTONE 1–2 (2016), <http://shelbycountyttn.gov/DocumentCenter/View/27841/NEWS-RELEASE—INFANT-MORTALITY-RATE-112116doc?bidId=> [hereinafter SHELBY COUNTY INFANT MORTALITY RATE REACHES HISTORIC MILESTONE] (finding the infant mortality rate for non-Hispanic blacks in Shelby County decreased from 21.0 (per 1000 live births) in 2003 to 10.6 in 2015. In contrast, the infant mortality rate for non-Hispanic whites in Shelby County was only 6.6 in 2004, decreasing to 4.4 per 1000 live births in 2015).

27. See COMMUNITY HEALTH IMPROVEMENT PLAN 2012–2018, *supra* note 26, at 11.

28. See COMMITTEE ON PUBLIC HEALTH STRATEGIES TO IMPROVE HEALTH, *supra* note 22, at 49.

29. See generally NAT’L CIVIL RIGHTS MUSEUM, *supra* note 26 (introducing the report as a way to demonstrate progress for social equity within Memphis, stemming from Martin Luther King, Jr.’s furtherance of the civil rights movement).

30. See RISA LAVIZZO-MOUREY, ROBERT WOOD JOHNSON FOUND., ENVISIONING A HEALTHY AMERICA: 2013 PRESIDENT’S MESSAGE 6 (2013), <https://www.rwjf.org/content/dam/>

is the math of addition and multiplication. Part III brings us to the present and the Trump administration's math: a turn from evidence-informed arguments to a divisive agenda and calculus of disruption as evidenced by administrative agency policy shifts or proposed budgets. Part IV turns to a local experience, that of Memphis, Tennessee. Various local initiatives are highlighted to illustrate how identifying and addressing SDOH—and working towards a HiAP approach—suggest all hope is not lost through a different math. This part ends with a caveat, however, noting the critical federal role in this work, and the dangers from preemption and in achieving local goals by privatizing that which has historically been public sector work. Part V provides a history lesson from fifty years ago to drive home the importance of vigilance in local efforts to collectively move us forward for the next fifty years with a focus on health equity. Critical for enduring progress in building a healthy community and nation is a “new math” that moves from addition to multiplication to a whole greater than the sum of its parts. Part VI provides a brief conclusion.

II. A MATH OF ADDITION AND MULTIPLICATION: HiAP

A. *Recognition of the Importance of Social Determinants of Health*

“When an individual falls off [the cliff of good health], that person (and his or her family) is heartened if there is an ambulance at the bottom of the cliff to speed them on to quality care. However, we as a community might also be interested in others who could come behind and find themselves smashed at the bottom of the cliff. That is, we may choose to expand our view beyond individual health to population health and ask ourselves if there are additional health interventions we could make besides stationing lots of ambulances at the bottom of the cliff.”³¹

SDOH cover “the immediate, visible circumstances of people’s lives—their access to health care and education, their conditions of work and leisure, their homes, communities, towns, or cities, and their chances of leading a flourishing life.”³² These conditions of daily life—where you “are born, grow, live, work,

farm/reports/annual_reports/2013/rwjf406794; RISA LAVIZZO-MOUREY, ROBERT WOOD JOHNSON FOUND., BUILDING A CULTURE OF HEALTH: 2014 PRESIDENT’S MESSAGE 4 (2014), https://www.rwjf.org/content/dam/files/rwjf-web-files/Annual_Message/2014_RWJF_Annual_Message_final.pdf.

31. Camara Phyllis Jones et al., *Addressing the Social Determinants of Children’s Health: A Cliff Analogy*, 20 J. HEALTH CARE FOR POOR & UNDERSERVED (SPECIAL ISSUE) 3 (2009).

32. Michael Marmot et al., *Closing the Gap in a Generation: Health Equity Through Action on the Social Determinants of Health*, 372 LANCET 1661, 1661 (2008); see also *Social Determinants of Health*, WORLD HEALTH ORG., http://www.who.int/social_determinants/sdh_definition/en/ (last visited Sept. 24, 2018).

and age”³³—all influence health in greater percentages than the actual provision of health care services.³⁴ Social determinants may be downstream, i.e., “factors that are temporally and spatially close to health effects (and hence relatively apparent),”³⁵ or upstream, i.e., “fundamental causes that set in motion causal pathways leading to (often temporally and spatially distant) health effects through downstream factors.”³⁶ By way of example, consider the experience in Flint, Michigan, where pipe corrosion and lead seepage into drinking water led to a state of emergency, criminal charges, and potential long-term impacts on children.³⁷ A downstream response might be to issue a lead advisory or supply bottled water. Traveling upstream, one might address policy decision-making related to water sourcing or enhancing clean water, taking a deeper dive at the issue and aiming for a longer, preventive effect.

Identifying and addressing social determinants presents the means by which to address health disparities. Going upstream, however, brings into sharp relief the fact that “health” often goes beyond access to health services or health-related behaviors.³⁸ Also critical are cross-sector influences (e.g., from housing,

33. Marmot et al., *supra* note 32, at 1661; *see also Social Determinants of Health*, HEALTHYPEOPLE.GOV, <https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-of-health> (last visited Sep. 24, 2018).

34. *See* Artiga & Hinton, *supra* note 2, at 2; BRIDGET C. BOOSKE ET AL., DIFFERENT PERSPECTIVES FOR ASSIGNING WEIGHTS TO DETERMINANTS OF HEALTH 3 (2010); Michael Marmot & Jessica J. Allen, *Social Determinants of Health Equity*, 104 AM. J. PUB. HEALTH S517 (Supp. IV 2014).

35. Paula Braveman et al., *The Social Determinants of Health: Coming of Age*, 32 ANN. REV. PUB. HEALTH 381, 383 (2011) (providing an overview of research leading to current understanding of the importance of addressing social determinants, including influence of educational and occupational factors in the U.S. and Europe); *see also* Paula Braveman & Laura Gottlieb, *The Social Determinants of Health: It's Time to Consider the Causes of the Causes*, 129 PUB. HEALTH REP. 19, 22 (Supp. II 2014).

36. Braveman et al., *supra* note 35, at 383.

37. *See* Kennedy, *supra* note 19 (reporting that early on in the crisis, General Motors stopped using Flint River water for fear of corrosive effect on machines, and the state switched to bottled water for employees in government offices); Samantha Raphelson, *Flint Residents Confront Long-Term Health Issues After Lead Exposure*, NAT'L PUB. RADIO (Oct. 31, 2017), <https://www.npr.org/2017/10/31/561155244/flint-residents-confront-long-term-health-issues-after-lead-exposure>; *see also* Mona Hanna-Attisha et al., *Elevated Blood Lead Levels in Children Associated with the Flint Drinking Water Crisis: A Spatial Analysis of Risk and Public Health Response*, 106 AM. J. PUB. HEALTH 283, 283 (2016); Sammy Zahran et al., *Four Phases of the Flint Water Crisis: Evidence from Blood Lead Levels in Children*, 157 ENVTL. RES. 160, 166 (2017).

38. *See* Artiga & Hinton, *supra* note 2, at 2; Paula A. Braveman et al., *Broadening the Focus: The Need to Address the Social Determinants of Health*, 40 AM. J. PREVENTATIVE MED., S4, S4–5 (Supp. I 2011); Braveman & Gottlieb, *supra* note 35, at 23 (indicating that social factors may also influence health-related behaviors, e.g., food deserts contributing to poor diets, thus introducing social influences into the traditional “behaviors” piece of the “impact on health” pie). In general, “we need to understand and improve the social determinants of behaviors to reduce health

community development, transportation, early care and learning, and criminal justice), and structural barriers (e.g., laws and policies that entrench division and inequity),³⁹ emphasizing policy's key role in remedying negative social influences.⁴⁰ Considering the "what," "who," and "how" in terms of health impact, a purely utilitarian argument exists to suggest the strongest return on investment would involve addressing these social determinants.

B. Tying SDOH to Equity and the Role for Policy

"An increasing focus [exists] among U.S. researchers, health agencies, and advocates on the concept of health equity . . . encompassing the spectrum of causes—including social determinants—of racial/ethnic and other social disparities in health that raise concerns about justice."⁴¹ Research into the social factors influencing health, especially upstream determinants, illustrates the disparate impact experienced amongst certain populations, in particular, falling along racial/ethnic lines.⁴² Health inequities have been defined as differences in

inequalities and improve health while simultaneously trying to facilitate and support better existing behaviors." Marmot & Allen, *supra* note 34, at S519.

39. See, e.g., Shilesh Muralidhara, *Deficiencies of the Low-Income Housing Tax Credit in Targeting the Lowest-Income Households and in Promoting Concentrated Poverty and Segregation*, 24 L. & INEQUALITY 353, 374 (2006) (concluding that the federal low-income housing tax credit has failed to target the lowest-income households and may be leading to discrimination in housing practices, perpetuation of segregation, and concentrated poverty); ANGELA HANKS ET AL., CTR. FOR AM. PROGRESS, SYSTEMATIC INEQUALITY: HOW AMERICA'S STRUCTURAL RACISM HELPED CREATE THE BLACK-WHITE WEALTH GAP 12 (2018), <https://cdn.americanprogress.org/content/uploads/2018/02/20131806/RacialWealthGap-report.pdf> (explaining that loans are hard to get in majority-minority areas); ELIZABETH MCNICHOL, CTR. ON BUDGET AND POL'Y PRIORITIES, HOW STATE TAX POLICIES CAN STOP INCREASING INEQUALITY AND START REDUCING IT 1 (2016) (explaining how state and local tax policies increase inequality "by reducing after-tax incomes more deeply among low- and middle-income families than high-income families").

40. See e.g., *Policy Resources to Support SDOH*, CTR. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/socialdeterminants/policy/index.htm> (Feb. 22, 2017) (describing a range of policy actions to address various social factors).

41. Braveman et al., *supra* note 35, at 382.

42. *Id.* at 387, 390 ("Racism refers not only to overt, intentionally discriminatory actions and attitudes, but also to deep-seated societal structures that—even without intent to discriminate—systematically constrain some individuals' opportunities and resources on the basis of their race or ethnic group."); Kendal Orgera & Samantha Artiga, *Disparities in Health and Health Care: Five Key Questions and Answers*, KAISER FAM. FOUND. 9 (2018), <http://files.kff.org/attachment/Issue-Brief-Disparities-in-Health-and-Health-Care-Five-Key-Questions-and-Answers>; *Building a Movement, Transforming Institutions: A Guide for Public Health Professionals*, POLICYLINK, <http://www.policylink.org/our-work/community/health-equity/institutionalizing-health-equity> (last visited Sept. 25, 2017) ("By 2044, people of color will become this nation's majority, and yet these communities continue to disproportionately experience poor health, chronic disease, lower wages, disinvested neighborhoods, and limited access to educational and employment opportunities.").

health “that are a result of systemic, avoidable and unjust social and economic policies and practices that create barriers to opportunity.”⁴³ And, it is not simply an individual issue: an individual’s experience of “health” intimately relates to that person’s position in society.⁴⁴ “This unequal distribution of health-damaging experiences is not in any sense a natural phenomenon but is the result of a combination of poor social policies and programmes, unfair economic arrangements, and bad politics.”⁴⁵ To truly enhance the public’s health, thus, requires looking beyond health services and health behaviors, moving from downstream to upstream social determinants, and ultimately addressing the power structures that sustain inequities.

Broadening our collective approaches to reducing health inequities by addressing the social and structural conditions needed for good health for all is urgently needed now. These social and structural conditions include education; housing; employment; living wages; access to health care; access to healthy foods and green spaces; justice; occupational safety; hopefulness; and freedom from racism, classism, sexism, and other forms of exclusion, marginalization, and discrimination based on social status. The inequitable distribution of these social conditions across groups contributes to persistent health inequities. While a social-determinants approach is important for people of all ages, it is critically valuable for children, whose positive early development can improve their health throughout the lifespan.⁴⁶

Let’s return to the Flint water crisis example: we left it with addressing upstream barriers, such as water sourcing decisions and clean water regulations. At the time of the crisis, the majority of Flint’s population was African-American and almost one-half lived in poverty.⁴⁷ Documents concerning what happened did not explicitly mention the race or economic condition of affected Flint residents.⁴⁸ Yet, digging deeper, “[t]he 2010 timeline is particularly important. At this time, decisions were made not just about the water supply itself, but also about who the decision-makers would be, what their goals would be, and to

43. RUDOLPH ET AL., *supra* note 13, at 9; *see also* CTRS. FOR DISEASE CONTROL & PREVENTION, CDC HEALTH DISPARITIES AND INEQUALITIES REPORT 3 (2011); CTRS. FOR DISEASE CONTROL & PREVENTION, *supra* note 18, at 3.

44. *See* Marmot et al., *supra* note 32, at 1661.

45. *Id.*

46. David Satcher, *Include a Social Determinants of Health Approach to Reduce Health Inequities*, 125 PUB. HEALTH REP. 6, 6 (Supp. IV, 2010).

47. *QuickFacts: Flint City, Michigan*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/flintcitymichigan/PST045216> (last visited Sep. 25, 2018) (providing data that Blacks/African-Americans composed 54.3% of the population, according to 2016 Census population estimates, with a poverty rate over 40%).

48. *See* MICH. CIVIL RIGHTS COMM’N, THE FLINT WATER CRISIS: SYSTEMIC RACISM THROUGH THE LENS OF FLINT 2 (2017), https://www.michigan.gov/documents/mdcr/VFlintCrisisRep-F-Edited3-13-17_554317_7.pdf.

whom they would answer.”⁴⁹ The investigation by the Michigan Civil Rights Commission concluded “the Flint Water Crisis is a symptom of a deeper disease. Simply fixing the water system, like removing a tumor, is a critical step, but it won’t help the people of Flint if the cancer remains.”⁵⁰ That is, “[w]e must address the systemic problems, and must acknowledge the role that race and racism played in producing and reproducing them. Left unaddressed, this systemic racism will continue to produce racialized results.”⁵¹ The Flint experience suggests that the structures that allow and sustain health disparities require thoughtful—peeling off the “band aid”—policy solutions to address root causes (e.g., structural and systemic racial and economic inequity), in which are embedded downstream and upstream factors.

Thus, “[r]egardless of intent, our policies and systems can contribute to differences in health outcomes.”⁵² Promotion of “equity” requires addressing these experiences of economic inequality, educational inequity, structural racism, and neighborhood characteristics.⁵³ Couple this with an activist approach to law that recognizes that policy influences health and that said influence can be studied to reform our policy approaches for maximum, health-promoting effect.⁵⁴ Policy becomes not simply a by-product but a fundamental mechanism for positive change. Policies can help promote health and economic development and reduce racial segregation and poverty.⁵⁵ With so expansive a vision, collaboration and relationships prove necessary. It’s not enough to think upstream, one must think holistically with a critical eye honed on root causes. Fostering a climate in which public policymakers recognize “health” across policies and proactively account for equity and justice considerations as integral to this work builds the foundation on which to prevent future “Flints” through meaningful, systematic change.

49. *Id.* at 83.

50. *Id.*

51. *Id.* at 84.

52. Edward P. Ehlinger, *We Need a Triple Aim for Health Equity*, MINN. MED., Oct. 2015, at 28.

53. See RUDOLPH ET AL., *supra* note 13, at 8–11. And, it is not simply an issue for the poorest in society as “higher overall inequality is consistently associated with worse health outcomes at all rungs of the socioeconomic ladder.” *Id.* at 13 (citing RICHARD WILKINSON & KATE PICKETT, *THE SPIRIT LEVEL: WHY GREATER EQUALITY MAKES SOCIETIES STRONGER* 29–30 (2010)).

54. See Scott Burris et al., *A Transdisciplinary Approach to Public Health Law: The Emerging Practice of Legal Epidemiology*, 37 ANN. REV. PUB. HEALTH 135, 142, 144 (2016); Amy T. Campbell, *Therapeutic Jurisprudence: A Framework for Evidence-Informed Health Care Policymaking*, 33 INT’L J. L. & PSYCHIATRY 281, 289 (2010). See generally Amy T. Campbell, *Using Therapeutic Jurisprudence to Frame the Role of Emotion in Health Policymaking*, 5 PHX. L. REV. 675, 693 (2012) (discussing the impact of emotion on policy and ways policy efforts could be channeled for better therapeutic outcomes).

55. See Braveman & Gottlieb, *supra* note 35, at 20, 28.

C. *A New Formula for Policy and Policymaking: The Health in All Policies Approach*

Health in all policies [HiAP] is an approach to public policies across sectors that systematically takes into account the health implication of decisions, seeks synergies, and avoids harmful health impacts in order to improve population health and health equity. It improves accountability of policymakers for health impacts at all levels of policy-making. It includes an emphasis on the consequences of public policies on health systems, determinants of health and well-being.⁵⁶

The Flint experience, as recounted in the powerful Civil Rights Commission Report, highlights the myriad of policy decisions over time that interacted to result in devastating, health-harming consequences.⁵⁷ Such recounting also suggests the need for a more holistic government approach that reframes health within a larger context, as connected to wellness, equity, and sustainability.⁵⁸ Health is not the only or necessarily primary consideration; however, it is worthy of greater consideration, especially given its inextricable links to other policy objectives.⁵⁹ Critically, too, it expands policymaker focus to include the social causes of health inequities as reinforced through structures, that is, the social inequities amongst distribution of social determinants.⁶⁰

How does HiAP work? Through the HiAP process, governmental agencies develop shared goals (e.g., to improve health equity) and then collaborate and coordinate the work of public policymaking in alignment with and in pursuit of these goals.⁶¹ Taking a HiAP approach creates the forum for ongoing collaboration across governmental agencies regarding population health, i.e., it builds the capacity of all relevant health and non-health sector actors to recognize the effects of their decisions on health equity and then to align goals and promote public health while also advancing each agency's core mission (a "win-win").⁶² By embedding this approach in cross-sectoral government

56. WORLD HEALTH ORG., *supra* note 6, at 1, 3.

57. MICH. CIVIL RIGHTS COMM'N, *supra* note 48, at 2, 9.

58. JOHNSON & WOOTEN, *supra* note 6, at 9.

59. WORLD HEALTH ORG., HEALTH IN ALL POLICIES: HELSINKI STATEMENT: FRAMEWORK FOR COUNTRY ACTION 1–2 (2014) ("We recognize that governments have a range of priorities in which health and equity do not automatically gain precedence over other policy objectives. We call on them to ensure that health considerations are transparently taken into account in policy-making, and to open up opportunities for co-benefits across sectors and society at large.").

60. Hilary Graham, *Social Determinants and Their Unequal Distribution: Clarifying Policy Understandings*, 82 MILBANK Q. 101, 102–03 (2004) (providing a discussion of the critical distinction between SDOH and health inequities); *see also* Braveman & Gottlieb, *supra* note 35, at 27–28.

61. WYSS ET AL., *supra* note 5, at 1.

62. Agnes Molnar et al., *Using Win-Win Strategies to Implement Health in All Policies: A Cross-Case Analysis*, PLOS ONE, Feb. 4, 2016, at 3 (explaining how the "win-win strategy aims for health gains without diminishing the primary intention of participating sectors or agencies

policymaking, it creates the platform for enduring change through structural, systemic reform.⁶³

Where to begin? Traveling down a HiAP path obviously requires starting somewhere, but the numbers and complexity of SDOH risk overwhelming thoughtful consideration of where—and how—to start.

While the ‘all’ in Health in All Policies suggests innumerable policy areas that impact the public’s health, each Health in All Policies effort will need to focus on a manageable number of areas. . . . Factors such as context, authority, participation, resources, politics, community concerns, key leader interests, and any formal legislation or administrative action will play a role in determining the focus and scope of any Health in All Policies initiative.⁶⁴

Tools and mechanisms exist on which to “platform” this ramp-up in work.

1. The Tools: Health Impact Assessment-Plus

HiAP provides the “health lens” through which to view and embed health equity considerations into public decision-making.⁶⁵ HIA is a structured process for this integration of health consideration into policy decision-making. “Health impact assessment (HIA) is a fast-growing field that helps policy makers . . . by bringing together scientific data, health expertise and public input to identify the potential—and often overlooked—health effects of proposed new laws, regulations, projects and programs. It offers practical recommendations for ways to minimize risks and capitalize on opportunities to improve health.”⁶⁶ How does this work? “Through a semi-structured process, practitioners carefully select issues to assess, define the parameters of the assessment with stakeholders,

enabling the prioritization of social and economic outcomes.”); *see also* RUDOLPH ET AL., *supra* note 13, at 135–37. *See generally* JOHNSON & WOOTEN, *supra* note 6.

63. *See* RUDOLPH ET AL., *supra* note 13, at 18 (“Over time, Health in All Policies creates permanent changes in how agencies relate to each other and how government decisions are made. This requires maintenance of both structures which can sustain intersectoral collaboration and mechanisms which can ensure a health and equity lens in decision-making processes across the whole of government. This can be thought of as “embedding” or “institutionalizing” Health in All Policies within existing or new structures and processes of government.”); *see also* JOHNSON & WOOTEN, *supra* note 6, at 5.

64. RUDOLPH ET AL., *supra* note 13, at 74 (providing examples of how to start, such as looking to available data and resources (Chicago), gauging key leaders’ priorities (Hawaii), following a Governor executive order (California), considering public appeal (Kansas), and reviewing existing legislation (Washington)).

65. *Id.* at 73.

66. *Health Impact Project*, THE PEW: CHARITABLE TRUSTS, <http://www.pewtrusts.org/en/projects/health-impact-project/health-impact-assessment> (last visited Sept. 26, 2018). HIAs can also help look at the distribution of effects within a population. NAT’L RES. COUNCIL OF THE NAT’L ACADS., *IMPROVING HEALTH IN THE UNITED STATES: THE ROLE OF HEALTH IMPACT ASSESSMENT* 189 (2011).

explore the health impacts of the future proposal, and provide information to decisionmakers.”⁶⁷

While a helpful tool, HIAs are limited in that they focus on a single proposal or project and do not restructure ongoing decision-making,⁶⁸ as occurs with HiAP. Resources or timing might also argue against their use or application of their findings. Other approaches have emerged that build toward HiAP, including: Health Lens Analysis or health-based checklists, public health consultation on non-health sector projects, creation of multi-sector and –agency councils, and organizational data-sharing.⁶⁹ These tools also, however, function more as a review of specific, existing, or proposed policy.

2. The Support: From Isolated Work to Collaboration to Collective Impact

With tools available to help build toward a HiAP approach, also necessary is an alignment of political and public will behind a “health lens” approach to achieve health equity-advancing goals. Public/private initiatives⁷⁰ and university/community partnerships⁷¹ now exist through which to popularize and

67. WYSS ET AL., *supra* note 5, at 6. See also *Health Impact Assessment*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/healthypplaces/hia.htm> (explaining “The major steps in conducting an HIA include: Screening (identifying plan, project, or policy decisions for which an HIA would be useful); Scoping (planning the HIA and identifying what health risks and benefits to consider); Assessment (identifying affected populations and quantifying health impacts of the decision); Recommendations (suggesting practical actions to promote positive health effects and minimize negative health effects); Reporting (presenting results to decision makers, affected communities, and other stakeholders); and Monitoring and evaluation (determining the HIA’s impact on the decision and health status)”) (last updated Sep. 19, 2016).

68. WYSS ET AL., *supra* note 5, at 6.

69. *Id.* at 6–7 (explaining that King County, Washington, uses an Equity Impact Review Tool, similar to an HIA but “explicitly look[ing] at potential differential and distributional impacts of a policy or practice on the health of the population, as well as on specific groups within that population, and assesses whether the differential impacts are equitable.”); RUDOLPH ET AL., *supra* note 13, at 81 (explaining the concept of a health equity lens); see also *Tools and Resources*, KING COUNTY., <https://www.kingcounty.gov/elected/executive/equity-social-justice/tools-resources.aspx> (last updated Oct. 19, 2017) (further discussing King County’s Equity Impact Review tool).

70. See NAT’L QUALITY F., *IMPROVING POPULATION HEALTH BY WORKING WITH COMMUNITIES: ACTION GUIDE 3.0 2–3* (2016) (providing a guide to improving population health through collaborative, cross-sector initiatives and examples of partnerships from around the country); see also ALLEN FREMONT ET AL., RAND CORP., *IMPROVING POPULATION HEALTH THROUGH AN INNOVATIVE COLLABORATIVE*, 1, 5 (2016), (describing a public/private collaboration that created a safe venue for competing health care organizations and local public stakeholders to share data and work toward reducing cardiovascular risks in the region).

71. See Cheryl A. Maurana & Kim Goldenberg, *A Successful Academic—Community Partnership to Improve the Public’s Health*, 71 ACAD. MED. 425, 425–26 (1996) (describing a partnership in Dayton, Ohio); see also Stephen G. Pelletier, *Community Partnerships Key to Reducing Health Inequities*, AM. ASS’N. OF MED. COLLEGES, (June 13, 2017), <https://news.aamc.org/research/article/getting-out-clinic-and-into-community/> (describing partnerships in Maryland

spread broader support for identified, shared goals. As to those identified goals, collective impact is a means by which to galvanize support for successful progress along an incremental approach to HiAP. Collective impact is “the commitment of a group of important actors from different sectors to a common agenda for solving a specific social problem.”⁷² It “involve[s] a centralized infrastructure, a dedicated staff [the backbone organization], and a structured process that leads to a common agenda, shared measurement, continuous communication, and mutually reinforcing activities among all participants.”⁷³

For example, consider the case of adverse childhood experiences (ACEs). Increased recognition of the negative impact of ACEs on healthy childhood development and life-long well-being⁷⁴ draws more eyes to solutions, including policy solutions, to mitigate or prevent ACEs.⁷⁵ By utilizing science and political/public will—putting all the ducks in a row, so to speak—a preventive, policy approach is possible through harnessing collective energy for ACEs prevention/mitigation.⁷⁶ However, there remains the ever-present potential to lose collective focus over disagreements about goals and accountability, political changes, or other events that shift focus to the new “issue of the day.” Also, as with HIAs, collective impact still represents a rather narrow directional pull, even if a more comprehensive one. HiAP moves the work further through its more systematic, enduring approach.

and Kentucky); Carolyn M. Tucker et al., *Impact of a University-Community Partnership Approach to Improving Health Behaviors and Outcomes Among Overweight/Obese Hispanic Adults*, 11 AM. J. LIFESTYLE MED., 479, 480–81 (2016) (describing a partnership in New York City).

72. John Kania & Mark Kramer, *Collective Impact*, 9 STAN. SOC. INNOVATION REVIEW 36, 36 (2011).

73. *Id.* at 38; see also, Mel Garber and Katherine R. Adams, *Achieving Collective Impact: Reflections on Ten Years of the University of Georgia Archway Partnership*, 21 J. HIGHER EDUC. OUTREACH & ENGAGEMENT, no. 1, 2007, at 6, 7.

74. See generally Vincent J. Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study*, 14 AM. J. PREVENTIVE MED. 245, 251 (1998).

75. CTR. ON THE DEVELOPING CHILD AT HARV. U., A SCIENCE-BASED FRAMEWORK FOR EARLY CHILDHOOD POLICY: USING EVIDENCE TO IMPROVE OUTCOMES IN LEARNING, BEHAVIOR, AND HEALTH FOR VULNERABLE CHILDREN 3 (2007).

76. See *Tennessee Building Strong Brains Goals*, TENN. COMM’N ON CHILD. & YOUTH, <https://www.tn.gov/tccy/ace/tccy-ace-building-strong-brains/tccy-ace-bsb-goals.html> (last visited Sep. 29, 2018); see also Elizabeth Prewitt, *State Profiles for 50 states and District of Columbia, ACES CONNECTION* (Feb. 24, 2018), <https://www.acesconnection.com/g/state-aces-action-group/blog/state-profiles-list-of-50-states-and-district-of-columbia-with-links-to-individual-profiles> (providing profiles and information on local and state-based ACE initiatives that have been launched nationwide).

3. The Transformation: HiAP

“HiAP adds a framework for providing evidence-based health and equity information to policy.”⁷⁷ Critically, however, it moves from a point-in-time use of a HIA and from collective impact focused on a singular issue to transforming the work of government to require cross-sector collaboration and engagement through defining mutual beneficial goals that promote health and equity—key elements of HiAP.⁷⁸ It is proactive about change and less vulnerable to shifting political winds or public whims through its dedication to structural reform of the nature and process of public policymaking.

Consider the Flint example: when the government officials considered the original policy decision to switch water sources, a HIA might have illuminated potential health-harming consequences of what seemed an expedient, time-limited policy response. What if immediate resources are unavailable, however, to switch to a safer water source, or if political leaders are immune to scientific reports? Considering the results, moving forward, stakeholders might coalesce around a collective impact approach to prevent child lead poisoning through faulty pipes (e.g., through coordination of the range of services, practices, and policies that could prevent future lead poisoning cases such as identifying alternative water sources, replacing pipes, and providing healthcare). But, does this affect other policy issues that impact child development? Or, what if Flint experienced a sharp increase in gun violence, diverting at least some policymakers' and community members' focus?

Through a HiAP approach, public policymakers could engage in a preventive approach, carried out by well-resourced state and local agencies in partnership with academic and private sectors.⁷⁹ This might include enhancing Medicaid reimbursement for risk assessments and investigations and other traditional health sector actions. However, this preventive approach might also include amending the rental inspection and certification process to adopt more stringent lead standards. To protect tenants, the amendment might be combined with policy changes, e.g., “freezing” eviction proceedings on tenants with children in rental units without adequate lead abatement, and requiring a health-based standard for lead level limits in household water supplies.⁸⁰ All these actions would adhere to a guiding principle of health equity (e.g., requiring a “health equity” lens to guide cross-sectoral approval of demolition and

77. WYSS ET AL., *supra* note 5, at 1.

78. *Id.* at 8–9.

79. *See, e.g.*, CHILD LEAD POISONING ELIMINATION BD., A ROADMAP TO ELIMINATING CHILD LEAD EXPOSURE 14–15, 19 (2016), https://www.michigan.gov/documents/snyder/CLPEB_Report—Final_542618_7.pdf (discussing how the “Ideal state” would consist of high-quality services, broad coalition, and a coordinated efficient system).

80. *Id.* at 20–22.

construction projects).⁸¹ Critically, such an approach goes beyond simply reacting to the water crisis, or even trying to prevent the water crises of tomorrow, to inform a deeper re-visioning of the policymaking process itself, for proactive, prevention-oriented, cross-sector appreciation of how decisions, even those outside the traditional “health” realm (e.g., community development projects), have potential consequences for health and equity. And, it creates a systematic approach for such consideration, soup-to-nuts, as the new way of implementing policy.

How specifically is implementation fostered so that it endures, beyond the collective impact concern for the “issue of the day?” “HiAP requires a mechanism for moving beyond the detection of health equity problems (eg, [sic] mere health equity impact assessment) to foster remedial action involving an intersectoral response.”⁸² Moreover, unlike other intersectoral responses (e.g., collective impact approaches), HiAP requires formal government stakeholder coordination through a restructured, enduring government agenda.⁸³ Achieving this requires aligning public agency agendas through “win-win” strategies and capacity building.⁸⁴ Examples by which to achieve these “win-wins” include: enhancing understanding of the various sectors’ missions and cultures and working to develop a common language;⁸⁵ integrating health into other sectors’ agendas;⁸⁶ using scientific evidence to demonstrate HiAP effectiveness;⁸⁷ and

81. *See id.* at 20, 23; *see also* Braveman & Gottlieb, *supra* note 35, at 27–28.

82. Alix Freiler et al., *Glossary for the Implementation of Health in All Policies (HiAP)*, 67 J. EPIDEMIOLOGY & COMMUNITY HEALTH 1068, 1069 (2013) (emphasis removed).

83. *Id.* at 1069–70 (explaining academic and private actors might be included in HiAP, but they are not the central coordinators of the fundamentally public sector work). A strong example can be found in President Barack Obama’s administration specifically adopting a HiAP approach to federal housing policy. *See* Raphael W. Bostic et al., *Health in All Policies: The Role of The US Department of Housing and Urban Development and Present and Future Challenges*, 31 HEALTH AFF. 2130 (2012) (describing cross-sector “HiAP” approach and the challenges it faces, including budgeting).

84. Molnar et al., *supra* note 62, at 2–3; *see also* Freiler et al., *supra* note 82, at 1069 fig.1.

85. Molnar et al., *supra* note 62, at 8–9 (“[O]ne informant noted that by focusing on shorter-term goals with less emphasis on health equity and more directly on the ‘mission, concerns, funding issues,’ of partners can lead to longer-term awareness and appropriation of the shared benefits of collaboration.”).

86. *Id.* at 10. For example, in Sweden, this meant a focus on sustainable development to engage multiple sectors, given a history of engagement across sectors in matters of social sustainability.

87. *Id.* An example might be considering evidence of financial benefit in addressing public health concerns to health and non-health sectors (e.g., chronic disease reduction strategies across sectors), and in emphasizing the benefits to the social welfare through these longer-term, preventive health approaches.

leveraging public health policy approaches to enhance odds of success for non-health sector policy proposals.⁸⁸

4. The Challenge

This is not to suggest that this is an easy process, or that the gains are quickly or readily understood. Threats to HiAP cut to its core: how to effectively engage sectors in not simply single instances of cross-sector collaboration, but rather in transformative intersectoral work that reframes policy action to focus on health equity impact, notwithstanding each sector's individual policy agendas. To overcome short-term thinking and the range of external pressures, all those involved need to be engaged via collaboration, not via directives, which takes time. However, there is "little evidence . . . [to] support the hypothesis that awareness-raising alone is sufficient to engage sectors into HiAP."⁸⁹ Thus, the call for "win-wins" over time, to highlight for health—and especially non-health—sectors what's in it for them (e.g., a healthier population makes for better employers) and for a community's commitment to health equity attract a stronger workforce.⁹⁰ A series of "win-wins," moreover, should be seen in the proper light for HiAP: as a means to achieve structural reform of policymaking to emphasize health equity. It is not a point-in-time initiative or goal so much as a re-visioned approach.

The expansive and enduring nature of this approach renders this work all the trickier with the likelihood of leadership changes over time and/or leadership somewhat immune to the importance of scientific data.⁹¹ Especially during the formative and developmental stages of a HiAP approach, private and other external actors' interests carry the potential to disrupt the work.⁹² Returning to the Flint example: suppose a manufacturer was the predominate employer in the

88. *Id.* at 9–11 (For example, a shift to HiAP processes might encourage non-health sector actors to include in policy reform proposals the public health arguments behind such (e.g., to increase financial support for expansion of public transportation) to enhance odds of adoption.).

89. *Id.* at 15.

90. See generally Karishma S. Furtado et al., *Health Departments with a Strong Commitment to Health Equity Have a More Skilled Workforce and Engage in Higher Quality, More Diverse Collaboration*, 37 HEALTH AFF. 38 (2018).

91. For an interesting example of a failed HiAP implementation, see generally Akram Khayatzadeh-Mahani et al., *How Health in All Policies Are Developed and Implemented in a Developing Country? A Case Study of a HiAP Initiative in Iran*, 31 HEALTH PROMOTION INT'L 769 (2016) (describing the experience in an Iranian province with HiAP, and the challenges faced by lack of policymaker adherence to a science-informed agenda, lack of effective non-health sectoral engagement and conceiving of HiAP as an approach versus project, lack of political commitment and early policy-savvy champions, and unsustainable resource commitment).

92. See Ketan Shankardass et al., *The Implementation of Health in All Policies Initiatives: A Systems Framework for Government Action*, HEALTH RES. POL'Y & SYS., Mar. 15, 2018, at 3, 8 (arguing for a systems theory framework to explain successful HiAP implementation, which focuses on subsystems and the role of the external environment).

area. If it lobbied government leaders against greater regulation of clean water standards, a government more focused on jobs and short-term fiscal arguments might scrap movement to a HiAP approach. The result seems all the more likely with the short-term outlook of many politicians, who are attuned to election cycles and never-ending campaign fundraising needs.⁹³

Thus, moving from an understanding of the role of SDOH to utilizing policy tools to address those determinants, to their collective redress, to a fully restructured approach to policymaking is impeded by a myriad of challenges. Why, then, have some communities across the U.S.⁹⁴ and around the world⁹⁵ been undeterred? They see the value in putting into practice the core elements—collaboration, envisioning, planning, investing in change, and tracking progress—and redefining what is considered “effective” policy development and implementation.⁹⁶ They recognize the value-added nature of moving from the sum of data points to the multiplying effect of intersectoral HiAP work: the “win-win” beneficial effects. The federal government stands to learn from the work taking place in the “laboratory” of local approaches.⁹⁷ Political leadership at the highest levels still matters. Welcome the inauguration of President Donald J. Trump as the 45th President of the United States on January 20, 2017.

III. A MATH OF SUBTRACTION AND DIVISION: THE TRUMP ADMINISTRATION

“Americans want great schools for their children, safe neighborhoods for their families, and good jobs for themselves.

These are the just and reasonable demands of a righteous public.

But for too many of our citizens, a different reality exists: Mothers and children trapped in poverty in our inner cities; rusted-out factories scattered like tombstones across the landscape of our nation; an education system, flush

93. See Dambisa Moyo, *Why Democracy Doesn't Deliver*, FOREIGN POL'Y (Apr. 26, 2018), <https://foreignpolicy.com/2018/04/26/why-democracy-doesnt-deliver/> (excerpt adapted from DAMBISA MOYO, *EDGE OF CHAOS: WHY DEMOCRACY IS FAILING TO DELIVER ECONOMIC GROWTH—AND HOW TO FIX IT* (2018)).

94. See, e.g., Tarantola, *supra* note 21, at 1926. See generally Wernham & Teutsch, *supra* note 1.

95. See, e.g., ILONA KICKBUSCH & KEVIN BUCKETT, IMPLEMENTING HEALTH IN ALL POLICIES ADELAIDE 2010 1, 12 (2010) (addressing implementation issues with HiAP and providing examples of efforts in South Australia, Quebec, Canada, Thailand, and the European Union). See generally Pekka Puska & Timo Ståhl, *Health in All Policies—The Finnish Initiative: Background, Principles, and Current Issues*, 31 ANN. REV. PUB. HEALTH 315 (2010) (describing the development of HiAP in Finland and its spread to the EU).

96. JOHNSON & WOOTEN, *supra* note 6, at 5.

97. *New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting, “It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.”).

with cash, but which leaves our young and beautiful students deprived of knowledge; and the crime and gangs and drugs that have stolen too many lives and robbed our country of so much unrealized potential.

*This American carnage stops right here and stops right now.”*⁹⁸

The first words from the new President seemingly recognized the impact of SDOH and sought to bring to the forefront of policy consideration the needs of those across the country. Thus, appearing as a promise to add more voices to policymaking and address root causes of disparity. But then, he continued with language of “carnage,” alienating language to describe the current context.⁹⁹ And, the positive side of rebuilding and strengthening the U.S. was framed in the context of “America First.”¹⁰⁰ Depending on the focus of concern, left open was who would benefit and how they would benefit from the policies that emerged from these first remarks. Would the vote for change represent an opportune time to restructure the government, at the federal level and through state/local support, in furtherance of a HiAP approach, as change that meets the “demands of a righteous public?”

A HiAP approach needs good facts, openness to collaboration, and a shared, inclusive commitment to health equity through addressing and tracking the SDOH. A review of the Trump administration’s first 100 days in office, with its “America First” vision, did not show promise for advocating for a HiAP approach.¹⁰¹ Consider the Muslim immigration ban,¹⁰² repeated calls for a border wall between the U.S. and Mexico,¹⁰³ and withdrawal from the Trans-

98. Donald J. Trump, President, The Inaugural Address at the U.S. Capitol (Jan. 20, 2017), <https://www.whitehouse.gov/briefings-statements/the-inaugural-address/>.

99. *Id.*

100. *Id.*

101. See, e.g., *Transcript: Donald Trump Expounds on His Foreign Policy Views*, N.Y. TIMES (Mar. 26, 2016), <https://www.nytimes.com/2016/03/27/us/politics/donald-trump-transcript.html?smid=tw-nytpolitics&smtyp=cur> (transcript of interview when then presidential candidate Trump adopted the phrase “America First” to sum up his foreign policy ideas). See generally Lily Rothman, *The Long History Behind Donald Trump’s ‘America First’ Foreign Policy*, TIME (Mar. 28, 2016), <http://time.com/4273812/america-first-donald-trump-history/> (for historical context of this “America First” policy).

102. Exec. Order No. 13,769, 82 Fed. Reg. 8977 (Jan. 27, 2017); *superseded by* Exec. Order No. 13,780, 82 Fed. Reg. 13,209 (Mar. 6, 2017); *superseded by* Proclamation No. 9645, 82 Fed. Reg. 45,162 (Sept. 24, 2017); *upheld as constitutional by* Trump v. Hawaii, 138 S. Ct. 2392, 2423 (2018).

103. Exec. Order No. 13,767, Border Security and Immigration Enforcement Improvements, 82 Fed. Reg. 8793 (Jan. 25, 2017); Donald J. Trump, President, Remarks by President Trump After Review of Border Wall Prototypes in San Diego, CA (Mar. 13, 2018), in <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-review-border-wall-prototypes-san-diego-ca/>; Donald J. Trump, President, President Donald J. Trump’s State of the Union Address at the White House (Jan. 30, 2018), in <https://www.whitehouse.gov/briefings-statements/president-donald-j-trumps-state-union-address/>.

Pacific Partnership.¹⁰⁴ Facing court defeats and congressional roadblocks, President Trump turned to executive orders to implement his vision.¹⁰⁵ Additional actions had direct negative consequences for a HiAP approach. For example, President Trump moved to dismantle the Affordable Care Act and provide greater flexibility to states through the use of agency discretion,¹⁰⁶ and he potentially impacted regulatory innovation by decreeing that for every regulation issued, at least two existing regulations be eliminated and that total incremental cost of new regulations net to zero.¹⁰⁷

True, from a public health perspective, there have been positive actions (e.g., the Trump administration push to address the opioid epidemic).¹⁰⁸ An executive order related to energy independence also encouraged that environmental regulations be “developed through transparent processes that employ the best available peer-reviewed science and economics.”¹⁰⁹ However, that same executive order sought to lessen regulatory burden on energy sources such as

104. María L. Pagán, Letter to Trans-Pacific Partnership Depositary (Jan. 30, 2017), <https://ustr.gov/sites/default/files/files/Press/Releases/1-30-17%20USTR%20Letter%20to%20TPP%20Depositary.pdf>.

105. In the first 100 days, President Trump issued twenty-six Executive Orders (Executive Order 13765 through Executive Order 13790), including ones to further his positions on immigration and border security (for example, Executive Order 13767 and 13768, both signed on January 25, mere days into his presidency). *See 2017 Donald Trump Executive Orders*, FED. REG., <https://www.federalregister.gov/executive-orders/donald-trump/2017> (last visited October 1, 2018). Executive Orders were also helpful to overcome court roadblocks. *See, e.g.*, Exec. Order No. 13,769, 82 Fed. Reg. at 8,977 (suspension of issuance of visas and other immigration benefits to nationals of countries of particular concern); Exec. Order No. 13,780, 82 Fed. Reg. at 13,209 (describing that the Executive Order 13,769 suspended immigrant entry from seven countries: Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen). Foreshadowing the trade actions in the spring of 2018, Executive Order 13,786 called for a review of all trade deficits. *See* Exec. Order No. 13786, 82 Fed. Reg. at 16,721. *See, e.g., Executive Orders*, FED. REG., <https://www.federalregister.gov/executive-orders> (last visited Oct. 1, 2018). Use of executive power is not a new approach; recent Presidents, facing a difficult Congress in a highly partisan climate, utilized Executive Orders to move forward their agendas; *see also* Megan Covington, *Executive Legislation and the Expansion of Presidential Power*, 8 VAND. UNDERGRADUATE RES. J., July 2012, at 1, 2. Donald Trump has issued at least 85 executive orders since taking office, William J. Clinton issued 255 executive orders between 1994 and 2001 George W. Bush issued 291 between 2001 and 2009, and Barack Obama issued 276 between 2009 and 2017. *Id.*

106. Exec. Order No. 13,765, 82 Fed. Reg. at 8,351.

107. Exec. Order No. 13,771, 82 Fed. Reg. at 9,339.

108. Exec. Order No. 13,784, 82 Fed. Reg. at 16,283.

109. Exec. Order No. 13,783, 82 Fed. Reg. at 16,093.

coal, with well-known negative health¹¹⁰ and environmental effects.¹¹¹ Nowhere appears a driving vision promoting health and equity across populations.

Of course, elections matter, and federal administrations under new presidents get to implement their vision of the role of government.¹¹² Of note, however, the Trump administration's actions have belied a view of "small government," seeming more bent on division ("us" versus "them") and subtraction (individuals removed from a sense of a bigger community).¹¹³ The purpose herein is not to judge the best approaches to leadership, but rather simply to analyze actions in light of the goals of a HiAP approach and in consideration of the elements needed for its successful implementation. Signs are not favorable.

A. *Alternative Facts*

"CHUCK TODD [Moderator, Meet the Press]: . . . [A]nswer the question of why the president asked the White House press secretary to come out in front of the podium for the first time and utter a falsehood [related to Inauguration crowd size]? Why did he do that? It undermines the credibility of the entire White House press office

KELLYANNE CONWAY [White House Counselor]: Don't be so overly dramatic about it, Chuck. What—You're saying it's a falsehood. And . . . our press secretary, gave alternative facts to that.

110. *Id.*; ALAN H. LOCKWOOD ET AL., COAL'S ASSAULT ON HUMAN HEALTH: A REPORT FROM PHYSICIANS FOR SOCIAL RESPONSIBILITY V (2009), <https://www.psr.org/wp-content/uploads/2018/05/coals-assault-on-human-health.pdf>.

111. MARTHA KEATING, CLEAN AIR TASK FORCE, CRADLE TO GRAVE: THE ENVIRONMENTAL IMPACTS FROM COAL 1 (2001), http://www.catf.us/resources/publications/files/Cradle_to_Grave.pdf.

112. *See, e.g.*, Alan Yuhas, *Presidents Undoing Their Predecessor's Legacy: An American Tradition*, GUARDIAN (Jan. 10, 2017), <https://www.theguardian.com/us-news/2017/jan/10/trump-obama-president-legacy-history> (describing how different presidents implemented their vision upon their election); Joel Achenbach, *These Presidents All Said They Were Going to Change America. How'd That Work Out?*, WASH. POST (Jan. 18, 2017), https://www.washingtonpost.com/national/these-presidents-all-said-they-were-going-to-change-america-howd-that-work-out/2017/01/17/45c72acc-d6a6-11e6-9f9f-5cdb4b7f8dd7_story.html?utm_term=.6672e2f3a6da; U.S. OFF. MGMT. & BUDGET, PRESIDENT'S MANAGEMENT AGENDA 1 (2018), <https://www.whitehouse.gov/wp-content/uploads/2018/03/Presidents-Management-Agenda.pdf> (stating Trump's management agenda of implementing his vision).

113. *See* Lisa Rein & Andrew Ba Tran, *How the Trump Era is Changing the Federal Bureaucracy*, WASH. POST (Dec. 30, 2017), https://www.washingtonpost.com/politics/how-the-trump-era-is-changing-the-federal-bureaucracy/2017/12/30/8d5149c6-daa7-11e7-b859-fb0995360725_story.html?utm_term=.99d54be9026e; Interview by John Berman with Sylvester Turner, Mayor, Houston, Texas (Aug. 25, 2017).

*CHUCK TODD: Wait a minute . . . Alternative facts?”*¹¹⁴

Just days after the Inauguration, a new phrase emerged at the forefront of American consciousness. The Trump administration brought in change, a change in the conception of facts—that there could be different sides not simply to the interpretation of facts, but to facts themselves. While it is open to debate why individuals did or did not attend the Inauguration on the National Mall, White House claims as to crowd numbers were verifiably untrue.¹¹⁵ A HiAP approach relies on solid data to garner support and move to “win-wins.”¹¹⁶ Having more than one set of facts challenges this foundation.

Consider, too, the role of evidence as policy informant. While policymaking is a complex endeavor with a myriad of influencing factors, arguably evidence should be among the factors informing policy action.¹¹⁷ Why not try to support “what works,”¹¹⁸ especially where strong evidence exists, such as the role of SDOH, alongside recognition of the importance of equity considerations in

114. See Rebecca Sinderbrand, *How Kellyanne Conway Ushered in the Era of ‘Alternative Facts’*, WASH. POST (Jan. 22, 2017), https://www.washingtonpost.com/news/the-fix/wp/2017/01/22/how-kellyanne-conway-ushered-in-the-era-of-alternative-facts/?utm_term=.d34c187fbb0b (transcribing Conway’s interview).

115. See Deena Zaru, *It took FOIA for Park Service to Release Photos of Obama, Trump Inauguration Crowd Sizes*, CNN (Mar. 7, 2017), <https://www.cnn.com/2017/03/07/politics/national-park-service-inauguration-crowd-size-photos/index.html> (showing the National Park Service official aerial photographs of crowds at the inaugurations of President Obama in 2009 and 2013, and of President Trump in 2017).

116. WYSS ET AL., *supra* note 5, at 1, 8.

117. See, e.g., Shelley Bowen & Anthony B. Zwi, *Pathways to “Evidence-Informed” Policy and Practice: A Framework for Action*, PUB. LIBR. SCI. MED., July 2005, at 0600; Stephen B. Thacker et al., *The Evidence Base for Public Health*, 28 AM. J. PREVENTATIVE MED. 227.e1, 227.e1, 227.e3–27.e4, 227.e5 (2005) (“Rigorously obtained data on preventable fraction are essential for rational decision making, and for recommending what works and what provides the largest return on investment.”); Huw T.O. Davies et al., *What Works? Evidence-Based Policy and Practice in Public Services*, 30 J. SOC. & SOC. WELFARE 190, 190 (2003); Carol H. Weiss, *The Many Meanings of Research Utilization*, 39 PUB. ADMIN. REV. 426, 430 (1979); Carol H. Weiss et al., *The Fairy Godmother—and Her Warts: Making the Dream of Evidence-Based Policy Come True*, 29 AM. J. EVALUATION 29, 29 (2008). The “informing” (versus “based”) language is purposefully used in recognition of the importance of other factors, especially for the purposes herein, factors such as equity. Nikola Biller-Andorno et al., *Evidence-Based Medicine as an Instrument for Rational Health Policy*, 10 HEALTHCARE ANALYSIS 261, 262, 272–73 (2002) (“Our moral responsibility requires us to use the positive potential of EBM for fairness and quality in health care as well as to reflect critically on its limits.”). It has also been emphasized that the process of informing policy with evidence requires collaboration and an appreciation for the policy context. Catherine Pope et al., *Informing Policy Making and Management in Healthcare: The Place for Synthesis*, HEALTHCARE POL., Jan. 2006, at 43, 47 (arguing to fully recognize the value of research syntheses in policymaking will require “local partnerships, critical dialogues and reinterpretation in context.”).

118. Davies et al., *supra* note 117, at 190.

conducting, analyzing, and implementing research?¹¹⁹ And yet, the “Trump administration has taken what many see as a largely apathetic—and at times actively hostile—approach to science.”¹²⁰ This takes the form of regulatory rollbacks¹²¹ as well as choices in filling critical open leadership positions.¹²² One report documented “overhauls and removals of climate documents, web pages,

119. The Center for Disease Control and Prevention (CDC) seems a natural supporter for this policymaking orientation. CTRS. FOR DISEASE CONTROL & PREVENTION, JUSTIFICATION OF ESTIMATES FOR APPROPRIATION COMMITTEES 174 (2018), <https://www.cdc.gov/budget/documents/fy2019/fy-2019-cdc-congressional-justification.pdf> [hereinafter JUSTIFICATION OF ESTIMATIONS FOR APPROPRIATION COMMITTEES] (describing CDC’s policy making orientation); see also *Mission*, CTRS. FOR DISEASE CONTROL & PREVENTION (Dec. 16, 2013), <https://www.cdc.gov/maso/pdf/cdcmis.pdf> [hereinafter *Mission*] (“CDC serves as the national focus for developing and applying disease prevention and control, environmental health, and health promotion and health education activities designed to improve the health of the people of the United States.”). Specifically, it accomplishes its “public health mission through ... a deep commitment to and reliance on science.” JUSTIFICATION OF ESTIMATIONS FOR APPROPRIATION COMMITTEES, *supra* at 8. CDC staff recognized the need for building a stronger evidence base to inform its policy work. See Thacker et al., *supra* note 117, at 227.e1, 227.e5. The proposed White House budget justification for FY2019 suggests an effort to match dollars to the commitment. JUSTIFICATION OF ESTIMATIONS FOR APPROPRIATION COMMITTEES, *supra*, at 3, 11. Of note, the Budget Justification states as the CDC mission “to keep America healthy, safe and secure” and speaks to “threats.” *Id.* at 3. This casts a more negative hue than the “improve the health” language of its mission statement document. See *Mission*, *supra*. The CDC did not escape damaging press of conflicts of interest, namely by its then-Director, Brenda Fitzgerald, who resigned after a report emerged of her holdings in tobacco companies. See Sheila Kaplan, *Dr. Brenda Fitzgerald, C.D.C. Director, Resigns Over Tobacco and Other Investments*, N.Y. TIMES (Jan. 31, 2018), <https://www.nytimes.com/2018/01/31/health/cdc-brenda-fitzgerald-resigns.html>.

120. Tanya Lewis, *A Year of Trump: Science is a Major Casualty in the New Politics of Disruption*, SCIENTIFIC AM. (Dec. 14, 2017), <https://www.scientificamerican.com/article/a-year-of-trump-science-is-a-major-casualty-in-the-new-politics-of-disruption/>.

121. See ZHOUDAN XIE & SOFIE E. MILLER, REG. STUD. CTR. GEO. WASH. UNIV., 2017 REGULATORY YEAR IN REVIEW 1, 2 (2017), https://regulatorystudies.columbian.gwu.edu/sites/g/files/zaxdzs1866/f/downloads/RegInsight_2017-Regulatory-Year-In-Review%20%282%29.pdf; see also *Tracking Deregulation in the Trump Era*, BROOKINGS, <https://www.brookings.edu/interactives/tracking-deregulation-in-the-trump-era/> (last visited Oct. 2, 2018) (providing a tracker of deregulatory activity, new rules, and important court battles across eight major categories); Exec. Order No. 13,771, *supra* note 107 (requiring each regulatory agency to eliminate two existing regulations for every one issued).

122. Some major examples of controversial appointments include: Tom Price as Secretary of Health and Human Services (who has since resigned), Rick Perry as Secretary of Energy, and Ryan Zinke as Secretary of Interior. See, e.g., Robert Pear & Thomas Kaplan, *Tom Price is Confirmed as Health Secretary*, N.Y. TIMES (Feb. 10, 2017), <https://www.nytimes.com/2017/02/10/us/politics/tom-price-health-and-human-services.html>; Jeffrey Mervis, *The Reaction to Rick Perry Leading the Department of Energy? It’s Complicated*, SCIENCE (Dec. 13, 2016), <http://www.sciencemag.org/news/2016/12/reaction-rick-perry-leading-department-energy-it-s-complicated>; Jessica Taylor & Kirk Siegler, *Trump Taps Montana Rep. Ryan Zinke to Lead Interior Department*, NAT’L. PUB. RADIO (Dec. 13, 2016), <https://www.npr.org/2016/12/13/505462597/trump-taps-montana-rep-ryan-zinke-to-lead-interior-department>.

and entire websites, as well as significant language shifts,” limiting access to scientific, especially environmental, data.¹²³ The Environmental Protection Agency (EPA) is ground zero.

“Born in the wake of elevated concern about environmental pollution, EPA was established [in 1970] to consolidate in one agency a variety of federal research, monitoring, standard-setting and enforcement activities to ensure environmental protection. Since its inception, EPA has been working for a cleaner, healthier environment for the American people.”¹²⁴ Its traditional focus has been on water and air quality.¹²⁵ With the Trump administration’s pick to lead the EPA, Scott Pruitt, priority shifted to a “back-to-basics agenda,”¹²⁶ which Pruitt kicked off by an appearance at a Pennsylvania coal mine, stating that: “The coal industry was nearly devastated by years of regulatory overreach, but with new direction from President Trump, we are turning things around for these miners.”¹²⁷ The “basic” agenda will focus on “[p]rotecting the environment,” “[s]ensible regulations that allow economic growth,” and “[e]ngaging with state and local partners.”¹²⁸ Yet, coal mining impacts the environment in numerous (e.g., soil, water, and air) negative ways.¹²⁹ Moreover, despite widespread

123. TOLY RINBERG ET AL., ENVTL. DATA & GOVERNANCE INITIATIVE, CHANGING THE DIGITAL CLIMATE: HOW CLIMATE CHANGE WEB CONTENT IS BEING CENSORED UNDER THE TRUMP ADMINISTRATION 3 (2018), <https://envirodatagov.org/wp-content/uploads/2018/01/Part-3-Changing-the-Digital-Climate.pdf>.

124. *Id.*

125. *The Origins of the EPA*, ENVTL. PROTECTION AGENCY (Apr. 16, 2016), <https://www.epa.gov/history/origins-epa>.

126. *Back-to-Basics Agenda*, ENVTL. PROTECTION AGENCY (July 9, 2018), <https://www.epa.gov/home/back-basics-agenda> (remarks from an event at the Harvey Mine in Sycamore, Pennsylvania on April 13, 2017).

127. *Id.*

128. *Id.*

129. See, e.g., Stanislaw Dudka & Domy C. Adriano, *Environmental Impacts of Metal Ore Mining and Processing: A Review*, 26 J. ENVTL. QUALITY 590, 599 (1997) (“Although mines are classified on the basis of their predominant products, they produce large quantities of other elements as coproducts. As a result, metal ore processing usually leads to multi-elemental contamination of the environment. ...The gaseous, dust, liquid, and solid wastes discharged into the environment from mines and smelters cause soil and water acidification, air, water, soil, and plant contamination by trace elements, deterioration of soil biology and fertility, and soil erosion.”); Daniel M. Evans et al., *Hydrologic Effects of Surface Coal Mining in Appalachia (U.S.)*, 51 J. OF AM. WATER RESOURCES ASS’N 1436, 1437 (2015); Steffen Jenner & Alberto J. Lamadrid, *Shale Gas vs. Coal: Policy Implications from Environmental Impact Comparisons of Shale Gas, Conventional Gas, and Coal on Air, Water, and Land in the United States*, 53 ENERGY POL’Y 442, 445 (2013). See generally M. A. Palmer et al., *Mountaintop Mining Consequences*, 327 SCIENCE MAG., 148 (2010) (environmental and potential human health risks from mountaintop mining). Critically, the Department of Energy website has deemphasized “renewable energy in favor of fossil fuels.” See RINBERG et al., *supra* note 123, at 20. The push for shale gas as energy source in the U.S. also carries with it risks; see generally R. D. Vidic et al., *Impact of Shale Gas Development on Regional Water Quality*, 340 SCIENCE MAG., 826 (2013).

scientific expert consensus over the dangers of climate warming,¹³⁰ the White House and EPA have removed mention of climate science from its website.¹³¹ Additionally, on June 15, 2018, the EPA announced that it would soon act upon President Trump's call to redefine "waters of the United States,"¹³² again highlighting the importance of "promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of the federal government and the states under the statutory framework of the Clean Water Act."¹³³ Facts and evidence matter, as do actions that build on a particular view of and prioritization of said "facts." The Trump administration's actions suggest movement away from an expansive or active federal role in ensuring clean air or water, a redefining of the facts and evidence that matter.¹³⁴ In turn, this

130. *Scientific Consensus: Earth's Climate is Warming*, NASA, <https://climate.nasa.gov/scientific-consensus/> (last visited Oct. 3, 2018) ("Multiple studies published in peer-reviewed scientific journals show that 97 percent or more of actively publishing climate scientists agree: Climate-warming trends over the past century are extremely likely due to human activities.").

131. See RINBERG et al., *supra* note 123, at 16–19; see, e.g., Dylan Matthews, *Donald Trump Has Tweeted Climate Change Skepticism 115 times. Here's all of it.*, VOX (June 1, 2017), <https://www.vox.com/policy-and-politics/2017/6/1/15726472/trump-tweets-global-warming-paris-climate-agreement> (Notably, President Trump claimed in a tweet that "Global warming is based on faulty science and manipulated data...").

132. *EPA and Army Take Next Step in Joint Efforts to Redefine "Waters of the United States"*, ENVTL. PROTECTION AGENCY: NEWS RELEASES (June 15, 2018), <https://www.epa.gov/newsroom/epa-and-army-take-next-step-joint-efforts-redefine-waters-united-states>; Exec. Order No. 13,778, 82 Fed. Reg. 12,497 (Feb. 28, 2017), "Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule." [hereinafter *EPA and Army Take Next Step*] ("Section 1. Policy. It is in the national interest to ensure that the Nation's navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of the Congress and the States under the Constitution.").

133. *EPA and Army Take Next Step*, *supra* note 132, at 12,497 (citing EPA Administrator Scott Pruitt). This kicks off the critical second step in the rulemaking process, during which the EPA and Department of the Army, Corps of Engineers will reevaluate the definition of "waters of the United States," which "governs administration of the Clean Water Act." Definition of "Waters of the United States"—Recodification of Pre-Existing Rules, 82 Fed. Reg. 34,899 (July 27, 2017). The first step in this process was issuance of a Proposed Rule on July 27, 2017. *Id.* (re-codifying regulations in place prior to the Obama Administration 2015 Clean Water Rule). The June 15, 2018 "proposal [will] dramatically scale back an Obama-era regulation on water pollution [which sought to extend federal body of water protection through an expanded definition of "waters of the United States"] . . . It is widely expected to be one of [the EPA's] . . . most significant regulatory rollback efforts." Coral Davenport, *Scott Pruitt, Under Fire, Plans to Initiate a Big Environmental Rollback*, N.Y. TIMES (June 14, 2018), <https://www.nytimes.com/2018/06/14/climate/pruitt-clean-air-water-rollbacks.html>. The 2015 rule had been stayed by the Sixth Circuit Court of Appeals in October 2015. See *In re Env'tl. Protection Agency & Dep't of Defense Final Rule v. U.S. Army Corps of Engineers*, 803 F.3d 804 (6th Cir. 2015); see also *Nat'l Ass'n of Mfrs. v. Dept. of Defense*, 138 S. Ct. 617, 627 (2018).

134. Michael Biesecker & Matthew Brown, *Trump EPA Moves to Roll Back More Clean Air and Water Rules*, WASH. POST (Mar. 1, 2018), <https://www.washingtonpost.com/business/trump->

redefining and reprioritizing of facts and evidence suggest that negative data concerning the administration's policies vis-à-vis the majority of Americans could be ignored in favor of "alternative facts" that support policies that work only for the one percent.

B. *The One Percent*

HiAP builds on the recognition of the numerous social factors that influence a community's health outcomes.¹³⁵ Keywords include "social," "community," "collaboration," and "shared."¹³⁶ Language repeated in presidential tweets, however, includes: "fake news," "Psycho," "low IQ," "Ungrateful fool," and "pathetic."¹³⁷ Putting the merits of these tweets with a political base aside, these sorts of public proclamations—by a president—are not encouraging for efforts at inclusion and coalition-building. In fact, "the nearest reference to community under the Trump administration directs visitors to a page focused on strengthening the nation's law enforcement."¹³⁸ Words and actions emanating from the Administration subtract the "I" from community, for singular emphasis.

1. Housing

For example, data shows that the current market cannot keep pace with the growth in very low-income renters, exacerbating household rental cost-burden on already stressed families.¹³⁹ And low-income households' level of cost

epa-moves-to-roll-back-more-clean-air-and-water-rules/2018/03/01/6ac314d8-1dbf-11e8-98f5-ceecfa8741b6_story.html?utm_term=.326c77acefc0. The Flint, Michigan experience highlights the importance of safe water. Importantly, the EPA awarded a \$1.9 million grant to the researcher who identified the lead in Flint's water system, to expand similar detection in other communities. *See, e.g.,* Sara Ganim, *EPA Gives \$1.9 Million to Researcher to Find Lead in Water*, CNN (Apr. 25, 2018), <https://www.cnn.com/2018/04/25/health/epa-lead-water-research-grant-bn/index.html>.

135. *See generally* WORLD HEALTH ORGANIZATION, HEALTH IN ALL POLICIES (HiAP) FRAMEWORK FOR COUNTRY ACTION (2014) http://www.who.int/cardiovascular_diseases/140120-HPRHiAPFramework.pdf.

136. *Id.*

137. Ryan Teague Beckwith, *Here are the 10 Donald Trump Tweets Americans Hate the Most*, TIME (Jan. 24, 2018), <http://time.com/5116461/donald-trump-twitter-tweets-poll-yougov/> (describing public opinion related to some of President Trump's more notable tweets).

138. Nicol Turner-Lee, *How The President's Twitter Account Affects Civil Society*, BROOKINGS (Feb. 16, 2017), <https://www.brookings.edu/blog/techtank/2017/02/16/how-the-presidents-twitter-account-affects-civil-society/>.

139. *See, e.g.,* JOINT CTR. FOR HOUSING STUD. OF HARV. UNIV., THE STATE OF THE NATION'S HOUSING 5–6 (2017) (citing the data showing growth of cost-burden at fig. 5 and fig. 6). Cost burden is met when housing costs exceed 30% of income. MARY SCHWARTZ & ELLEN WILSON, U.S. CENSUS BUREAU, WHO CAN AFFORD TO LIVE IN A HOME?: A LOOK AT DATA FROM THE 2006 AMERICAN COMMUNITY SURVEY (2008), <https://www.census.gov/housing/census/publications/who-can-afford.pdf> ("Homeowners on the lowest rungs of the income ladder suffer the most from

burden has steadily risen since 2000, with over fifty percent of households in the lowest income quintile “severely” cost-burdened (i.e., housing costs exceed fifty percent of income).¹⁴⁰ This situation is compounded by the energy cost burden also experienced by many of these same households.¹⁴¹ “These rent [and energy] burdens are a potential source of stress and financial instability to households, particularly for low-income families with children.”¹⁴² To address fully housing and energy cost burden requires government action,¹⁴³ such as through the Community Development Block Grant (CDBG) program.¹⁴⁴ CDBG provides states and local communities with grants “to develop viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low- and moderate-income persons.”¹⁴⁵

What is the current administration’s response? Consider the White House proposed FY2019 budget,¹⁴⁶ which President Trump declared “keep[s] our commitments to our fellow Americans and continue[s] to put their interests first.”¹⁴⁷ Perhaps not all interests are protected, with calls for an 18.3% reduction

high housing costs. Unlike higher income households, these households are often unable to enjoy quality of life after paying their housing expenses.”).

140. Jeff Larrimore & Jenny Schuetz, *Assessing the Severity of Rent Burden on Low-Income Families*, FEDS NOTES (Dec. 22, 2017), <https://www.federalreserve.gov/econres/notes/feds-notes/assessing-the-severity-of-rent-burden-on-low-income-families-20171222.htm> (using figure 1 to show there “severe burden” threshold and figure 2 to show the steady increase of cost burden since 2000).

141. ARIEL DREHOBL & LAUREN ROSS, *LIFTING THE HIGH ENERGY BURDEN IN AMERICA’S LARGEST CITIES: HOW ENERGY EFFICIENCY CAN IMPROVE LOW INCOME AND UNDERSERVED COMMUNITIES* 14 (2016) (finding, notably, that Memphis is the US city with the highest energy burden).

142. Larrimore & Schuetz, *supra* note 140.

143. *Albany’s Apartment Boom Matches Up With Some National Trends*, ALL OVER ALBANY (Dec. 14, 2017), <http://alloveralbany.com/archive/2017/12/14/albany-apartment-boom-national-trends> (“Addressing [increasing numbers of low-income households, rising housing development costs, and limited means of financing housing] ... requires action on the parts of both the public and private sectors. Government at all levels has a role to play in ensuring that the regulatory environment does not stifle much-needed innovation, and that tax policy and public spending support the efficient provision of moderately priced housing.”); DREHOBL & ROSS, *supra* note 141, at 25 (policy options include bill assistance programs, weatherization programs, and low-income energy efficiency programs).

144. *Community Development Block Grant Program*, HUD.GOV <https://www.hudexchange.info/programs/cdbg/> (last visited Oct. 5, 2018).

145. *Id.*

146. OFFICE OF MGMT. & BUDGET, *FISCAL YEAR 2019, AN AMERICAN BUDGET* 1–3 (2018), <https://www.whitehouse.gov/wp-content/uploads/2018/02/budget-fy2019.pdf> (The document is entitled “An American Budget,” with a focus that includes: “Ending Wasteful Spending[.]” “Expanding Economic Growth and Opportunity[.]” “Building the Wall,” and “Moving from Welfare to Work.”).

147. *Id.* at 3.

to the Department of Housing and Urban Development (HUD) budget,¹⁴⁸ including the elimination of CDBG.¹⁴⁹ Further, it would raise the permissible level of income allocated to housing spending—the cost burden¹⁵⁰—and would cut funding for rental assistance and affordable housing, believing “the provision of affordable housing should be a responsibility more fully shared with State and local governments.”¹⁵¹ The administration deems these proposals as moving more people toward “self-sufficiency.”¹⁵²

148. *Id.* at 63 (note this reduction was from the 2017 enacted budget). It would keep level funding for lead-based paint mitigation programs for low-income homes. *Id.* at 65. *See generally* Braktkon Booker, *White House Budget Calls for Deep Cuts to HUD*, NAT’L PUB. RADIO (Feb. 13, 2018), <https://www.npr.org/2018/02/13/585255697/white-house-budget-calls-for-deep-cuts-to-hud>.

149. OFFICE OF MGMT. & BUDGET, *supra* note 146, at 65 (citing CDBG as “a program that has expanded more than \$150 billion since its inception in 1974, but has not demonstrated significant impact.”). It emphasizes state and local government responsibility as “better positioned to assess local community needs and address unique market challenges.” *Id.* Note, however, “According to HUD, between 2005 and 2013, CDBG created or retained 330,546 jobs, assisted over 1.1 million people with homeownership and improvements, benefitted over 33 million people nationwide through public improvements, and provided public services to over 105 million people.” BRETT THEODOS ET AL., URBAN INST., *TAKING STOCK OF THE COMMUNITY DEVELOPMENT BLOCK GRANT 2* (2017), https://www.urban.org/sites/default/files/publication/89551/cdbg_brief.pdf.

150. OFFICE OF MGMT. & BUDGET, *supra* note 146, at 64 (“The Administration’s reforms require able-bodied individuals to shoulder more of their housing costs and provide an incentive to increase their earnings.”). The “able-bodied” are repeated targets for doing more and/or getting less. The vehicle for the Administration’s proposed increases is a draft bill announced by HUD Secretary Ben Carson, “Making Affordable Housing Work Act of 2018,” that proposes to raise the percentage of income that recipients must contribute to housing costs from 30% to 35%. *See* Steve Wallace, *Secretary Carson Unveils New Rent Structure Proposal*, INST. FOR RESPONSIBLE HOUSING PRESERVATION (April 26, 2018), <https://housingpreservation.org/news/6129638>; *see generally* Booker, *supra* note 148. Notably, Rep. Dennis Ross (R-FL) has proposed a different tactic in his draft bill, “Promoting Resident Opportunity through Rent Reform Act,” which would give local housing authorities a number of options regarding how to calculate income and the amount of income allocated to housing costs. *See* PROMOTING RESIDENT OPPORTUNITY THROUGH RENT REFORM ACT, H.R. ___, 115 Cong. (2018), https://www.ncsha.org/wp-content/uploads/2018/04/bills-115_rossfl022_pih.pdf.

151. OFFICE OF MGMT. & BUDGET, *supra* note 146, at 64. *See generally* WILL FISCHER ET AL., *TRUMP BUDGET’S HOUSING PROPOSALS WOULD RAISE RENTS ON STRUGGLING FAMILIES, SENIORS, AND PEOPLE WITH DISABILITIES*, CTR. ON BUDGET & POL’Y. PRIORITIES (2017).

152. OFFICE OF MGMT. & BUDGET, *supra* note 146, at 64. The language of “self-sufficiency” harkens back to talk of “deserving poor” and “personal responsibility,” potentially not recognizing how at least certain individual behaviors reflect not choice so much as structural, historic, embedded inequity. For more on this concept, *see generally* Laura D. Hermer, *Independence is the New Health*, ST. LOUIS U. J. HEALTH L. & POL’Y. (forthcoming 2018). Notably, HUD Secretary Carson has also indicated support for addressing asthma by reducing household risks in public housing, e.g., mold and roaches. Jay Hancock et al., *Hospitals Find Asthma Hot Spots More Profitable to Neglect Than Fix*, KAISER HEALTH NEWS (2017), <https://khn.org/news/hospitals-find-asthma-hot-spots-more-profitable-to-neglect-than-fix/> (“The cost of not taking care of people is probably greater than the cost of taking care of them.”).

2. Social Services

Science also increasingly recognizes the impact of early childhood experiences, especially “toxic stress,” on later health and non-health outcomes.¹⁵³ Importantly, interventions in early care and learning exist that can mitigate and prevent these negative consequences¹⁵⁴ with ramifications, beyond single families, for communities and state budgets.¹⁵⁵ Again, policy makes a difference, policy that reflects the HiAP approach (e.g., fostering capacity-building, cross-sector collaboration and agenda alignment, and data sharing).¹⁵⁶ Policy should support what works, as well as allow for innovation and replication to expand what works into a diverse set of contexts.¹⁵⁷ At the federal level, much like the CDBG, the Social Services Block Grant (SSBG) provides states with flexible funds for things like child care assistance and efforts to prevent or mitigate abuse and neglect.¹⁵⁸

“During the presidential campaign, Donald Trump proposed three new tax benefits related to child care –an expanded credit for low-income families, a deduction for higher income families, and a savings account. These proposals bring attention to the burden child care costs can place on low- and middle-

153. CTR. ON THE DEVELOPING CHILD, HARV. UNIV., FROM BEST PRACTICES TO BREAKTHROUGH IMPACTS: A SCIENCE-BASED APPROACH TO BUILDING A MORE PROMISING FUTURE FOR YOUNG CHILDREN AND FAMILIES 11 (2016), http://developingchild.harvard.edu/wp-content/uploads/2016/05/From_Best_Practices_to_Breakthrough_Impacts-4.pdf. See generally Felitti et al., *supra* note 74; Jack P. Shonkoff et al., *Technical Report: The Lifelong Effects of Early Childhood Adversity and Toxic Stress*, 129 AM. ACADEMY PEDIATRICS, no. 1, 2012, at e232–43.

154. See Shonkoff et al., *supra* note 153, at e233; CTR. ON THE DEVELOPING CHILD, *supra* note 153, at 18. See, e.g., Lorraine M. McKelvey et al., *Assessing Adverse Experiences from Infancy Through Early Childhood in Home Visiting Programs*, 51 CHILD ABUSE & NEGLECT 295, 296 (2016); David L. Olds et al., *Effect of Home Visiting by Nurses on Maternal and Child Mortality: Results of a 2-Decade Follow-up of a Randomized Clinical Trial*, 168 JAMA PEDIATRICS 800, 805 (2014); Breanne Porter & Tasha Howe, *Pilot Evaluation of the “ACT Parents Raising Safe Kids” Violence Prevention Program*, 1 J. OF CHILD & ADOLESCENT TRAUMA 193, 195 (2008).

155. See generally Xiangming Fang et al., *The Economic Burden of Child Maltreatment in the United States and Implications for Prevention*, 36 CHILD ABUSE & NEGLECT 156 (2012); RICHARD J. GELLES & STACI PERLMAN, *ESTIMATED ANNUAL COST OF CHILD ABUSE AND NEGLECT*, PREVENT CHILD ABUSE AMERICA (2012).

156. See Wendy R. Ellis, Moderator, George Wash. Univ., & Danny Davis, IL-7 Representative, Cong. Foster Youth Caucus, *The Need to Address Childhood Trauma: Implications for Child Welfare and Education Congressional Briefing* 12, 13 (July 26, 2017); see also CTR. ON THE DEVELOPING CHILD, *supra* note 153, at 33–34; Shonkoff et al., *supra* note 153, at e238–39; *Building Strong Brains Tennessee*, TENN. DEP’T OF CHILD.’S SERVS., <https://www.tn.gov/dcs/program-areas/child-health/aces.html> (last visited Oct. 7, 2018).

157. CTR. ON THE DEVELOPING CHILD, *supra* note 153, at 39.

158. *Community Development Block Grant Program – CDBG*, HUD.GOV, https://www.hud.gov/program_offices/comm_planning/communitydevelopment/programs (last visited Oct. 7, 2018); *Social Services Block Grant Program (SSBG)*, OFF. COMMUNITY SERVS., <https://www.acf.hhs.gov/ocs/programs/ssbg> (last visited Oct. 7, 2018).

income families.”¹⁵⁹ However, returning to the White House proposed FY2019 budget, it would reduce the budget of the Department of Health and Human Services (HHS) by twenty-one percent,¹⁶⁰ including eliminating the SSBG,¹⁶¹ as well as make cuts to the Temporary Assistance to Needy Families (TANF) program, another program to enhance family stability.¹⁶² The budget would also push states to devote more TANF funds to work programs,¹⁶³ also reflected in the increased emphasis on work in Medicaid support.¹⁶⁴

159. LILY L. BATCHELDER ET AL., WHO BENEFITS FROM PRESIDENT TRUMP’S CHILD CARE PROPOSALS? 1 (2017), <https://www.taxpolicycenter.org/sites/default/files/publication/138781/2001170-who-benefits-from-president-trumps-child-care-proposals.pdf> (explaining further, however, “We find that more than 70 percent of the total tax benefits would go to families with income above \$100,000, and more than 25 percent to families with income above \$200,000. Lower-income families would benefit less than higher-income families . . .”).

160. OFFICE OF MGMT. & BUDGET, *supra* note 146, at 49 (noting this reduction was from the 2017 enacted budget).

161. *Id.* at 137 tbl.S-6. It would also eliminate the Community Services Block Grant (CSBG), which provides grants to states and certain other entities to fund anti-poverty initiatives. *Id.* at 56; *see also About Community Services Block Grants*, OFF. COMMUNITY SERVS., <https://www.acf.hhs.gov/ocs/programs/csbgb/about> (providing information on the CSBG) (last visited Sept. 15, 2017).

162. OFFICE OF MGMT. & BUDGET, *supra* note 146, at 137 tbl.S-6; *see also About TANF*, OFF. FAM. ASSISTANCE, <https://www.acf.hhs.gov/ofa/programs/tanf/about> (providing more information about TANF) (last reviewed June 28, 2017). *See generally* Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, tit. I, § 101, 110 Stat. 2105, 2110 (1996) (noting TANF, backed by President Clinton and Congressional leaders, was part of a welfare reform package).

163. OFFICE OF MGMT. & BUDGET, *supra* note 146, at 56; Sharon Parrott et al., *Trump Budget Deeply Cuts Health, Housing, Other Assistance for Low- and Moderate-Income Families*, CTR. ON BUDGET AND POL’Y PRIORITIES 1, 6 (Feb. 14, 2018), [file:///C:/Users/rep73/Desktop/Journal/Distribution%20%20Articles/FN166\(b\)_Parrott_TrumpBudgetDeeplyCuts.pdf](file:///C:/Users/rep73/Desktop/Journal/Distribution%20%20Articles/FN166(b)_Parrott_TrumpBudgetDeeplyCuts.pdf) (describing that the budget requires states to spend more TANF funding on work programs and explains the likely impact of the cuts on vulnerable populations).

164. MaryBeth Musumeci et al., *Section 1115 Medicaid Demonstration Waivers: The Current Landscape of Approved and Pending Waivers*, KAISER FAM. FOUND. 1–3 (2018), <http://files.kff.org/attachment/Issue-Brief-Section-1115-Medicaid-Demonstration-Waivers-The-Current-Landscape-of-Approved-and-Pending-Waivers>; *Medicaid Waiver Tracker: Which States Have Approved and Pending Section 1115 Medicaid Waivers?*, KAISER FAM. FOUND. 1 (2018), <https://www.kff.org/medicaid/issue-brief/which-states-have-approved-and-pending-section-1115-medicaid-waivers/>.

C. Isolationism

1. Income Inequality

A focus on the one percent subtracted the “I” from “community.” Growing isolationist rhetoric¹⁶⁵ and actions¹⁶⁶ further divide communities by isolating the “haves (a lot)” from the rest.¹⁶⁷ Isolationism thus finds expression in policies that isolate the very highest incomes from others. Income inequality is not new. Over the past four decades, “[t]he share of incomes going to the wealthiest 10% increased from 33% of total earnings in 1978 to 50% in 2014—a level of inequality not seen since before the Great Depression. Incomes for poor and middle-income Americans, adjusted for inflation, have actually declined since 2000.”¹⁶⁸ Further, “[i]ncome inequality has risen in every state since the 1970s... In 24 states, the top 1 percent captured at least half of all income growth between 2009 and 2013, and in 15 of those states, the top 1 percent captured all income growth.”¹⁶⁹

To be fair, as these statistics affirm, growth in income inequality predates President Trump;¹⁷⁰ however, Trump administration policies do not look likely

165. See, e.g., Glenn Kessler, *President Trump Says His ‘Beautiful Wall’ is Being Built. Nope.*, WASH. POST (Apr. 5, 2018), https://www.washingtonpost.com/news/fact-checker/wp/2018/04/05/president-trump-says-his-beautiful-wall-is-being-built-nope/?utm_term=.fd09a40537a2 (focusing on the 1% and on calls for a border wall between the U.S. and Mexico, President Trump said, “It’s going to be a high wall, it’s going to be beautiful.”); Julián Aguila, *How Donald Trump’s Border Wall Fared in the \$1.3 Trillion Spending Bill He Just Signed*, TEX. TRIBUNE (Mar. 23, 2018), <https://www.texastribune.org/2018/03/23/donald-trump-border-wall-16-million-funding-restrictions-attached/>; Julie Hirschfeld Davis & Eileen Sullivan, *Trump Says He Plans to Order Military to Guard Southern Border*, N.Y. TIMES (Apr. 3, 2018), <https://www.nytimes.com/2018/04/03/us/politics/trump-border-immigration-caravan.html> (noting that President Trump, remaining undeterred about the lack of funding in the omnibus budget, stated “he planned to order the military to guard parts of the southern border until he can build a wall and tighten immigration restrictions, proposing a remarkable escalation of his efforts to crack down on migrants entering the country illegally . . .”). President Trump has also issued “tough talk” against not just China, but also NATO, Germany, UK, and Canada. See, e.g., Harry Cockburn, *China Condemns Donald Trump’s ‘Selfish Isolationism’*, INDEPENDENT (Dec. 20, 2017), <https://www.independent.co.uk/news/world/americas/china-donald-trump-isolationism-xi-jinping-a8121166.html>; Frank Langfitt, *Trump’s Relationship with NATO, 1 Year into His Presidency*, NAT. PUB. RADIO (Dec. 28, 2017), <https://www.npr.org/2017/12/28/574314910/trumps-relationship-with-nato-1-year-into-his-presidency>; John W. Schoen, *Trump’s Tweet Tirade Against Germany Could Backfire on US*, CNBC (May 30, 2017), <https://www.cnbc.com/2017/05/30/trumps-tweet-tirade-against-germany-could-backfire-on-us.html>; Stephen Castle, *Trump’s Tweets Manage a Rare Feat: Uniting Britain, in Outrage*, N.Y. TIMES (Nov. 30, 2017), <https://www.nytimes.com/2017/11/30/world/europe/trump-tweets-uk-visit.html>; Elizabeth Brown-Kaiser, *Trump Versus Trudeau: A Timeline of Tough Words and Trade Tariffs*, ABC NEWS (July 2, 2018), <https://abcnews.go.com/Politics/trump-versus-trudeau-timeline-tough-words-trade-tariffs/story?id=56313912>. Tensions especially flared with emphasis of a “zero-tolerance” immigration policy by the Trump Administration, resulting in traumatic separations of children from parents at the border. See Press Release, Dep’t of Justice, Attorney General Announces Zero-Tolerance Policy for Criminal Illegal Entry (Apr. 6, 2018) (on

to reverse trends, but rather exacerbate them. The federal tax bill he advocated provides benefits mostly to the top one percent of households, and the limited benefits for low- and middle-income households expire, unlike those for high-

file with the Office of Public Affairs) (“Attorney General Jeff Sessions notifying all U.S. Attorney’s Offices along the Southwest Border of a new ‘zero-tolerance policy.’”); Maya Rhodan, *Here Are the Facts About President Trump’s Family Separation Policy*, TIME (June 20, 2018), <http://time.com/5314769/family-separation-policy-donald-trump/> (explaining that family separations resulted after the zero-tolerance policy went into effect); Camila Domonoske & Richard Gonzales, *What We Know: Family Separation and ‘Zero Tolerance’ at the Border*, NAT. PUB. RADIO (June 19, 2018), <https://www.npr.org/2018/06/19/621065383/what-we-know-family-separation-and-zero-tolerance-at-the-border> (showing how White House officials are aware that families are separated under the zero-tolerance policy); Chico Harlan & William Branigin, *Trump’s Family-Separation Policy Faces International Condemnation from Pope Francis, Theresa May and Others*, WASH. POST (June 20, 2018), https://www.washingtonpost.com/world/pope-francis-criticizes-trumps-family-separation-policy-on-migrants-says-populism-is-not-the-solution/2018/06/20/65c15102-7472-11e8-9780-b1dd6a09b549_story.html?utm_term=.3f1420d6bc33 (explaining the separation between parents and their children under the zero-tolerance policy).

166. See Editorial Board, *Congress vs. Trump on Tariffs*, WALL STREET J. (June 7, 2018), <https://www.wsj.com/articles/congress-vs-trump-on-tariffs-1528414368> (signaling a national security threat based on aluminum and steel tariffs imposed by President Trump on Canada, Mexico, and the European Union, further explaining that President Trump claims authority to act under Section 232 of the Trade Expansion Act of 1962); see also Gillian Brassil, *White House Analysis Says Trump’s Tariffs Will Hurt US Economic Growth*: NYT, CNBC (June 7, 2018), <https://www.cnbc.com/2018/06/07/white-house-analysis-says-trumps-tariffs-will-hurt-us-economic-growth-nyt.html> (listing Japan as an additional country impacted by aluminum and steel tariffs).

167. See Josh Hoxie, *President Trump, One Year Later*, INEQUALITY.ORG (Jan. 29, 2018), <https://inequality.org/great-divide/president-trump-one-year-later/>.

168. Jacob Bor et al., *Population Health in an Era of Rising Income Inequality: USA, 1980-2015*, 389 LANCET 1475, 1475 (2017); ALEMAYEHU BISHAW, U.S. CENSUS BUREAU, CHANGES IN AREAS WITH CONCENTRATED POVERTY: 2000 TO 2010, AMERICAN COMMUNITY SURVEY REPORTS 12–13 (2014), <https://www2.census.gov/library/publications/2014/acs/acs-27.pdf> (displaying census data that showed 44.9 million people, or 14.9 percent of the U.S. population, had incomes below the poverty line in 2010, up from 12.4 percent in 2000 and noting that over fifty percent of blacks lived in poverty areas in 2000 and 2010); see also *How the Census Bureau Measures Poverty*, U.S. CENSUS BUREAU (Aug. 11, 2017), <https://www.census.gov/topics/income-poverty/poverty/guidance/poverty-measures.html> (providing information on how the U.S. Census Bureau measures poverty); *What is the Current Poverty Rate in the United States?*, CTR. FOR POVERTY RES. UNIV. CAL., DAVIS (Dec. 18, 2017), <https://poverty.ucdavis.edu/faq/what-current-poverty-rate-united-states> (specifying that the national poverty rate for 2016 was 12.7 percent); Angus Deaton, *Policy Implications of the Gradient of Health and Wealth*, HEALTH AFF., Mar.–Apr. 2002, at 27 (“Policy should be concerned with well-being, not with health or income alone.”). The nature of income inequality’s role as SDOH is under debate. See, e.g., *id.* at 26–27; see also Braveman & Gottlieb, *supra* note 35, at 19, 28.

169. ESTELLE SOMMEILLER ET AL., ECON. POL’Y INST., INCOME INEQUALITY IN THE U.S. BY STATE, METROPOLITAN AREA, AND COUNTY 1 (2016).

170. *Id.*

income households.¹⁷¹ An analysis of the tax law suggests that by 2025, when certain tax breaks end, it will result in increased disparities in pre-tax and after-tax incomes, with particular impact on individuals due to the repeal of the Affordable Care Act's individual mandate,¹⁷² concluding that the law "likely...increase[s] disparities in economic well-being and incomes."¹⁷³ "Policies intended to generate progressive increases in welfare and shared growth would look quite different from [the tax law]."¹⁷⁴ The pursuits of a social welfare and shared prosperity are thus challenged by executive actions.

2. Isolation of Individuals from Healthy Communities

"Our findings have one important public health implication. If, as our analyses suggest, income inequality undermines life expectancy, redistribution policies could actually improve the health of states."¹⁷⁵ This is not simply a matter of numbers in an accounting book. Inequality affects longevity. Studies illustrate the impact of individual and neighborhood economic status on mortality directly,¹⁷⁶ and as experienced by education level¹⁷⁷ or employment status.¹⁷⁸ Racial inequity compounds this impact.¹⁷⁹ While individual behaviors

171. Budget Fiscal Year, 2018, Pub. L. No. 115-97, §§ 11011(a), 11011(i), 12001(c), 131 Stat. 2054 (2017) (stating individual cuts expire in 2025, while corporate cuts, which benefit mainly the wealthy, do not); see also Greg Leiserson, *Assessing the Economic Effects of the Tax Cuts and Jobs Act*, WASH. CTR. FOR EQUITABLE GROWTH (Apr. 17, 2018), <https://equitablegrowth.org/assessing-the-economic-effects-of-the-tax-cuts-and-jobs-act/>; Hoxie, *supra* note 167; Thomas Kaplan & Alan Rappeport, *Republican Tax Bill Passes Senate in 51-48 Vote*, N.Y. TIMES (Dec. 19, 2017), <https://www.nytimes.com/2017/12/19/us/politics/tax-bill-vote-congress.html> (noting the tax bill came from a Republican-led House of Representatives with strong influence of Speaker Paul Ryan and a Republican-led Senate. Having Trump in office ensured a sympathetic response.).

172. See Budget Fiscal Year, 2018, § 11081; Greg Leiserson, *Soc'y of Gov't Economists, U.S. Inequality and Recent Tax Changes 3*, 15 (Feb. 20, 2018).

173. Leiserson, *supra* note 172, at 26.

174. *Id.*

175. Terrence D. Hill & Andrew Jorgenson, *Bring Out Your Dead!: A Study of Income Inequality and Life Expectancy in the United States, 2000-2010*, 49 HEALTH & PLACE 1, 6 (2018).

176. See Bor et al., *supra* note 168, at 1476 ("Absolute gaps in survival between rich and poor have grown over the past 40 years . . ."); Nicolle A. Mode et al., *Race, Neighborhood Economic Status, Income Inequality and Mortality*, PLOS ONE, May 12, 2016, at 1, 7. See generally Raj Chetty et al., *The Association Between Income and Life Expectancy in the United States, 2001–2014*, 315 J. AM. MED. ASS'N 1750, 1763 (2016) (revealing that between 2001 and 2014, differences in life expectancy increased across income groups, but varied substantially across geographic areas).

177. S. Jay Olshansky et al., *Differences in Life Expectancy Due to Race and Educational Differences are Widening, and Many May Not Catch Up*, 31 HEALTH AFF. 1803, 1805 (2012).

178. Hilary Waldron, *Trends in Mortality Differentials and Life Expectancy for Male Social Security-Covered Workers, by Socioeconomic Status*, 67 SOC. SECURITY BULL., 2007, at 1, 21.

179. See, e.g., Laura Dwyer-Lindgren et al., *Inequalities in Life Expectancy Among US Counties, 1980 to 2014: Temporal Trends and Key Drivers*, 177 J. AM. MED. ASS'N INTERNAL MED. 1003, 1010 (2017).

impact longevity,¹⁸⁰ “an exclusive focus on individual-level behavior as a mechanism would miss the larger structural factors that might be driving these trends.”¹⁸¹

What allows inequality to perpetuate? Consider a climate that separates individuals from a united community. This seems partially an American phenomenon: “Our deeply embedded culture of individualism can impede actions that require a sense of social solidarity.”¹⁸² But, policy can help, especially policies that address root, structural causes. For example, government action could address persistent poverty through expanded local employment opportunities.¹⁸³ “In isolated inner cities and remote rural areas, many of the disadvantaged have less access to job training, counseling, healthcare, childcare, and transportation, suggesting government delivery should reflect these spatial differences.”¹⁸⁴ Suggestions such as these also reflect a HiAP approach to address equity and sustainability through policy action.

What the administration has been unable to pass through Congress, it has achieved through executive actions.¹⁸⁵ These actions do not reflect the policy change needed to build the envisioned equitable, sustainable communities. Actions go beyond efforts to dismantle the Affordable Care Act.¹⁸⁶ This

180. See, e.g., Neil Mehta & Mikko Myrskylä, *The Population Health Benefits of a Healthy Lifestyle: Life Expectancy Increased and Onset of Disability Delayed*, 36 HEALTH AFF. 1495, 1495, 1500 (2017).

181. Bor et al., *supra* note 168, at 1485, 1475 (noting structural factors include geographical segregation and reduced economic mobility increasing persistent poverty); see also Raj Chetty et al., *Where Is the Land of Opportunity? The Geography of Intergenerational Mobility in the United States*, 129 Q. J. ECON. 1553, 1554 (2014) (describing factors related to intergenerational mobility, including residential segregation, income inequality, quality of primary schools, social capital, and family stability).

182. Braveman et al., *supra* note 35, at 391–92.

183. Mark D. Partridge & Dan S. Rickman, *Persistent Pockets of Extreme American Poverty and Job Growth: Is There a Place-Based Policy Role?*, 32 J. AGRIC. & RESOURCE ECON. 201, 201 (2007) (arguing local job growth reduces persistent poverty, and urging place-based economic development).

184. *Id.* at 204.

185. See Sidney M. Milkis & Nicholas Jacobs, *‘I Alone Can Fix It’ Donald Trump, the Administrative Presidency, and Hazards of Executive-Centered Partnerships*, 15 THE FORUM, 583, 585 (2017) (“In an effort to, as one of Trump’s supporters put it, “erase Obama’s legacy,” the president has issued a blizzard of executive initiatives that have refashioned, or seriously disrupted government commitments in critical policy arenas such as immigration, climate change, foreign trade, criminal justice, civil rights, and, health care policy.”). This article explicates that unilateral executive action pre-dates President Trump, but that President Trump started early, and aggressively. *Id.*

186. Press Release, Ctrs. for Medicare & Medicaid Serv., CMS Issues Final 2019 Payment Notice Rule to Increase Access to Affordable Health Plans for Americans Suffering from High Obamacare Premiums (Apr. 9, 2018), <https://www.cms.gov/Newsroom/MediaReleaseDatabase/Press-releases/2018-Press-releases-items/2018-04-09.html> (announcing changes to the HHS Notice of Benefit and Payment Parameters for 2019 that “provide states additional flexibility and

Administration's Department of Justice looks to roll back voting rights and affirmative action programs.¹⁸⁷ The EPA seeks to roll back clean water and air protections.¹⁸⁸ In these instances, which reflect the overarching philosophy behind them, proposed or enacted federal policy, thusly, frustrates the very things critical to promoting HiAP: facts/data, a shared agenda, a sense of community, and collaboration—all in service of a more equitable, healthier community.¹⁸⁹ For proponents of HiAP, it can be easy to lose hope. Experiences in communities such as Memphis, however, suggest hope remains.

IV. HOPE IN A DIFFICULT MOMENT: THE MEMPHIS EXPERIENCE

*"We must accept finite disappointment, but never lose infinite hope."*¹⁹⁰

With uncertainty as to policy commitments and lack of a clear philosophy of power or ideology, it is natural to look closer to home for answers. This is not an unusual stance in public health. "[S]tates and localities have had the predominant public responsibility for population-based health services since the founding of the republic."¹⁹¹ This builds on constitutional principles. Federalism, as explicated through the Tenth Amendment of the U.S. Constitution, distributes power between the federal government and states,

control over their health insurance markets" by changing previous ACA rules, including the definition of "Essential Health Benefits"); *see also* Individual Tax Reform and Alternative Minimum Tax, Pub. L. No. 115–97, 131 Stat. 2054, 2092 (2017) (repealing the ACA's individual mandate).

187. *See, e.g.,* Charlie Savage, *Justice Dept. to Take on Affirmative Action in College Admissions*, N.Y. TIMES (Aug. 1, 2017), <https://www.nytimes.com/2017/08/01/us/politics/trump-affirmative-action-universities.html> (breaking the story of an internal DOJ announcement to the civil rights division regarding new "investigations and possible litigation related to intentional race-based discrimination in college and university admissions" that has been interpreted as an attack on affirmative action policies); United States's Motion for Voluntary Dismissal of Discriminatory Purpose Claim Without Prejudice, *Veasey v. Abbott*, 248 F. Supp. 3d 833 (S.D. Tex. 2017) (No. 2:13-cv-00193), 2017 WL 1209822 (constituting the DOJ's motion to dismiss its claim of discriminatory purpose in the high-profile Texas voter ID case); Sherrilyn Ifill, *President Trump's First Year Was an Affront to Civil Rights*, TIME (Jan. 17, 2018), <http://time.com/5106648/donald-trump-civil-rights-race/> (discussing the Trump administration's actions and rhetoric that impact civil rights).

188. Michael Biesecker & Matthew Brown, *Trump EPA Moves to Roll Back More Clean Air and Water Rules*, WASH. POST (Mar. 1, 2018), https://www.washingtonpost.com/business/trump-epa-moves-to-roll-back-more-clean-air-and-water-rules/2018/03/01/6ac314d8-1dbf-11e8-98f5-cecfa8741b6_story.html?utm_term=.7e11289daf38.

189. *See* LINDA RUDOLPH ET AL., PUB. HEALTH INST., HEALTH IN ALL POLICIES: A GUIDE FOR STATE AND LOCAL GOVERNMENTS 6, 13, 17 (2013), http://www.phi.org/uploads/files/Health_in_All_Policies-A_Guide_for_State_and_Local_Governments.pdf.

190. Martin Luther King, Jr., in CORETTA SCOTT KING, THE WORDS OF MARTIN LUTHER KING, JR. 25 (1996).

191. LAWRENCE O. GOSTIN, PUBLIC HEALTH LAW: POWER, DUTY, RESTRAINT 91 (2d ed. 2008).

reserving most powers to the states.¹⁹² States hold two critical types of power important for public health: police power—by which the state protects public safety, and *parens patriae* power—by which the state plays a parental role.¹⁹³ This has led to state action to protect and “parent” through everything from mandatory vaccination laws¹⁹⁴ and food inspection regulations¹⁹⁵ to soda taxes¹⁹⁶ and gun control laws.¹⁹⁷

Thus, much of the work—and potential for innovation—within public health rests at the state and local level, which perhaps provides the hope we seek with limited or at least uncertain federal-level support. Historically, the work of public health lay in infectious disease control and injury prevention.¹⁹⁸ Growing recognition of the importance of SDOH expands the field’s reach (e.g., to recognize the contribution of individual behaviors on chronic diseases)¹⁹⁹ and the risk of injury posed by access to guns.²⁰⁰ Coupled with the expanded scope

192. U.S. CONST. amend. X (“The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.”). The federal government’s powers were intended to be of more limited nature, with the states holding plenary power. *See id.*

193. *See* PARMET, *supra* note 22, at 79, 169.

194. *Id.* at 210–11; *State Law & Vaccine Requirements*, NAT’L VACCINE INFO. CTR., <https://www.nvic.org/vaccine-laws/state-vaccine-requirements.aspx> (last visited Oct. 8, 2018) (displaying that all 50 states have mandatory vaccine requirements with different exemptions).

195. Allison Condra, *Food Sovereignty in the United States: Supporting Local and Regional Food Systems*, 8 J. FOOD L. & POL’Y 281, 283–84, 293–94 (2012).

196. *See, e.g.*, Kelly Phillips Erb, *Court Okays Soda Tax as More Cities Grow Sweet on the Idea*, FORBES (June 15, 2017), <https://www.forbes.com/sites/kellyphillipserb/2017/06/15/court-okays-soda-tax-as-more-cities-grow-sweet-on-the-idea/#773103c1349c> (discussing a lower court ruled in favor of a Philadelphia soda tax); John Bacon, *Push for Soda Taxes Across USA Notches Win in Philly*, USA TODAY (July 18, 2018), <https://www.usatoday.com/story/news/nation/2018/07/18/philly-soda-tax-survives-court-challenge/796104002/> (discussing that the Pennsylvania Supreme Court found in favor of the soda tax).

197. William S. Harwood, *Gun Control: State Versus Federal Regulation of Firearms*, ME. POL’Y REV., Spring 2002, at 58, 60–61.

198. *Ten Great Public Health Achievements – United States, 1900-1999*, MORBIDITY & MORTALITY WKLY. RPT. (Ctrs. for Disease Control & Prevention), Apr. 2, 1990, at 241; *Ten Great Public Health Achievements – United States, 2001-2010*, MORBIDITY & MORTALITY WKLY. RPT. (Ctrs. for Disease Control & Prevention), May 20, 2011, at 619.

199. Karen B. DeSalvo et al., *Public Health 3.0: Time for an Upgrade*, 106 AM. J. PUB. HEALTH 621, 621 (2016) (“Several developments are driving the need to re-envision public health practice once again. Health trends in the last 30 years are such that the leading causes of death and illness are now attributable to behaviors (e.g., smoking, sedentary lifestyle, and eating patterns) . . .”).

200. E. Michael Lewiecki & Sara A. Miller, *Suicide, Guns, and Public Policy*, 103 AM. J. PUB. HEALTH 27, 29 (2013) (“The public health benefit of preventing deaths due to impulsive suicide far outweighs the minimal inconvenience to those who do not intend to harm themselves or others.”); Michael Siegel et al., *The Relationship Between Gun Ownership and Firearm Homicide Rates in the United States, 1981-2010*, 103 AM. J. PUB. HEALTH 2098, 2098 (2013) (finding that “states with higher rates of gun ownership had disproportionately large numbers of deaths from firearm-related homicides”).

is recognition of the role of law as a tool in advancing public health²⁰¹ and law itself as an intervention capable of empirical study.²⁰² As the scope of public health expands, so too does the potential of law and policy to help support, expand, and sustain public health goals. With so many factors beyond health affecting health outcomes, moving from awareness (of SDOH) to targeted action (e.g., HIAs) to redefined roles and processes (a HiAP approach) follows as a natural progression.

Between 2012 and 2016, forty HIA bills were introduced across the U.S., targeting sectors as varied as the environment, transportation, and construction, with three moving to enactment.²⁰³ During that same period, twenty-eight HiAP bills were introduced at the state level, leading to nine new or amended laws.²⁰⁴ The State of Tennessee does not appear active in these maps; however, a deeper look reveals local action (e.g., in the City of Memphis).²⁰⁵ Studying and understanding events in Memphis illustrate the enduring power of federalism to provide local solutions to local issues through persistence, effective leadership, and openness to innovation.

A. *The Memphis Context*

*“On this 50th anniversary of Dr. King’s cruel assassination, and more than fifty years after the passage of the Civil Rights Act (1964) and the Voting Rights Act (1965) African Americans still lag far behind whites in Shelby County. Despite gains in education and increased participation in the white-collar labor market (a 650% increase), African Americans still lag behind whites in income and are overrepresented in poverty. Poverty for African Americans in Shelby County is three times that of whites, and median income for African Americans has remained at about half that of whites through the decades. More troubling, the percent of African Americans who are institutionalized (criminal and otherwise) is now double that of institutionalized whites.”*²⁰⁶

201. See PARMET, *supra* note 22, at 31 (“By establishing the social framework in which populations live, face disease and injury, and die, law forms an important social determinant of population health.”); see also Michelle M. Mello et al., *Obesity – The New Frontier of Public Health Law*, 354 NEW ENG. J MED. 2601, 2601 (2006).

202. Burris et al., *supra* note 54, at 136, 139.

203. *Health Impact Assessment (HIA) Bills*, LAWATLAS.ORG (last updated Dec. 31, 2016), <http://lawatlas.org/dataset/hia-bills> (providing a fact sheet of state Health Impact Assessment legislation from 2012-2016).

204. *Id.*

205. *Id.*; see *Memphis HIA*, VACANT PROP. RES. NETWORK, <http://vacantpropertyresearch.com/memphis-hia/> (last visited Oct. 8, 2018) (discussing local HIA efforts pertaining to the health impacts of housing code enforcement actions on substandard rental housing in Memphis, Tennessee).

206. NAT’L CIVIL RIGHTS MUSEUM, *supra* note 26, at 5.

In 2018, fifty years after the assassination of Dr. Martin Luther King, Jr., Memphis found itself ranked number one; unfortunately, it was number one in poverty rate among metropolitan areas in the U.S.²⁰⁷ Over one-quarter of its residents—and almost one-half of its children—live in poverty.²⁰⁸ “The gulf between rich and poor is gaping. The streets can feel desolate and forgotten, a certain sadness stretching block after block.”²⁰⁹

The challenges come in many forms. For example, almost fifty percent of Memphis renters are “cost burdened.”²¹⁰ And when housing is affordable, this does not necessarily mean it is safe or healthy. The statistics buttress a call to action:

Policymakers and the business communities in these cities [like Memphis]—and in their corresponding states—should recognize that continuing down this path places thousands of families in more precarious housing and living situations, puts many families at greater risk of eviction, and reduces economic opportunity for these families. The effects on children are particularly devastating. Housing instability has been linked to a number of adverse impacts on children, including poor educational and health outcomes, and toxic stress.²¹¹

Focusing on the importance of these early childhood experiences, the Shelby County Adverse Childhood Experience (ACE) Survey found that over half of adults in Shelby County, Tennessee (in which the City of Memphis sits) experienced at least one ACE; twenty percent experienced two to three ACEs;

207. DELAVEGA, *supra* note 25, at 6.

208. NAT'L CIVIL RIGHTS MUSEUM, *supra* note 26, at 8. Note, also, that statistics show that the number of people living in poverty areas in Tennessee was 33.3% in 2010, an increase of 16% since 2000 and the second highest percentage increase during that period. BISHAW, *supra* note 168, at 3–4 tbl. 1a, 7 fig. 2.

209. Alan Blinder & Jerry Gray, *The Triumphs and Trials of Memphis*, N.Y. TIMES (Apr. 2, 2018), <https://www.nytimes.com/2018/04/02/us/martin-luther-king-memphis.html>.

210. DAN IMMERGLUCK ET AL., FEDERAL RESERVE BANK OF ATLANTA, DECLINES IN LOW-COST RENTED HOUSING UNITS IN EIGHT LARGE SOUTHEASTERN CITIES NO. 03-16, 1, 4, 21 (2016), <https://www.frbatlanta.org/-/media/documents/community-development/publications/discussion-papers/2016/03-housing-declines-in-low-cost-rented-housing-units-in-eight-large-southeastern-cities-2016-05-10.pdf> (last visited Oct. 8, 2018) (noting how Memphis residents face higher rates than the rest of the state and in a city with a lower median income than rest of the state).

211. *Id.* at 20 (citing National Scientific Council on the Developing Child, 2005/2014 for adverse impacts on children). Potential policy actions include use of CDBG funds or similar flexible federal funds to create more affordable, healthy housing options. For example, Shelby County, TN, in which the City of Memphis sits, proposed use of CDBG funds for affordable housing and lead-paint remediation, coupled with HOME program funds for housing remediation. SHELBY CTY. DE'T. OF FIN., TENN. PROPOSED BUDGET FISCAL YEAR 2019 F-12 (2018), <http://shelbycountyttn.gov/DocumentCenter/View/32357/Consolidated-FY19-Proposed-book> (last visited Oct. 8, 2018). The HOME Investment Partnerships Program is “the largest Federal block grant to state and local governments designed exclusively to create affordable housing for low-income households.” *HOME Investment Partnerships Program*, HUD.GOV, https://www.hud.gov/program_offices/comm_planning/affordablehousing/programs/home (last visited Oct. 8, 2018).

and over one in ten experienced four or more ACEs.²¹² Critically, the Shelby County survey added a few “adverse community experiences”, such as witnessing neighborhood violence and experiencing racial/ethnic discrimination.²¹³ Again, these were common adversities in the lives of many adults.²¹⁴ The Memphis context suggests many areas for improvement.

B. *From Challenges to Opportunities*

With challenge comes opportunity, especially in a city with as much history—and current national attention—as Memphis. The generosity of Memphis residents has been noticed,²¹⁵ with a number of organizations and coalitions²¹⁶ and local and national funders²¹⁷ stepping up to take on the challenges and create a new legacy for the city.

1. Alternative Facts to . . . Facts: A Data-Informed Approach

a. Data Tools

First, Memphis purposefully uses data to drive public and private action.²¹⁸ Increasingly, too, this data crosses sectors to provide a more complete picture of

212. RES. & EVALUATION GROUP PHMC, ADVERSE CHILDHOOD EXPERIENCES IN SHELBY COUNTY, TENNESSEE i (2014).

213. *Id.* at 17.

214. *Id.* at 17–18 (The study also “confirmed the relationship between [the conventional] ACEs and STIs, depression, and suicide attempts . . . between ACEs and employment status.”).

215. Drew Lindsay, *Giving in the 50 Largest Metropolitan Areas*, CHRON. PHILANTHROPY (Oct. 3, 2017), <https://www.philanthropy.com/article/Giving-in-the-50-Largest/241357> (finding that Memphians give an average of 5.6% of income to charity, which is higher than any of the other cities studied).

216. *See View All Nonprofits*, WHERE TO GIVE MIDSOUTH, <http://wheretogivemidsouth.guidestar.org/find/view-all-nonprofits.aspx> (providing a list and profiles for the city’s numerous nonprofit organizations) (last visited Oct. 8, 2018).

217. *See, e.g., Kresge Foundation Funding Opportunity in Memphis*, KRESGE FOUND., <https://kresge.org/programs/american-cities-practice/kresge-foundation-funding-opportunity-memphis> (last visited Oct. 8, 2018); CORP. SUPPORTIVE HOUSING, ROBERT WOOD JOHNSON FOUNDATION GRANT HELPS CHILDREN & FAMILIES FIND STABILITY IN SAFE, PERMANENT HOMES 1 (2017), <http://www.csh.org/wp-content/uploads/2011/12/RWJF-Grant-Press-Release-8.9.17.pdf>; *Robert Wood Johnson Foundation Selects Memphis for Multi-Million Dollar Effort to Dramatically Improve U.S. Health Care*, BUSINESS WIRE (May 30, 2008), [\\$90 Million Grant to Fund Teacher Effectiveness Initiative: Empowering Teachers for Student Success](https://www.businesswire.com/news/home/20080530005501/en/Robert-Wood-Johnson-Foundation-Selects-Memphis-Multi-Million), BILL & MELINDA GATES FOUND. (Nov. 19, 2009), [https://www.gatesfoundation.org/Media-Center/Press-Releases/2009/11/\\$90-Million-Grant-to-Fund-Teacher-Effectiveness-Initiative-Empowering-Teachers-for-Student-Success](https://www.gatesfoundation.org/Media-Center/Press-Releases/2009/11/$90-Million-Grant-to-Fund-Teacher-Effectiveness-Initiative-Empowering-Teachers-for-Student-Success).

218. Noel Isama, *Memphis, TN Uses a Crowdlaw Approach for its New Open Data Policy*, SUNLIGHT FOUND. (Feb. 1, 2018), <https://sunlightfoundation.com/2018/02/01/memphis-tn-uses-a-crowdlaw-approach-for-its-new-open-data-policy/>; *see also Our Services*, COACTIONNET, <https://www.coactionnet.org/our-services> (last visited Apr. 22, 2019).

individual, family, and neighborhood well-being. One example is CoactionNet, “a community-wide network enabling collaboration among professionals providing a wide variety of community based services.”²¹⁹ The shared platform, which seeks to achieve efficiencies in data collection, provides non-profit organizations and government agencies with the ability to sync case management workflow and referrals.²²⁰ However, it also allows them to identify “clients” who touch multiple systems and develop shared outcome measures.²²¹ It thus moves Memphis in the direction of having a “one-stop shop” for data to help drive collective impact and related efforts through increased transparency as to which sectors provide services to which individuals and families across the city.

PolicyMap is another tool that builds on the CoactionNet capacity, but with a more explicit focus on policy and mapping technologies. Similar to CoactionNet, PolicyMap gathers multiple data points—such as demographics, housing and blighted properties, health, crime, and employment—into one system; however, it adds in a geospatial mapping feature.²²² Through this, the “picture” expands from individual and family intervention to a true neighborhood and community snapshot. In Memphis, with the leadership of Neighborhood Preservation Inc. (NPI) in opening access to PolicyMap, the natural initial focus was on distressed and vacant properties-related data.²²³ However, by expanding stakeholder collaboration, data collection across sectors, including health, becomes possible, to achieve the goal to “empower community, non-profit, and government groups to use data to improve the quality of life in the City.”²²⁴ Thus, in addition to demographics and housing information, the Memphis portal also includes data on: income and spending, lending, quality of life (which includes information on things like crime, work commute times, and food access), the economy (covering employment, workforce development, small businesses, and infrastructure), education, and health, as well as relevant federal guidelines (e.g., from the U.S. Department of Housing and Urban Development (HUD) and community development) and

219. *Our Services*, *supra* note 218.

220. *Id.*

221. *Id.*; see also *Data-Driven Memphis*, CITY OF MEMPHIS, <https://data.memphistn.gov/> (last visited Oct. 8, 2018).

222. See generally *Data Sources*, POLICYMAP, <https://www.policymap.com/data/our-data-directory/> (last visited Oct. 8, 2018).

223. NEIGHBORHOOD PRESERVATION INC., <http://npimemphis.org/> (last visited Oct. 8, 2018) (“Founded in 2012 by a group of Memphis’ economic and community development leaders, [NPI has] ... an ambitious, visionary goal to eliminate or mitigate all known legal and systemic impediments to the removal of such properties by 2020 so that all available resources for addressing blight can then be effectively and efficiently deployed.”).

224. POLICYMAP: MEMPHIS FIGHTS BLIGHT, <https://memphisfightsblight.policymap.com/login?redir=%2F> (last visited Oct. 8, 2018) (authorized access only).

analytics (e.g., Opportunity Zone resources, grocery retail access).²²⁵ Again, data is also presented spatially, providing a street-level and neighborhood perspective for Memphis.

b. Evidence Base

Memphis also actively responds to the science on childhood development and the importance of positive, nurturing experiences in the early years. Specifically, the ACE Awareness Foundation (ACEAF), launched in 2016 in response to findings in the Shelby County ACE Survey and the strong evidence base behind the importance of early intervention, supports efforts in the community to combat ACEs, primarily through preventive and education approaches.²²⁶ ACEAF also provided initial support to a related statewide effort, the Building Strong Brains Initiative.²²⁷ The statewide effort, in turn, now provides support to Memphis efforts to implement different approaches to childhood trauma reduction.²²⁸

At an institutional level, in 2017, the University of Memphis launched the Institute for Interdisciplinary Memphis Partnerships for Community Transformation for Children (iIMPACT), an initiative to achieve collective impact for healthy, equitable childhood development through interdisciplinary and inter-institutional, community-engaged teamwork and system reform.²²⁹

225. See generally *Data Sources*, POLICYMAP, <https://www.policymap.com/data/our-data-directory/> (last visited Oct. 8, 2018).

226. *ACE Awareness Foundation Selects New Executive Director*, ACE AWARENESS FOUND.: NEWSROOM, <http://aceawareness.org/ace-awareness-foundation-selects-national-child-development-expert-as-new-executive-director/> (last visited Oct. 8, 2018) (“... the ACE Awareness Foundation has led Shelby County efforts to reduce toxic stress in family systems. It provides strategic oversight of the ACE Task Force of Shelby County; supervision of Universal Parenting Places, judgment-free centers where parents receive no-cost information, counseling, and emotional support for family-related concerns; and support for development of a multidisciplinary ACE curriculum by the University of Memphis.”).

227. *Building Strong Brains Tennessee*, *supra* note 156 (“Building Strong Brains: Tennessee ACEs Initiative is a major statewide effort to establish Tennessee as a national model for how a state can promote culture change in early childhood based on a philosophy that preventing and mitigating adverse childhood experiences, and their impact, is the most promising approach to helping Tennessee children lead productive, healthy lives and ensure the future prosperity of the state.”).

228. BUILDING STRONG BRAINS TENNESSEE, FY19 FUNDED COMMUNITY INNOVATIONS (2018), <https://www.tn.gov/content/dam/tn/tccy/documents/ace/BSB%20TN%20MAP.pdf> (showing four funded projects in Shelby County for FY19).

229. *Institute for Interdisciplinary Memphis Partnerships to Advance Community Transformation*, U. MEM., <http://www.memphis.edu/iimpact/> (last visited Oct. 8, 2018). iIMPACT grew from a University of Memphis Provost-convened planning team, inclusive of grant-supported ACEs-related project leaders and other key faculty and administration leaders. During the 2016-2017 fiscal year, this planning team considered how to move beyond single disciplinary-centric projects to an interdisciplinary initiative that would build on community interest in addressing

With support from the Urban Childhood Institute (UCI), initial iIMPACT projects focus on advancing the early care and learning metrics of kindergarten readiness and third-grade reading proficiency.²³⁰ These metrics track goals of other cross-sector coalitions, including Seeding Success²³¹ and Tennesseans for Quality Early Education.²³² Following on the public/private momentum and foundation support, City of Memphis Mayor Strickland announced the City's pre-k plan in March, 2018, calling for allocation of six million dollars per year in funding from targeted tax revenues to expand the number of available pre-K seats, with an intent to galvanize additional support to fully fund pre-K citywide.²³³

2. Addressing the One Percent in Memphis: Going from One Percent of Health-Impacting Factors to the SDOH

In 2017, with the support of the Robert Wood Johnson Foundation (RWJF), NPI partnered with the Washington, D.C.-based Urban Institute to start a HIA project addressing the impact of the housing code on health.²³⁴ With NPI

childhood trauma and University interest in action-oriented, community engagement. *See Tipping the Scales*, UNIVERSITY MEMPHIS: DRIVEN BY DOING, <http://www.memphis.edu/driven-by-doing/tippingthescales.php> (last visited Sept. 9, 2018). From this emerged the "iIMPACT" focus and acronym, to drive forward an interdisciplinary, inter-institutional, community-engaged initiative. The next fiscal year involved infrastructure building, including through hiring of an executive director, development of a leadership structure, and mission and vision statement refinement.

230. *Request for Grant Proposals*, URBAN CHILD INST., <http://www.urbanchildinstitute.org/rfp> (last visited Sept. 9, 2018) (stating that UCI's "primary focus areas are kindergarten readiness and 3rd grade literacy").

231. SEEDING SUCCESS, <http://seeding-success.org/> (last visited Oct. 8, 2018); Seeding Success helped lead a public-private collaboration to develop the Shelby County Early Childhood Education Plan, "with the intent of building on existing efforts that are helping make progress and forming a set of recommendations that address the highest priority needs and gaps to ultimately improve 3rd grade proficiency in Shelby County." SEEDING SUCCESS, *SHELBY COUNTY EARLY CHILDHOOD EDUCATION PLAN 1* (2015), <http://seeding-success.org/wp-content/uploads/2017/11/Shelby-County-Early-Childhood-PLAN.pdf> (PowerPoint presentation). It does so through development of common metrics, mapping interested providers and stakeholders along a continuum, analyzing current state and recommended strategies to address high-priority gaps and opportunities, and driving the coalition to support and monitor implementation. *Id.* at 2.

232. *History*, TENNESSEANS FOR QUALITY EDUC., <https://www.tqee.org/about/history> (last visited Oct. 8, 2018).

233. *City Announces Plan to Fund Pre-Kindergarten*, CITY MEMPHIS: NEWS (Mar. 17, 2018), https://www.memphistn.gov/news/what_s_new/city_announces_plan_to_fund_pre-kindergarten. The City Council voted its support of this initiative. April Thompson, *City Leaders Vote to Fund Pre-K Plan*, WREG MEMPHIS (Mar. 20, 2018), <https://wreg.com/2018/03/20/city-leaders-vote-to-fund-pre-k-plan/> (reporting on a March vote by the City Council on the City of Memphis Sales Tax Referendum); *see also* Memphis Tenn. Substitute Referendum Ordinance No. 5495 (Aug. 14, 2013).

234. Specifically, the HIA will: "Identify appropriate health and safety data for characterizing individual resident and neighborhood-level health outcomes; [d]evelop a housing code enforcement

expertise in addressing blighted properties in Memphis through Environmental Court, regulatory, and other approaches, the HIA will place this work within a health context, specifically connecting housing code compliance to health outcomes, such as obesity and chronic cardiovascular and respiratory conditions.²³⁵ Resulting policy recommendations will cover “how housing code enforcement can help improve health outcomes for residents living in and among vacant properties and substandard rental housing.”²³⁶ The project also includes training of code enforcement personnel to view code violations through a “health lens” and more broadly highlights the need to have greater collaboration of local government housing agencies with the County Health Department.²³⁷ Notably, these latter two goals point to the value in a larger HiAP approach, to create the understanding and capacity to create “win-wins” across sectors for healthier, more equitable communities.

C. *From Isolationism to Collaboration for Structural Reform*

Building on data collection efforts, an evidence-informing base, and in recognition of non-health sector impacts on health, Memphis has seized upon the power of cross-sector, public/private coalitions to move forward goals of creating a healthier community. It also sees opportunity to create enduring change through systemic action on behalf of health and equity.

1. Collective Knowledge

In coalition-building and coalition work, Memphis actively learns from other communities. For example, Memphis looked to national best practices in its healthy homes work: In January 2015, public sector, nonprofit, and private partners officially launched the Healthy Homes Partnership of Memphis/Shelby County (HHP), with a mission that every child in Memphis grows up in a healthy home.²³⁸ HHP achieves that mission through a coalition of key stakeholders across sectors that partner to advance the health, safety, and affordability of

process diagram and typology to better understand the timing and type of interventions; [g]eocode housing code enforcement cases in Memphis, TN from the last few years to better understand the spatial distribution of the case-load and categorizing those cases according to the different types of code enforcement interventions; and [e]xplore the effectiveness of the varying code enforcement strategies on health and safety-related outcomes.” *Memphis HIA*, VACANT PROP. RES. NETWORK, <http://vacantpropertyresearch.com/memphis-hia/> (last visited Oct. 8, 2018) (numbering omitted).

235. Interview by Andrew Roach, Institute for Health Law & Policy Research Assistant with Stephanie Modert, NPI (Apr. 18, 2018).

236. *Memphis HIA*, *supra* note 205.

237. Interview by Andrew Roach, *supra* note 235.

238. NAT’L. LEAGUE OF CITIES, CITY-LEVEL MODELS TO ADVANCE HEALTHY HOUSING 7, <http://nlc.org/sites/default/files/users/user75/FINAL-Healthy%20Housing.pdf> (last visited Oct. 8, 2018).

Memphis homes, with a focus on rental properties.²³⁹ This mission/focus is warranted given Memphis has the most health-challenged housing stock in the region.²⁴⁰ Policy reform represents a core activity in achieving HHP's mission, with early policy goals including aligning existing codes with national standards and establishing incentives for "good" landlords. This work looks to national²⁴¹ and state/local models²⁴² adaptable to the local context. The inclusiveness of HHP and its policy focus gained the notice of the Green & Healthy Homes Initiative (GHHI),²⁴³ which contracted with local leaders to offer technical assistance in driving forward HHP goals.²⁴⁴ Specifically, GHHI worked with Memphis stakeholders on the feasibility of, and then piloting innovative approaches to, addressing health-impacting housing conditions through a Pay

239. *Id.* at 7.

240. *Frequently Asked Questions*, NAT'L CTR. FOR HEALTHY HOUSING, <http://nchh.org/tools-and-data/data/state-of-healthy-housing/sohh-faq/> (last visited July 29, 2018) (listing Memphis as worst MSA for healthy housing); *Memphis HIA*, *supra* note 205.

241. *Crime Prevention Through Environmental Design Training*, NAT'L INST. CRIME PREVENTION, <http://www.cptedtraining.net/> (last visited Oct. 8, 2018).

242. Good landlord programs include training programs like the city-wide initiative in Milwaukee, crime reduction programs like Crime Prevention Through Environmental Design (CPTED) or Mesa, Arizona's program, and financial incentives like the Good Landlord Program in Salt Lake City, Utah. *Tool 6: Good Landlord Incentives*, CTR. FOR COMMUNITY PROGRESS, <https://www.communityprogress.net/tool-6—good-landlord-incentives-pages-212.php> (last visited Oct. 8, 2018).

243. *GHHI Travel Blog: Pittsburgh, Memphis, and Richmond*, GREEN & HEALTHY HOMES INITIATIVE, <https://www.greenandhealthyhomes.org/ghhi-travel-blog-pittsburgh-memphis-richmond/> (last visited Oct. 8, 2018).

244. Michael Waddell, *Coalition Signs on With Green & Healthy Homes Initiative*, MEMPHIS DAILY NEWS (Dec. 1, 2017), <https://www.memphisdailymemph.com/news/2017/ded/1/coalition-signs-on-with-green-healthy-homes-initiative/>.

for Success model.²⁴⁵ Memphis also benefits from the study of best practice policy approaches in the early care and learning context.²⁴⁶

2. Collective Will

Work advancing healthy housing and neighborhood improvement benefits from collective will through coalitions such as the HHP and the NPI-led Blight Elimination Steering Team.²⁴⁷ Early care and learning goals benefit from cross-sector work through coalitions such as Seeding Success and Tennesseans for Quality Early Education, as galvanized through the support and leadership of local foundations like UCI and the Pyramid Peak Foundation.²⁴⁸ Memphis 3.0,

245. GREEN & HEALTHY HOMES INITIATIVE, GHHI AND PAY FOR SUCCESS 7 (2017), <https://www.greenandhealthyhomes.org/wp-content/uploads/GHHI-and-PFS.pdf>. “Pay for Success (PFS) is an approach to contracting that ties payment for service delivery to the achievement of measurable outcomes. The movement towards PFS contracting is a means of ensuring that high-quality, effective social services are working for individuals and communities.” *What is Pay for Success?* NONPROFIT FIN. FUND., <https://payforsuccess.org/learn/basics/> (last visited Oct. 8, 2018). A PFS approach has been used from things as varied as supporting expansion of the Nurse-Family Partnership, to workforce development and job retention. *See, e.g., Financing Public Health Interventions Through Pay for Success: South Carolina and the Nurse-Family Partnership Seek to Improve Maternal and Child Health Through Pay for Success*, ASS’N. ST. & TERRITORIAL HEALTH OFFICIALS 2 (2017), <http://www.astho.org/Health-Systems-Transformation/Pay-for-Success-South-Carolina-Issue-Brief/>; NONPROFIT FINANCE FUND, PAY FOR SUCCESS IN WORKFORCE DEVELOPMENT: WHAT WE’VE LEARNED AND WHAT’S NEXT 3 (2014), <https://payforsuccess.org/sites/default/files/resource-files/PFS%20in%20Workforce%20Development.pdf>. The PFS work in Memphis/Shelby County focuses on TennCare (state Medical program) reimbursement of housing remediation services that benefit targeted high-risk children with asthma and their families. GREEN & HEALTHY HOMES INITIATIVE PAY FOR SUCCESS FINANCING TO ADDRESS CHILDHOOD ASTHMA IN MEMPHIS 6, 13 (2016), https://www.tn.gov/content/dam/tn/environment/sustainable-practices/low-income-energy-efficiency/oep_seo_memphis_healthy_homes_partnership_feasibility.pdf.

246. SEEDING SUCCESS, FIRST 8 MEMPHIS: IMPLEMENTING AN EARLY CHILDHOOD EDUCATION SYSTEM IN MEMPHIS, TN 7 (2018), http://seeding-success.org/wp-content/uploads/2018/03/First-8-Memphis_Final.pdf. Utah was identified as presenting a model for starting coordinated, statewide efforts to increase minimum provider standards and create a professional development system. *See* UNIV. OF UTAH & WORKFORCE SERVICES CHILDCARE, EARLY CHILDHOOD SERVICES STUDY 13 (2017), <https://le.utah.gov/interim/2017/pdf/00004736.pdf>; *see also Opening a Quality Child Care Center*, CARE ABOUT CHILDCARE, <http://www.childcareaware.org/opening-child-care-center/> (last visited Oct. 8, 2018).

247. *Our Crisis*, MEMPHIS FIGHTS BLIGHT, <http://memphisfightsblight.com/our-story/> (last visited Oct. 8, 2018).

248. *Effective Policy for Quality Early Education*, TENNESSEANS FOR QUALITY EARLY EDUC., <https://www.tqee.org> (last visited Oct. 8, 2018); *Who We Are*, SEEDING SUCCESS, <http://seeding-success.org/who-we-are/> (last visited Oct. 8, 2018). *See generally* Toby Sells, *The Urban Child Investment*, MEMPHIS FLYER (Aug. 27, 2015), <https://www.memphisflyer.com/memphis/the-urban-child-investment/Content?oid=4118299>; John Branston, *A Guide to the Biggest Nonprofits in Memphis*, MEMPHIS CITY MAG. (July 1, 2015), <https://memphismagazine.com/features/columns/your-guide-to-the-biggest-nonprofits-in-memphis/>.

which started in 2017 in response to the pending 200th anniversary of the city's founding, represents a broader opportunity for collective action as collectively informed. Building on history but looking to the future, "Memphis 3.0 will . . . ask the public to help develop a shared vision, priorities, and ideas for their city and their neighborhoods. . . . [T]here will be many opportunities for people to have voices in deciding what the plan for the future will be."²⁴⁹ Moving from historical reflection to forward-thinking leadership galvanizes action.

3. Collective Action

Collective knowledge and collective will help drive the pursuit of collective impact, also now part of the Memphis experience. For example, the Shelby County Health Department leveraged assistance from the CityMatCH Collective Impact Learning Collaborative²⁵⁰ to develop a collective impact effort to reduce fetal/infant mortality.²⁵¹ iIMPACT at the University of Memphis represents another new collective impact endeavor.²⁵² Critically, iIMPACT, the "hub" for

249. *Our Plan*, MEMPHIS 3.0, <http://www.memphis3point0.com/about-memphis-3-0> (last visited Oct. 8, 2018).

250. *About Us*, CITYMATCH, <https://www.citymatch.org/about/> (last visited Oct. 8, 2018) ("CityMatCH is a national membership organization of city and county health departments' maternal and child health (MCH) programs and leaders representing urban communities in the United States. *CityMatCH's mission is to strengthen public health leaders and organizations to promote equity and improve the health of urban women, families, and communities.*"). This directly aligns with an HiAP approach focused on health and equity. "The Collective Impact Learning Collaborative aims to increase local urban health departments' capacity to implement Collective Impact strategies to address Maternal and Child Health (MCH) priorities at the community level." *Collective Impact Learning Collaborative*, CITYMATCH (Mar. 18, 2017), <https://www.citymatch.org/collective-impact-learning-collaborative/> (noting as of 2017, twelve urban, local health departments are part of the Collaborative).

251. *Perinatal Periods of Risk (PPOR)*, CITYMATCH (Mar. 14, 2017), <https://www.citymatch.org/perinatal-periods-of-risk-ppor/>. After several years of reduction, the Memphis/Shelby County infant mortality rate reached its lowest recorded rate in 2015, at 8.2 deaths per 1,000 live births. Press Release, Shelby Cty. Health Dep't, Shelby County Infant Mortality Rate Reaches Historic Milestone (Nov. 21, 2016), <http://shelbycountyttn.gov/DocumentCenter/View/27841/NEWS-RELEASE—INFANT-MORTALITY-RATE-112116doc?bidId>. "The largest decline in 2015 was in the rate of infant deaths among non-Hispanic Blacks, which went from 21.0 in 2003 to 10.6. Although Blacks experienced a significant decline in the number and rate, they continue to disproportionately experience infant deaths." *Id.*; see also, TENN. DEP'T. OF HEALTH, NUMBER OF INFANT DEATHS WITH RATES PER 1,000 BIRTHS, BY RACE OF MOTHER, FOR COUNTIES OF TENNESSEE, RESIDENT DATA (2015) https://www.tn.gov/content/dam/tn/health/documents/TN_Infant_Mortality_Rates_-_2015.pdf. However, a year later, the rate rose to 9.3 deaths per 1,000 births (with a 12.3 deaths per 1,000 births rate among non-Hispanic Blacks. TENN. DEP'T. OF HEALTH, NUMBER OF INFANT DEATHS WITH RATES PER 1,000 BIRTHS, BY RACE OF MOTHER, FOR COUNTIES OF TENNESSEE, RESIDENT DATA (2015) https://www.tn.gov/content/dam/tn/health/documents/TN_Infant_Mortality_Rates_-_2016.pdf.

252. *About iIMPACT*, U. MEMPHIS, <http://www.memphis.edu/iimpact/about/index.php> (last visited Apr. 22, 2019). One of iIMPACT's stated goals is "[active engagement] with key

University engagement in childhood trauma-related work, provides the structure to move from piecemeal effort focused on siloed disciplinary training/interventions to interdisciplinary, inter-institutional work.²⁵³ Given community transformation goals, the comprehensive iIMPACT evaluation will track outcomes across projects gauging progress on shared outcomes with the hope for collective impact.²⁵⁴ The policy arm brings to this data collection a means through which to drive system change as informed by multi-disciplinary and community-informed work. For example, a goal of third-grade reading proficiency can be tracked across projects that seek to enhance early care and learning staff knowledge and practices, support families, and provide legal remedies for substandard housing impacts on child asthma and related school absenteeism.²⁵⁵ Data might also highlight structural factors across sectors ideally situated for policy reform to prevent/mitigate future health-harming impacts (e.g., from deficient housing codes or child care standards).²⁵⁶

4. Collective Transformation

In 2017, Memphis was selected as one of six Strong, Prosperous, and Resilient Communities Challenge (SPARCC) regions across the country.²⁵⁷

[SPARCC] is a three-year, \$90 million initiative that will empower communities and bolster local groups and leaders in their efforts to ensure that, as major new investments are made in infrastructure, transit, housing, health, and preparing for the challenges of climate change, they are used to make their communities places where everyone thrives.²⁵⁸

community stakeholders, inclusive of families and neighborhoods leaders, to collectively address systemic barriers to quality services and effective care.” *Id.*

253. See *id.*; see also *iHeLP Policy Lab*, U. MEMPHIS, http://www.memphis.edu/law/ihelp/education/policy_lab.php (last visited Oct. 8, 2018).

254. See *iHeLP Policy Lab*, *supra* note 253.

255. See generally CAMPAIGN FOR GRADE-LEVEL READING, TOWARD BIGGER OUTCOMES: TAKING ON THE HEALTH DETRIMENTS OF EARLY SCHOOL SUCCESS, <http://gradelevelreading.net/wp-content/uploads/2017/05/Toward-Bigger-Outcomes-r23.pdf> (speaking about the importance of why reading by the end of third grade matters, and the goals of such a mission).

256. See, e.g., James Krieger & Donna L. Higgins, *Housing and Health: Time Again for Public Health Action*, 92 AMER. J. PUB. HEALTH 758, 763 (2002); Kamila B. Mistry et al., *A New Framework for Childhood Health Promotion: The Role of Policies and Programs in Building Capacity and Foundations of Early Childhood Health*, 102 AMER. J. PUB. HEALTH 1688, 1691 (2012).

257. The other regions are Atlanta, Chicago, Denver, Los Angeles, and the San Francisco Bay Area. Madeline Faber, *SPARCC Grant Targets North Memphis For Equitable Development*, HIGH GROUND NEWS (Feb. 15, 2017), <http://www.highgroundnews.com/features/SPARCCgrant.aspx>.

258. About, SPARCC, <https://www.sparcchub.org/about/> (last visited Feb. 24, 2019). Led by Enterprise Community Partners, the Federal Reserve Bank of San Francisco, the Low Income Investment Fund, and the National Resources Defense Council, support comes from the Ford Foundation, The JPB Foundation, the Kresge Foundation, the Robert Wood Johnson Foundation, and the California Endowment.

With a goal to achieve healthy, equitable communities, the SPARCC initiative recognizes “that issues of poverty, health risks, and climate impacts are inextricably linked and must be addressed holistically instead of through piecemeal approaches.”²⁵⁹ It builds on “catalytic moments” and local resources to drive multi-sector and disciplinary collaborative action.²⁶⁰ This vision aligns well with a HiAP approach.

In Memphis, the SPARCC Neighborhood Collaborative for Resilience (NCR) builds on the Memphis “catalytic moment” seen in significant public and private investments and new city leadership, with a specific focus on the North Memphis region.²⁶¹ It takes a coalition approach, joining resident and community organizations (e.g., community development corporations, government, and non-profit sectors) to achieve greater racial equity, climate resilience, and equitable health outcomes, in keeping with the SPARCC initiative goals. These goals parallel those of HiAP. For example, the NCR will seek to “[i]nstitutionalize policy and practices that incorporate diverse racial, economic, and cultural perspectives into community planning through the establishment of an equity assessment toolkit and regional equity council” and “[i]mprove health outcomes for residents by enhancing connectivity to healthy food, health services, access to green space and trails, and quality affordable housing.”²⁶² Specifically, the recently-created Racial Equity Impact Assessment Tool,²⁶³ which includes developing healthy and safe communities, mirrors the HIA approach but with a focus on process, too, which builds within it the seeds for more structural reform of policymaking beyond a narrow interest in select existing or proposed programs or policies.²⁶⁴ HiAP similarly seeks structural policy reform to enhance equity.²⁶⁵

Leveraging engaged leadership, public and private support, and community advocacy, seeds have been planted building toward a true HiAP approach. Memphis faces challenges, but under the gaze of national attention during the Dr. Martin Luther King, Jr. memorials throughout 2018 and the “spark” of local and national investment, Memphis has the opportunity to go from a “hot” (at this time) city to one that leverages opportunities for a new way of making policy

259. *Id.*

260. *Id.*

261. *Memphis*, SPARCC, <https://www.sparcchub.org/communities/memphis/> (last visited Sept. 4, 2018).

262. *Id.*

263. *Toolkit: Racial Equity Impact Assessment for Policy Makers*, SPARCC, <https://www.sparcchub.org/resources/toolkit-racial-equity-impact-assessment-for-policy-makers/> (last visited Sept. 5, 2018).

264. *Racial Equity Impact Assessment*, ALL-IN CITIES, <http://allincities.org/toolkit> (last visited Oct. 9, 2018); *Health Impact Assessment*, CTRS. DISEASE CONTROL & PREVENTION (Sept. 19, 2016), <https://www.cdc.gov/healthyplaces/hia.htm>.

265. JOHNSON ET AL., *supra* note 3, at 2, 6 (“We use HiAP to describe this approach to focus on strategies and actions that will improve health equity.”).

that enhances health equity through cross-sector collaboration and data-informed “win-win” actions. Current and emerging work in Memphis, as the culmination of the collective action before it, demonstrates the promise of the HiAP approach and the hope in its implementation. Specifically, start small in a particular community (e.g., Memphis) ripe for this work and with sufficient resources, leadership, and commitment to data-informed collaborative action. Build champions at the community and state/local government sector levels, and leverage external funders and other key investors to drive change. Determine shared outcomes for success, such as the NCR work in North Memphis. Create opportunities for and awareness of the value in “win-wins” across sectors, as exist with the healthy housing and childhood trauma work in Memphis. Commit to moving from collective knowledge to collective will to collective action and to collective transformation through HiAP. By working toward enduring reform, moreover, communities like Memphis are better prepared to weather unexpected storms (e.g., a disruptive federal administration).

D. *Caveat: The Risk*

1. Preemption

a. Federal Preemption

The promise of local action remains tempered, alas, by federal developments. Federal leadership matters.²⁶⁶ And, while the Trump administration voices interest in devolving power to the states,²⁶⁷ federalism seems more an outcome-based approach than a consistent philosophy. Consider the Department of Justice (DOJ) stance vis-à-vis marijuana, reversing Obama administration guidelines related to federal prosecution of state-sanctioned recreational marijuana use.²⁶⁸ The Trump administration also seeks to limit “sanctuary cities,” i.e., jurisdictions that “obstruct immigration enforcement and

266. See Nicole Lurie, *What the Federal Government Can Do About the Nonmedical Determinants of Health*, 21 HEALTH AFF. 94, 96 (2002) (further explaining the critical role of federal leadership); see also, Bostic et al., *supra* note 83, at 2132-2134 (describing the Obama administration’s strategy for “place-based budgeting” and the critical cross-sector leadership of the Secretaries of Housing and Urban Development, and Health and Human Services).

267. President Donald Trump, Remarks in Meeting with the National Governors Association (Feb. 27, 2017).

268. See Memorandum, Office of the Attorney General, Marijuana Enforcement (Jan. 4, 2018), <https://www.justice.gov/opa/press-release/file/1022196/download> (allows for prosecutorial discretion, but signals movement to restrict state activity not favored by the current Administration); see also Memorandum, Office of the Attorney General, Guidance Regarding Marijuana Enforcement (Aug. 29, 2013), <https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf> (“... consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity.”).

shield criminals from Immigration and Customs Enforcement (ICE).”²⁶⁹ Administrative action includes issuing an executive order trying to withhold federal funds from states with sanctuary cities²⁷⁰ and filing a lawsuit on constitutional grounds.²⁷¹ Aggressive DOJ and presidential actions based on idiosyncratic, individual whims, versus a consistent governing philosophy, may potentially impede state and local efforts.²⁷²

b. State Preemption

In order to address community-specific public health issues, it is therefore important that local communities retain the power to adopt public health measures tailored to their needs. From a health equity standpoint, the use of local knowledge to forge community-specific solutions enables localities to employ a targeted approach to combat health disparities and ensure equitable access to better public health. Additionally, public health policies are most likely to succeed when the people most affected adopt them in a democratic process that ensures meaningful and direct engagement. Localities are in the best position to provide this type of engagement with stakeholders in the public.²⁷³

269. Bryan Griffith & Jessica M. Vaughan, *Maps: Sanctuary Cities, Counties, and States*, CTR. FOR IMMIGRATION STUD. (May 30, 2018), <https://cis.org/Map-Sanctuary-Cities-Counties-and-States>.

270. Enhancing Public Safety in the Interior of the United States, 82 Fed. Reg. 8,799, 8,799—8,801 (Jan. 25, 2017) (“In furtherance of this policy, the Attorney General and the Secretary, in their discretion and to the extent consistent with law, shall ensure that jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 (sanctuary jurisdictions) are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary. The Secretary has the authority to designate, in his discretion and to the extent consistent with law, a jurisdiction as a sanctuary jurisdiction. The Attorney General shall take appropriate enforcement action against any entity that violates 8 U.S.C. 1373, or which has in effect a statute, policy, or practice that prevents or hinders the enforcement of Federal law.”); *County of Santa Clara v. Trump*, 275 F. Supp. 3d 1196, 1219 (N.D. Cal. 2017) (in November of that same year, U.S. District Judge William H. Orrick issued a permanent injunction to block enforcement of this executive order).

271. Complaint at 2, *United States v. State of California*, No. 18-264 (E.D. Cal. March 6, 2018).

272. See Lawrence O. Gostin et al., *Assessing Laws and Legal Authorities for Obesity Prevention and Control*, 37 J. L. MED. & ETHICS (SPECIAL ISSUE) 28, 29 (2009) (providing a more general discussion of federal preemption of state and local law in the public health context, but also the importance of state/local action to promote health through law in non-health sectors).

273. PUBLIC HEALTH LAW CENTER, *UNTANGLING THE PREEMPTION DOCTRINE IN TOBACCO CONTROL* 2–3 (2018), <http://www.publichealthlawcenter.org/sites/default/files/resources/Untangling-the-Preemption-Doctrine-in-Tobacco-Control-2018.pdf>; see also James G. Hodge, Jr. & Alicia Corbett, *Legal Preemption and the Prevention of Chronic Conditions*, 13 PREVENTING CHRONIC DISEASE: PUB. HEALTH RES., PRAC., & POL’Y, June 2016, at 1, 2–3 (discussing the concept of legal preemption and its role in the public health context, with legal guidance to get around preemption concerns); Alex Horton, *Tennessee Lawmakers Punish Memphis for Removing Statue of Confederate and KKK Leader*, WASH. POST (Apr. 18, 2018), <https://www.washingtonpost.com/news/post-nation/wp/2018/04/18/tennessee-lawmakers-punish-memphis-for-removing-statue-of->

The value and importance of local government responses to community-based public health issues has been recognized.²⁷⁴ Alas, local efforts risk state preemption,²⁷⁵ a newly-aggressive tack stifling HiAP-oriented, regional initiatives.²⁷⁶ Examples include restrictions on “living wage” laws,²⁷⁷ paid leave

confederate-and-kkk-leader/?utm_term=.2d27ff55d3d2 (explaining Memphis has reason to fear state-impeding actions in light of controversy over its removal of Confederate statutes).

274. PUBLIC HEALTH LAW CENTER, *supra* note 273.

275. NICOLE DUPUIS ET AL., CITY RIGHTS IN AN ERA OF PREEMPTION: A STATE-BY-STATE ANALYSIS 3 (2017), <http://nlc.org/sites/default/files/2017-02/NLC%20Preemption%20Report%202017.pdf> (“Preemption is the use of state law to nullify a municipal ordinance or authority. State preemption can span policy areas including environmental regulation, firearm use and labor laws. States can preempt cities from legislating on particular issues either by statutory or constitutional law. In some cases, court rulings have forced cities to roll back ordinances already in place.”).

276. *Impact of Preemptive Laws on Public Health*, AM. PUB. HEALTH ASS’N (Nov. 3, 2015), <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2016/01/11/11/08/impact-of-preemptive-laws-on-public-health> (“Preemptive laws can effectively stop progress in public health policy-making and also eliminate the ability of local governments to act to protect their citizens.”). *See also* Jennifer L. Pomeranz & Mark Pertschuk, *State Preemption: A Significant and Quiet Threat to Public Health in the United States*, 107 AM. J. PUB. HEALTH 900, 901 (2017); LISA CAUCCI & MATTHEW PENN, PREEMPTION OF LOCAL PUBLIC HEALTH LAWS, <https://www.cdc.gov/php/docs/preemption-issue-brief.pdf> (last visited Sept. 9, 2018).

277. *See, e.g.*, Lori Riverstone-Newell, *The Rise of State Preemption Laws in Response to Local Policy Innovation*, 47 PUBLIUS: J. FEDERALISM 403, 411–12 (2017); *Worker Rights Preemption in the U.S.*, ECONOMIC POLICY INSTITUTE, <https://www.epi.org/preemption-map/> (last visited April 24, 2019); TENN. CODE ANN. § 50-2-112(a)(1) (West 2013) (“Notwithstanding any charter, ordinance or resolution to the contrary, no local government, as a condition of doing business within the jurisdictional boundaries of the local government or contracting with the local government, has the authority to require a private employer to pay its employees a hourly wage in excess of the minimum hourly wage required to be paid by such employer under applicable federal or state law.”). While economic rationales predominate on the state side of arguments, notably, local Birmingham organizations sued Alabama over a similar wage restriction law, alleging it violates the Equal Protection Clause, as well as frustrates “home rule.” Complaint at 6-7, *Lewis v. Bentley*, No. 2:16-CV-690-RDP, at *3–4 (N.D. Ala. Apr. 28, 2016) (“The Plaintiffs complain that the State Legislature’s decision to nullify Birmingham’s minimum wage ordinance was racially motivated and that this legislation disproportionately impacts African-American residents of Birmingham who work in the city. Second, the Plaintiffs complain that the State Legislature’s nullification of Birmingham’s minimum wage ordinance and pre-emption of any local ordinance or regulation related to private sector employment relies on the 1901 Constitution’s concentration of power at the State level and its denial of local autonomy (i.e. home rule).”). *But see* *Lewis v. Governor of Ala.*, 896 F.3d 1282, 1299 (11th Cir. 2018) (reversing the district court’s ruling on the plaintiffs’ Equal Protection Clause claim).

laws,²⁷⁸ obesity prevention measures,²⁷⁹ and gun control measures.²⁸⁰ These cases illustrate the tension between how narrowly or broadly power is granted to local authorities, as found in state constitutions and/or state statutes.²⁸¹ And

278. DUPUIS ET AL., *supra* note 275, at 8 (“When states preempt cities’ authority to pass paid sick and family and medical leave laws, they are not only limiting local control, but also undermining the overall health and wellbeing of employees.”); *State Family and Medical Leave Laws*, NAT’L CONF. ST. LEGIS. (July 19, 2016), <http://www.ncsl.org/research/labor-and-employment/state-family-and-medical-leave-laws.aspx> (providing an overview of each state’s paid leave laws).

279. See H.B. 950, 106th Gen. Assemb., Reg. Sess. (Tenn. 2010) (passed over governor’s veto on Feb. 22, 2010) (withdrew the authority of the state’s health departments from enacting menu-labeling laws and simultaneously pre-empted all state agency regulation in this area). See generally Lainie Rutkow et al., *Preemption and the Obesity Epidemic: State and Local Menu Labeling Laws and the Nutrition Labeling and Education Act*, 36 J. L. MED. & ETHICS 772, 774 (2008) (providing an overview of menu labeling laws).

280. See generally EVERY TOWN FOR GUN SAFETY, STATE FIREARM PREEMPTION LAWS (2018), <https://everytownresearch.org/wp-content/uploads/2018/02/Preemption-Fact-Sheet-2.20.18.pdf>. *Preemption of Local Laws*, GIFFORDS LAW CENTER, <http://lawcenter.giffords.org/gun-laws/policy-areas/other-laws-policies/preemption-of-local-laws/> (last visited Oct. 9, 2018). The NRA Institute for Legislative Action (NRA-ILA) actively lobbies for state preemption laws. *Firearm Preemption Laws*, NRA-ILA, <https://www.nraila.org/get-the-facts/preemption-laws/> (last visited Oct. 9, 2018).

281. The common approach to understanding this distinction lies in differentiating between “Dillon’s Rule” and “home rule.” See PUBLIC HEALTH LAW CENTER, *supra* note 273, at 3–4 (“According to Dillon’s Rule, the total scope of local governmental powers consists of (1) powers expressly granted; (2) powers implied from expressly granted powers; and (3) indispensable powers that localities must have in order to function. Thus, these localities have only enumerated powers, and when the state legislature is silent on a subject localities may not regulate that subject.”). Alternatively, the home rule doctrine grants powers to local jurisdictions and limits how states may restrict these local activities, a much more public health regulation-friendly approach.). For additional discussion of the distinction, see generally Kenneth E. Vanlandingham, *Municipal Home Rule in the United States*, 10 WM. & MARY L. REV. 269, 269 (1968) (“Although long governed by what is generally known as ‘Dillon’s Rule,’ American municipalities have always desired at least some measure of local autonomy. They are regarded legally as occupying a subordinate status within the state; and, as a rule, they derive their existence and all their powers from the state constitution and state legislative enactments. In the absence of state constitutional provisions to the contrary, they are subject wholly to state legislative control. The principal legal device employed by them to obtain some measure of freedom from state control is generally known as ‘home rule.’”) (citations omitted); Jesse J. Richardson, Jr., *Dillon’s Rule is from Mars, Home Rule is from Venus: Local Government Autonomy and the Rules of Statutory Construction*, 41 PUBLIUS: J. FEDERALISM 662, 663 (2011) (“Dillon’s Rule refers to a tool used by courts to construe grants of local government autonomy. The court becomes involved in issues of local government autonomy only when a case is brought before them. Home rule may be thought to refer to the actual grants of authority to local governments, generally found in local charters and state statutes, both initiated by the state legislature. Local governments may also derive authority from state constitutional provisions, which may come from the state legislature or the state electorate. Therefore, the courts exercise little control over local government autonomy, operating in reactive fashion only and interpreting grants of authority from the state legislature. State legislatures, on the other hand, initiate most actions that delineate local government autonomy.”).

for purposes of implementing a HiAP approach, they potentially frustrate health and equity-promotion initiatives, the sort of regionally-tailored innovations taking place in Memphis.

2. Federal Support

Revisiting the White House Budget makes clear the importance of federal support for state and local public health efforts and, hence, for the efficacy of a HiAP approach.²⁸² In Memphis, for example, key for success in intersectoral policy efforts to advance health and equity are federal dollars through agencies like HUD (e.g., support for low-income housing remediation²⁸³) or the EPA (e.g., support of climate change research²⁸⁴). Pushing budgetary decisions to the state/local level, while allowing for flexibility based on localized need, creates challenges in economically difficult times or when unexpected, costly events occur.²⁸⁵ Budgets also reflect values,²⁸⁶ so budgets premised on subtraction and division potentially frustrate local efforts at addition and multiplication through HiAP. It's important to thoughtfully consider the most effective use of stop-gap measures in the face of a federal administration's "storm." This should be distinguished from working toward enduring, structural change to promote health, and racial equity—the values behind HiAP. The Memphis response, however, also highlights the dilemma of finding the right balance between public and private investment.

282. See Lurie, *supra* note 266, at 96–98 (providing examples of helpful federal support ranging from federal leadership and education to cross-sector policy development and collaboration to support of growing the evidence base).

283. SHELBY CTY. DEP'T OF FIN., *supra* note 211, at F-2, F-13.

284. OFFICE OF MGMT. & BUDGET, *supra* note 146, at 106 ("As part of the Administration's initiative to refocus EPA on its core mission, the President's Budget continues to eliminate funding for lower priority programs. . . . Examples of program eliminations include: the Climate Change Research and Partnership Programs."). This matters in a community like Memphis, as transportation hub with its attendant environmental consequences. See *Tennessee: Shelby*, AM. LUNG ASS'N, <http://www.lung.org/our-initiatives/healthy-air/sota/city-rankings/states/tennessee/shelby.html> (last visited Oct. 9, 2018).

285. Unlike the federal government, states must balance budgets. For full explanation of state balanced budget requirements, see, e.g., NAT'L CONF. OF STATE LEGIS., NCSL FISCAL BRIEF: STATE BALANCED BUDGET PROVISIONS (2010), <http://www.ncsl.org/documents/fiscal/StateBalancedBudgetProvisions2010.pdf> (reviewing the balanced budget requirements of all fifty states, including stating that Tennessee's constitution requires that the Governor submit a balanced budget and the legislature pass a balanced budget).

286. *Biden's Remarks on McCain's Policies*, N.Y. TIMES (Sept. 15, 2008), <https://www.nytimes.com/2008/09/15/us/politics/15text-biden.html> ("Don't tell me what you value, show me your budget, and I'll tell you what you value.").

3. Privatizing Health

Structural change is built on a foundation. With a chaotic federal environment, it is understandable to look to state support, but budget shortfalls and state preemption efforts might frustrate this foundation. Hence, many communities seek private support from local and national foundations and other similar sources.²⁸⁷ While potentially positive, the risk lies in allowing private dollars to shape the local HiAP agenda. Who defines success? Consider the Pay for Success (PFS) approach: where PFS relies on social impact bonds from private sources to fund innovations, there could be potential for favoring market solutions to public policy issues, with a natural prioritization of economic efficiency.²⁸⁸ HiAP includes less quantifiable values, such as equity and justice, hence, the risk in a strictly dollars-and-cents return on investment (ROI) approach. “[W]here public expectations and political realities lean toward some degree of collective provision of goods such as health care, [Social Impact Bonds] risk accomplishing ‘privatization by stealth,’ harnessing progressive narratives related to upstream solutions to open public programs to profit.”²⁸⁹

The risks double due to the permanence ingrained in HiAP efforts: what are we making permanent? Is it shifting public sector work to the private sector? When change may be enduring, it is critical to be thoughtful in our structural reform and the “why,” “how,” and “because” of this work. In Memphis, this takes shape in the city’s history. A focus on SDOH—backed by data, maps, and community stories—adds in the numerous non-health factors influencing health outcomes (the “why”). The HiAP approach engages the community through a collective public sector response built on systemic change (the “how”). Critically, however, HiAP orients public leaders to recognize the legacy of structural racial inequity as reflected in economic and health inequities, an opportunity to create a new legacy for Memphis (the “because”). Hope remains, but it does not dissipate the need for vigilance and continued upstream advocacy.

287. John B. Goodman & Gary W. Loveman, *Does Privatization Serve the Public Interest*, 69 HARV. BUS. 26, 27 (1991).

288. Bhakti Mirchandani, *Voices From the Field: Social Impact Bonds and the Search for Ways to Finance Public Sector R&D*, NONPROFIT Q. (March 30, 2018), <https://nonprofitquarterly.org/2018/03/30/voices-field-social-impact-bonds-search-ways-finance-public-sector-rd/>.

289. Amy S. Katz et al., *Social Impact Bonds as a Funding Method for Health and Social Programs: Potential Areas of Concern*, 108 AM. J. PUB. HEALTH 210, 214 (2018).

V. REFLECTING ON FIFTY YEARS AGO TO POSITION THE NEXT FIFTY YEARS:
THE VALUES OF THE HIAP MATH

*"Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly."*²⁹⁰

—Martin Luther King, Jr.

*"Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring those ripples build a current which can sweep down the mightiest walls of oppression and resistance."*²⁹¹

—Robert F. Kennedy

A. *Reflection*

Fifty years prior to this writing, leaders called forth a spirit of connectedness, recognizing the role that each person—each community (e.g., Memphis)—has to play. While not engaged in a war like Vietnam, or in a time of a federally-claimed "War on Poverty,"²⁹² the battles of today's public health leaders committed to a HiAP approach seem no less daunting. And yet, these are not entirely new challenges, despite the repeated refrain that Trump administration actions today are "unprecedented."²⁹³ The War on Poverty came out of a civil rights context that recognized the intertwined nature of structural, economic, and racial inequality.²⁹⁴ Within two months of each other during the spring of 1968,

290. Letter from Martin Luther King, Jr., from Birmingham, Alabama Jail (Apr. 16, 1963). Notably, the Chair of the WHO Commission on Social Determinants of Health noted that its Report was published exactly forty years after MLK Jr.'s "I Have a Dream" speech in Washington, DC. See Michael Marmot, *Closing the Health Gap in a Generation: The Work of the Commission on Social Determinants of Health and Its Recommendations*, 16 GLOBAL HEALTH PROMOTION 23, 27 (Supp. I 2009). Then-CDC Director Dr. Thomas R. Frieden called on a broad swath of stakeholders to address health inequity with the "fierce urgency of now," quoting Martin Luther King, Jr. in the foreword to the 2013 CDC Report. CTRS. FOR DISEASE CONTROL & PREVENTION, *supra* note 18, at 1.

291. Robert F. Kennedy, Day of Affirmation Speech at the University of Cape Town, South Africa (June 6, 1966).

292. See generally Frances Fox Piven, *How We Once Came to Fight a War on Poverty*, 23 NEW LAB. F. 20, 21 (2014).

293. See, e.g., sources accompanying *supra* note 20.

294. Guian A. McKee, *Lyndon B. Johnson and the War on Poverty*, MILLER CTR.: U. VA., <http://prde.upress.virginia.edu/content/WarOnPoverty> ("There was, of course, another context to the emergence of poverty as a national policy priority. The civil rights movement had focused attention on economic inequality, particularly as it related to the nation's pervasive patterns of racial discrimination. The August 1963 March on Washington had captured this dynamic relationship, as its formal title was the 'March on Washington for Jobs and Freedom.' Martin Luther King frequently addressed the relationship between poverty and discrimination in ways far more radical

both Dr. Martin Luther King Jr. and Robert F. Kennedy would be assassinated.²⁹⁵ During 2018, communities across the nation have had the opportunity to reflect not only on how far they have come since those challenging times but also on the deep work that remains (e.g., the lessons from Flint, Michigan). The Trump administration's priorities and actions, and supporters thereof, harken back to so many of the same concerns: racial, economic, and health inequity and the federal government's role—or any government's role—in addressing inequity.

Perhaps unsurprisingly, Memphis garners national and state attention in its work, with its historic role in events leading into our current context. The challenges are numerous, complex, and intergenerational. The solutions will require time, steady commitment, and federal—not just state or private—support. However, a foundation is being laid, step-by-step, to drive enduring change in Memphis as a model for other communities. Memphis leveraged interest in the built environment to fuel coalition work, with public sector support and alignment, to connect healthy housing, anti-blight, and community development work.²⁹⁶ It used evidence to inform early care and learning policy proposals.²⁹⁷ It leveraged data collection processes and mapping technology to link needs across sectors, with a strong public health presence.²⁹⁸ It used the MLK50 memorials to highlight the current poverty situation.²⁹⁹ And, SPARCC's "spark" of investment purposefully allows it to connect these environmental, racial, economic, and health equity foci into a collective project. While not explicitly a HiAP approach, the seeds of this work exist with a commitment across sectors that now have worked together for years and can build on data and community stories. They work with the knowledge that early years matter for long-term prosperity, that health inequities stem from so many non-health actions, and that collaboration adds immense value.

Of course, caveats remain. Preemption presents critical legal challenges, both at the federal and state levels.³⁰⁰ This article's focus on the Trump

than most commentators now choose to remember. It was at the local level, however, that civil rights, poverty, and pressing economic issues became most closely linked. . . . These developments in the civil rights movement, though, would have a profound effect on how the War on Poverty actually operated.”).

295. David Margolick, *Book Excerpt: The Untold Story of MLK and RFK*, THOMSON REUTERS (Mar. 27, 2018), <https://www.reuters.com/article/usa-mlk-robertkennedy/book-excerpt-the-untold-story-of-mlk-and-rfk-idUSKBN1H326N> (last visited Feb. 24, 2019).

296. See generally CITY OF MEMPHIS DIV. OF HOUSING AND COMMUNITY DEV., ANNUAL ACTION PLAN (2018-2019).

297. *Id.* at 72.

298. *Id.* at 68.

299. Denzel Alexander, *MLK50 Events Highlight Above Average Memphis Poverty Rates*, DAILY HELMSMAN (Apr. 11, 2018), http://www.dailyhelmsman.com/news/mlk-events-highlight-above-average-memphis-poverty-rates/article_28027bda-3c36-11e8-80e1-5bcd3f98f0c4.html.

300. PARMET, *supra* note 22, at 91.

administration, with its softening of budgetary support added to a climate of division, suggests difficult times for communities without strong private and other alternative sources of funding to begin the work of building and implementing HiAP. In turn, these alternative sources potentially counteract the public sector role, and obligation, for community well-being. Private interests may follow the whims of individuals or the bumps of the market. HiAP, however, requires public sector work to structure a new, enduring way to use policy to advance health, equity, sustainability, and justice.

Moreover, this is long-term work, with long-term results. Politics is more a short-term endeavor, although it plays out in a historical context with actions that can shape long-term futures. The tension between the different outlooks occurs across administrations.³⁰¹ President Trump ushered in a new era, challenging facts and championing division, with the potential for long-term, damaging results to HiAP efforts. And, federal perspectives inform state ones, creating additional barriers through value-laden debates over governing authority and budgets, with risks rising as complexity and politics blur lines of accountability and risk- (and reward-) sharing.³⁰² These challenges should not be taken lightly, or the promise happening in Memphis will stay in Memphis and conceivably not even last within Memphis. However, returning to the long-term perspective and the long-haul work, it is important to maintain local efforts to galvanize a HiAP approach to create healthy, equitable, sustainable communities. A stepwise, policy-plus-broad stakeholder engagement approach that builds momentum and takes advantage of “catalytic moments,”³⁰³ as in Memphis, helps light the way.

B. *Moving Forward*

Recognizing the importance of SDOH within policy fuels evidence-informed policymaking. This is expressed in actions from budget allocation decisions³⁰⁴ to federal support of research.³⁰⁵ A thoughtful review of data also

301. See, e.g., Lurie, *supra* note 266, at 102 (“Investments in nonmedical determinants, especially education, may take a generation or more to yield much return. In other areas of resource management, a balanced portfolio, with both short- and long-term returns on investment, is standard practice. Our nation’s investment portfolio with regard to health is weighted far toward short-term returns.”).

302. *Id.* at 102–03. (“Unfortunately, the accountability for failing to align investments and policies is muddled.”).

303. *Toolkit: Racial Equity Impact Assessment for Policy Makers*, *supra* note 263.

304. See, e.g., Daniel et al., *supra* note 2, at 578 (“The American College of Physicians supports the adequate and efficient funding of federal, state, tribal, and local agencies in their efforts to address social determinants of health, including investments in programs and social services shown to reduce health disparities or costs to the health care system and agency collaboration to reduce or eliminate redundancies and maximize potential impact.”).

305. *Id.* at 586, 578 (“The American College of Physicians supports increased research into the causes, effects, prevention, and dissemination of information about the social determinants of

highlights persistent disparities in health outcomes, especially for low-income, and Black and Hispanic populations.³⁰⁶ Moving upstream, using policy to address SDOH results in more systematic and comprehensive health-promoting initiatives. Layering in equity considerations ensures sufficient attention to not simply moving the needle on health outcomes, but purposefully doing so for the most disadvantaged, especially critical given the structural nature of much of inequity.³⁰⁷

Critically, going further lies the opportunity—through HiAP—to get to root causes of inequity to fundamentally alter how we develop policy to enhance health, and also, distinctly, equity and justice.³⁰⁸ HiAP adds to the ROI calculation considerations of SDOH via policy-focused tools like HIAs and approaches like collective impact. HiAP also contributes the multiplying effect of considerations of equity, justice, and sustainability alongside health in intersectoral policymaking. Thus, while social determinants matter, so, too, do social factors reflected in and influenced by structures and systems. To fully address the former for purposes of advancing equitable health outcomes, HiAP challenges communities to address the latter, i.e., structures and systems, which allow inequity to continue.

VI. CONCLUSION

This article illuminates the critical role for local communities in building toward HiAP, the integral role of policy in this work, and its importance for enduring, equity-enhancing, sustainable health. It further spotlights experiences in Memphis to illustrate how communities can leverage stakeholder attention and transform challenges into opportunities building incrementally toward a HiAP approach. All these efforts occur notwithstanding the federal climate. However, it also suggests that the federal government still matters—for

health. A research agenda should include short- and long-term analysis of how social determinants affect health outcomes and increased effort to recruit disadvantaged and underserved populations into large-scale research studies and community-based participatory studies.”). For additional examples of federal programs that seek to address disparities, *see* AGENCY FOR HEALTHCARE RESEARCH & QUALITY, *supra* note 2, at 29–30.

306. AGENCY FOR HEALTHCARE RESEARCH & QUALITY, *supra* note 2, at 22–26.

307. *See* Williams et al., *supra* note 4, at 10 (Regrettably, “[t]he challenge of doing this is likely to be enormous given the wariness of U.S. policy makers of supporting programs that are tailored to socially disadvantaged groups.”) (citation omitted). Hence, the value in localized approaches, where it might be easier to galvanize support and create a greater sense of “community.” *Id.* at 5.

308. JOHNSON ET AL., *supra* note 3, at 14; *see also* Graham, *supra* note 60, at 114 (“... a combined attack on the social causes of health inequalities implies a dual, not a single, policy agenda. It requires engaging with not only the social influences on health and how people’s social conditions can damage their health. It requires, too, simultaneously engaging with how social inequalities are maintained over time and across generations. Facing this challenge is particularly important when, as in the older industrialized nations, social changes are widening inequalities. Economic restructuring is central to this process of change.”).

budgetary and other support, proving particularly difficult with the Trump administration's favoring subtraction (of a sense of community) and division (of individuals within communities) over HiAP's addition and multiplication. HiAP is not a panacea to protect against "Trump-like" storms. Yet, through thoughtful, continued local action and vigilance, HiAP presents a critical opportunity to signal—and build supportive collaborations and enduring structures—key values that withstand these storms.

