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EQUALITY



**REPORT OF THE SECOND CONVENING**

*and Companion Reports of Program Participants*

DECEMBER 15TH 2015, LOS ANGELES, CALIFORNIA



Equality California Institute

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## LETTER FROM THE EXECUTIVE DIRECTOR

Dear Governor Brown, Honorable Members of the California Legislature, state and local public policymakers, and members of the community:

Our second **Fair Share for Equality** report is the product of a December 15, 2015 convening of community leaders, elected officials and policymakers from across California. The convening and this report advance the three areas of Equality California's expanded mission -- reducing disparities in the health and wellbeing of the LGBT community, creating a fair and just society for all communities that LGBT people are part of, and advancing LGBT civil rights and acceptance both inside and outside of California. Simply put, the report's recommendations shape and inform our advocacy and education objectives in the year to come.

The considerable LGBT civil rights successes of 2015, both within and beyond California's borders, do not negate the fact that LGBT people everywhere still suffer from the effects of a lack of understanding and acceptance, reflected in the substantial disparities we suffer in health and wellbeing compared to the general population. LGBT people still suffer from high rates of substance abuse, depression, homelessness, arrest and incarceration. LGBT people are still less likely to have health insurance than the broader community. LGBT youth face bullying, high suicide rates and low rates of school success. These disparities are multiplied for people of color, women, seniors, the transgender community and undocumented immigrants.

Equality California Institute launched its groundbreaking **Fair Share for Equality** initiative to help address these disparities by educating our community, legislators and policy makers on how best to allocate a "fair share" of government resources to advance the health and wellbeing of California's LGBT community. It also brings together leaders and experts to identify populations most in need of aid, and to develop program recommendations that will be most beneficial. More than 175 people attended this year's Fair Share for Equality convening, nearly double the attendees of the previous event. They included leaders from the LGBT community and community organizations, educators, social service experts, and government officials. Participants were asked to speak about disparities in health and wellbeing within the LGBT community and to outline critical program and funding needs. Participants prepared detailed reports offering a range of perspectives



**Rick Zbur**  
*Executive Director*  
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on these disparities, and recommendations on how to address them. Each of the co-sponsors' reports is included herein, and we recommend that you review them.

We owe the success of the event to its participants, as well as to our co-sponsoring organizations for their important contributions and for the work and thought that each put into this effort. Based on the convening and the reports provided by our sibling organizations, Equality California and Equality California Institute have identified the following priorities:

- **Expand funding and programs to address the epidemic of LGBT youth homelessness**
- **Expand and implement LGBT data collection**
- **Create safe and supportive school environments by providing teachers and school counselors with culturally competent training and requiring suicide prevention programs in California schools**
- **Provide expanded programs for cultural competency training for medical and mental health professionals**
- **Develop a state plan to end the HIV epidemic in California, including increasing awareness and uptake of pre-exposure prophylaxis (PrEP) regimens**
- **Modernize HIV transmission laws that single out and stigmatize people with HIV**
- **Develop state programs and strategies to address high drug prices faced by members of the LGBT community and people living with HIV/AIDS**
- **Ensure that economic development programs target the LGBT community to address income disparities**
- **Reduce violence and differential treatment for LGBT people within the criminal justice system, including through cultural competency training of police and other criminal justice government officials**
- **Provide healthcare to California's estimated 250,000 LGBT undocumented immigrants**

We encourage you to read our report and the companion reports. We hope they will provide a better understanding of some of the challenges faced by LGBT youth and seniors and by some of the most marginalized members of the LGBT community. As our leaders and public policy makers, you have the ability to make a difference.

We thank our presenting sponsor, the law firm of Brownstein, Hyatt, Farber & Schreck, and the program participants and our co-sponsoring organizations, which are set forth on the preceding page.

Thank you for your time and your concern for the issues continuing to face LGBT people.

Sincerely,



Rick Zbur  
*Executive Director*  
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Equality California is the nation's largest statewide lesbian, gay, bisexual and transgender civil rights organization dedicated to creating a fair and just society. Our mission is to achieve and maintain full and lasting equality, acceptance and social justice for all people in our diverse LGBT communities, inside and outside of California. Our mission includes advancing the health and wellbeing of LGBT Californians through direct healthcare service advocacy and education.

Through electoral, advocacy, education and mobilization programs, we strive to create a broad and diverse alliance of LGBT people, educators, government officials, communities of color and faith, labor, business, and social justice communities to achieve our goals.

Equality California is made up of Equality California (EQCA) and the Equality California Institute (EQCAI). EQCA is an I.R.S. 501(c)(4) organization that utilizes electoral, advocacy, education, and mobilization programs to achieve its mission. The Institute is an I.R.S. 501 (c)(3) organization that utilizes advocacy, education, and mobilization programs to achieve its mission.

# EQUALITY CALIFORNIA INSTITUTE SUMMARY REPORT OF THE SECOND FAIR SHARE FOR EQUALITY CONVENING



While 2015 was, in many respects, a pivotal year for the LGBT community, recent victories mask the fact that in many, very basic ways, the LGBT community is still suffering. LGBT people still face staggering rates of poverty, depression, suicide, substance abuse and homelessness. We still experience harassment and abuse at the hands of law enforcement and a sometimes hostile legal system. Bullying by classmates and a lack of resources for teachers to help LGBT students results in lower school success and high rates of depression among LGBT youth. And many LGBT people lack access to basic, affordable healthcare. These problems are even more pronounced for women, seniors, communities of color, transgender people and LGBT undocumented immigrants.

Equality California Institute's groundbreaking Fair Share for Equality initiative was created to help address these disparities by educating legislators and policy makers to enable them to better understand how to allocate a "fair share" of government resources to advance the health and wellbeing of California's LGBT community.

The summary report which follows has identified the following priorities to address LGBT health and wellbeing disparities.

## **Expand funding and programs to address the epidemic of LGBT and youth homelessness**

According to a 2012 study by the Williams Institute, some 40 percent of homeless youth in Los Angeles County are LGBT. Discrimination and lack of acceptance in the home, in schools and in the community have led to high rates of homelessness among LGBT people, especially impacting the transgender community and young people of color. Meanwhile, successful programs specifically

targeting LGBT youth, which help provide them with skills to secure stable employment and housing, are at capacity, with long waiting lists. A vital need clearly exists for expanded services designed to meet the unique needs of the four in ten homeless youth who are LGBT.

Addressing these epidemic levels of LGBT homelessness is a top priority for Equality California and the LGBT community. Significant additional targeted resources must be a cornerstone of any state homelessness policy. Given the disproportionate level of LGBT youth homelessness in California, trauma-informed, culturally competent programs specifically targeting LGBT youth must be developed and expanded. New and existing programs addressing homeless populations should collect LGBT-specific data when they collect other demographic information to both assess the size and nature of the problem and to be sure that services are reaching homeless LGBT youth.

## **The expand and implement LGBT data collection**

The collection of accurate, timely data about the LGBT community is vital to reducing disparities in health and wellbeing, simply because if we are not counted, we do not count. Government agencies, policymakers, health professionals and other entities providing social services need to know how many LGBT people are being served by existing programs in order to assess how to better meet LGBT health and wellbeing disparities.

Guided in part by the recommendations of the 2015 report, Equality California sponsored AB 959 (Chiu), mandating the collection of LGBT-specific data when certain social service agencies collect demographic data. Ensuring that agencies implement AB 959 appropriately, that data are actually collected and



collected in a way that meets the needs of the LGBT community, and expanding AB 959's requirements to other agencies is a top priority for Equality California and Equality California Institute.

**Create safe and supportive school environments by providing teachers and school counselors with culturally competent training, and require suicide prevention programs in California schools**

Teachers and school counselors are the front line of defense for LGBT students against bullying and harassment in schools and in supporting students who are facing challenges because of a lack of acceptance in their home, school or community. Some eight out of ten LGBT youth report harassment of some kind in schools, leading to declining academic performance, absenteeism, high dropout rates, depression, substance abuse and suicide.

While Equality California sponsored AB 827 (O'Donnell) in 2015, providing resources and information to teachers to give them tools to better support LGBT students, the new law does not go far enough. In-service training is necessary to better equip teachers to recognize signs of distress in LGBT students and to provide support. Trainings for school counselors, health professionals and social workers should include a focus on youth suicide prevention and on creating a welcoming environment for LGBT students so that they feel comfortable seeking help in the first place. Panelists also recommended programs that educate parents about issues affecting LGBT students, whether or not they themselves are parents of an LGBT child, with a special focus on low-income families or those not speaking English at home. Facilitating and encouraging formation of "gay-straight alliance" clubs would also help create a more welcoming school environment for LGBT students at schools where they do not already exist.

In addition, California is one of a handful of states that do not require schools to have comprehensive, inclusive suicide prevention programs. Equality California recommends that all middle and high schools statewide be required to implement a comprehensive, inclusive suicide prevention program.

**Provide expanded programs for cultural competency training for medical and mental health professionals**

Lack of cultural competency on the part healthcare providers often exacerbates existing problems facing LGBT people in healthcare settings. While California continues to lead the nation in the implementation of the Affordable Care Act (ACA), studies show that many LGBT people still do not access medical care due to a lack of cultural competency of medical and mental health providers. Others' healthcare outcomes are affected because many LGBT people are afraid to come out to their healthcare providers in healthcare settings that are not welcoming or appear hostile to LGBT people. Cultural competency trainings for medical providers would allow more appropriate referrals and earlier identification of issues like anxiety and depression, key factors in suicide attempts.

Guided by the recommendations of the 2015 Fair Share report, Equality California provided cultural competency trainings for more than 500 employees from more than 40 Central Valley health clinics about the particular needs of LGBT undocumented immigrants. In 2016, we plan to expand our trainings to other clinics across the state, as well as "LGBT 101" trainings to schools and religious institutions.

**Develop a state plan to end the HIV epidemic in California, including increasing awareness and uptake of PrEP regimens**

California has an opportunity to stop the HIV epidemic in its tracks. Thanks to current medications, an HIV-positive person who is virally suppressed is up to 93 percent less likely to transmit the virus to others. This "treatment as prevention" is fundamental to slowing the spread of HIV, as transmission occurs most often when HIV-positive individuals are lacking treatment and experiencing high viral loads. Post-exposure prophylaxis (PEP), which involves taking a 30-day course of anti-retroviral medication after being potentially exposed to HIV, has been shown to be highly effective in preventing sero-conversion if taken within 72 hours. Finally, there is pre-exposure prophylaxis (PrEP), which involves HIV-negative individuals taking the anti-retroviral medication Truvada prophylactically to inhibit HIV transmission. It has proven to reduce

transmission by up to 99 percent when taken once a day. During a recent study by Kaiser Permanente, no new HIV infections occurred among participants on PrEP over a two-and-a-half-year period. The World Health Organization recommends that anyone at substantial risk of contracting HIV should be on PrEP – according to the U.S. Centers for Disease Control (CDC), that includes an estimated one in four sexually active gay and bisexual men, one in five intravenous drug users, and one in 200 heterosexuals.

HIV/AIDS remains one of the most critical health issues facing the LGBT community in our state. The CDC has reported a 132-percent increase in new HIV infections among young gay and bisexual men, ages 13-24, in the last decade, with an estimated 54,000 new infections per year nationwide. Men who have sex with men (MSM) accounted for over 63 percent of these new infections in 2010, with an estimated 55 percent of those cases occurring in young black men. This crisis has been exacerbated by major cuts in government funding for HIV/AIDS treatment and services, primarily the AIDS Drug Assistance Program (ADAP), which provides lifesaving medication to HIV-positive individuals without insurance. Following the financial collapse of 2009, California cut \$85 million in general funds spending on HIV/AIDS programs, going from a total of \$130 million in 2008 to \$13 million in funding in 2014.

Despite the demonstrated effectiveness of PrEP at preventing transmission of HIV, uptake has been slow by those most at risk for HIV, with only an estimated 5,000 people currently on the drug in California. According to a 2015 survey by the California HIV/AIDS Research Program, awareness of PrEP was significantly higher among white men than black or Latino respondents, but a majority of all men surveyed said they would not know how to access PrEP if they wanted to begin taking it. Another challenge for many low-income LGBT individuals who would benefit from PrEP is the failure of healthcare plans to fully cover these prevention options. Even though coverage is provided under Medi-Cal and Covered California plans, excessively high copayments required under some Covered California plans make these treatment options financially out of reach for many low-income members of our community.

A successful road map to ending HIV/AIDS will require increased government funding for HIV-positive individuals who lack treatment, an effective statewide outreach campaign to educate at-risk communities about the new preventative options available, and finally a PrEP-based drug-assistance program (PDAP), similar to ADAP, that would provide biomedical prevention drugs to members of the LGBT community who lack health insurance or are under-covered. Equality California recommends the immediate adoption of a statewide strategy, based on highly successful local initiatives such as San Francisco's "Getting to Zero", to educate at-risk communities about preventative options available to them; to develop a PrEP-based drug assistance program, similar to ADAP, that would provide preventative care to under- or uninsured members of the LGBT community, to link HIV-positive people to the treatment they need and ensure that they are retained in care and treatment; and finally, to reduce the stigma still associated with HIV, which discourages people from learning their HIV status and seeking treatment.

### **Modernize HIV transmission laws that single out and stigmatize people with HIV**

Recent U.S. Department of Justice guidelines call on states to modernize HIV criminalization laws so as to not "...place unique or additional burdens on individuals living with HIV/AIDS" and to "reflect contemporary understanding of HIV transmission routes and associated benefits of treatment."

Most of California's current laws criminalizing HIV were adopted in the 1980s and 1990s, a time of public panic and ignorance over HIV and how it is transmitted. Laws related to exposure to HIV discriminate against people living with HIV because they impose felony penalties when people with similar diseases are subject to misdemeanor charges. Some of these laws impose draconian penalties when there has been no transmission or even an act that risks transmission. Some impose harsher penalties on certain acts when committed by people with HIV than when committed by a person without HIV. In addition, these laws are often used by current or former sexual partners to intimidate and harass people with HIV even when they have not engaged in behavior or an act that has harmed anyone. Besides being unjust, the laws run counter



to public health goals by discouraging people from learning their HIV status and seeking treatment.

Bringing California's laws in line with our current understanding of HIV, its transmission and current treatments like PrEP, that reduce risk of transmission to near zero, is one of Equality California's highest priorities. We are working in coalition with the ACLU of California, AIDS Project Los Angeles, MALDEF, Lambda Legal, the Los Angeles LGBT Center, the Positive Women's Network USA, the Transgender Law Center, and other organizations to modernize California's criminal laws to stop discriminating against people with HIV and to bring them in line with and advance our nation's public health strategy.

### **Develop state programs and strategies to address high drug prices faced by members of the LGBT community and people living with HIV/AIDS**

Addressing the high prices of newer, more effective and so-called "specialty" drugs is crucial to the health of people living with HIV/AIDS and other conditions. In the last year, some 70 percent of all drugs approved by the FDA fell into the "specialty" category. This steep pricing impacts public health coverage such as Medi-Cal and Medicare as well as Covered California, employer-based plans, and other private insurance payers, translating into increasing barriers to drug access.

While AB 339, authored by Assemblymember Rich Gordon (D-Menlo Park) addresses some of the drug costs impacting employer-based coverage, it is critical to the health and wellbeing of the LGBT community that policy makers seek solutions to address the high cost of prescription medications.

### **Ensure that economic development programs target the LGBT community to address income disparities**

The LGBT community faces two pernicious myths that are contradicted by various studies. The first is that LGBT couples, with no children to support, are generally affluent. The second is that, with marriage equality now the law from coast to coast, homophobia has been marginalized to small, rural pockets. In fact, many LGBT people everywhere live at or near poverty levels because of the extensive marginalization that they themselves still endure,

especially the transgender community, women and people of color.

LGBT adults are nearly twice as likely to be unable to afford to feed themselves than the general population. Children of LGBT couples are twice as likely to live in poverty. African-Americans in same-sex couples are more likely to be poor than heterosexual married African-Americans, and are three times more likely to face poverty than white same-sex couples. Lesbians are more likely to receive food stamps and public assistance than heterosexual women. And transgender people, the community's most economically marginalized, face an unemployment rate of 70 percent.

Accurate collection of LGBT-specific data by public agencies and programs will begin to address the scope of the community's needs. The creation and expansion of culturally competent economic development programs integrated with various assistance agencies and non-profit organizations will help clients become financially self-sufficient. LGBT people should be included in government contracting programs that attempt to increase contact or provide incentives to contract with minority- and women-owned businesses.

### **Reduce violence and differential treatment for LGBT people within the criminal justice system, including through cultural competency training of police and other criminal justice government officials**

LGBT individuals experience police harassment and discrimination within the criminal justice system at higher rates than the general population, including higher rates of incarceration and recidivism, as well as higher rates of physical and sexual assault in prisons.

The disproportionate representation of LGBT people in the penal system, again, is the direct result of the disparities suffered by the community in so many areas. Increased stress and need for food, money, or housing, can lead to substance abuse as a form of coping or survival. Substance abuse increases the likelihood of LGBT youth being arrested for possession of drugs. This has been widely discussed as a primary reason for a national increase in LGBT incarcerations, particularly for

young men of color. Another common occurrence reported by transgender individuals, in particular transgender women of color, is the increased police profiling they experience simply for living openly and authentically—an experience many have come to call “Walking While Trans.”

In order to address these issues, state and local government agencies need to dedicate budget resources not only to improving school safety, but also towards cultural competency training for police and others in the criminal justice system. Police departments and prisons need additional government resources to train their officers, deputies, and guards to be more culturally competent when interacting with members of the LGBT community, especially transgender people.

Panelists also raised the precarious situation of transgender female detainees in federal immigration detention centers, often housed with men and at high risk of sexual assault and other abuse by both other detainees and guards. Addressing this issue is a high priority. Equality California is committed to advancing comprehensive immigration reform that includes full access to the judicial system for immigration detainees, as well as healthcare and a pathway to citizenship for California’s 250,000 LGBT undocumented immigrants.

### **Provide healthcare to California’s estimated 250,000 LGBT undocumented immigrants**

California’s undocumented immigrants are an integral part of the social and economic fabric of our state. Undocumented Californians make up nearly a tenth of our workforce, pay taxes and contribute an estimated \$130 billion to the state economy. Yet they remain shut out of the ACA. According to a recent

report by the Williams Institute, undocumented adult immigrants under age 30 are twice as likely as the broader undocumented immigrant population to identify as LGBT. For individuals that are both LGBT and undocumented, this double minority status has compounded harmful effects on their social, economic, and psychological wellbeing that makes them among our society’s most vulnerable individuals. Undocumented HIV-positive people generally cannot access life-saving drugs and transgender patients go without necessary medical treatments.

While SB 4, the Health for All Kids Act by Senator Ricardo Lara (D-Bell Gardens), built off a budget action last summer by Governor Brown to provide coverage to undocumented children 18 and under, thousands of adults remain without coverage. Fixing our broken federal immigration system with a pathway to citizenship for millions of people already living in the country is a high priority for Equality California, but securing quality, affordable healthcare for all undocumented immigrants immediately is an economic, public health and ethical necessity.

For more information on Equality California Institute or questions regarding this document, please contact: Tony Hoang (323)848-9801 | [tony@eqca.org](mailto:tony@eqca.org).

Although this report considered the information shared at the Second Fair Share for Equality Convening, it reflects Equality California Institute’s public policy and educational priorities. We thank the Williams Institute, AIDS Project Los Angeles, American Civil Liberties Union, Transgender Law Center, the Trevor Project, Lambda Legal, the Los Angeles LGBT Center, and our other co-sponsors for providing statistics and information included within this summary report. We hope this report will educate legislators and policy makers and help them develop and fund valuable programs to address the disparities in health and wellbeing of the LGBT community. While common themes did arise throughout the course of the Fair Share for Equality Convening, the priorities expressed herein are those of Equality California and Equality California Institute alone and do not necessarily reflect the views of our co-sponsoring organizations or program participants not affiliated with Equality California.

# **FAIR SHARE FOR EQUALITY**

## *Reports from Program Participants*

Each of the following reports were provided by program participants of the Fair Share for Equality Convening on December 15th, 2015, in Los Angeles, CA. Each of these reports represent the policy views and perspectives of the author and do not necessarily represent policy views of other individuals or organizations participating in the convening.





## Abbe Land, *The Trevor Project*

The Trevor Project's mission is to end suicide among, lesbian, gay, bisexual, transgender and questioning young people. The organization works to fulfill this mission through the following four strategies:

1. Provide crisis counseling to LGBTQ young people thinking of suicide
2. Offer resources, supportive counseling and a sense of community to LGBTQ young people to reduce the risk that they become suicidal
3. Educate young people and adults who interact with young people on LGBTQ-competent suicide prevention, risk detection and response
4. Advocate for laws and policies that will reduce suicide among LGBTQ young people

As the only national organization providing 24/7 lifesaving suicide prevention services to LGBTQ youth, The Trevor Project hears every day from young LGBTQ people about their experiences and the myriad of issues they face, that are often very different from their cisgender friends.

Specifically when we think of areas of significant disparity for our LGBTQ youth we identify the areas of suicide prevention, access to appropriate medical and mental health services and the deficit of valuable research. In addition we know LGBTQ homeless and foster care youth face additional disparities.

It is important to note that the current information in the area of suicide, remains relatively unchanged. We know that LGB youth are 3-4 times more likely to attempt than their straight friends. Recent studies from the American Foundation for Suicide Prevention have shown 60% of transgender youth have thought about suicide, and some 40% have made a suicide attempt. Research from the Family Acceptance Project has also shown that when LGBTQ youth come from a rejecting family they are 8 times more likely to attempt. Furthermore, we know that 40% of homeless

youth identify as LGBT, largely related to the youth feeling unwelcomed or unsafe in their homes and being kicked out or choosing to leave.

### **Strategies/Policy Recommendations:**

#### ***Suicide Prevention***

**Model Suicide Prevention Policies/Programs:** The Trevor Project in collaboration with three other organizations developed a model suicide prevention policy aimed at middle and high schools. This policy is an inclusive approach designed for all students, with specific issues that LGBT students face identified and discussed. The state legislature should mandate all school districts adopt this type of policy. Adoption of a comprehensive, inclusive suicide prevention program would go a long way to raising awareness and addressing a serious public health issue.

**Training for teachers:** In their training of teachers, California's universities should integrate inclusive and affirming interaction with LGBTQ students in their curricula. It is one endeavor to educate existing teachers (also important), but an earlier intervention to integrate it into core learning in undergrad/graduate level preparation would better equip teachers when it comes to listening for/observing cries for help and other warning signs of distress among students, and providing linkages to competent social-emotional care.

**Training for school counselors & nurses and social workers:** California's social workers, school counselors and nurses need greater uniform knowledge of suicide. Trainings that focus on signs of suicide, specific issues that LGBT youth face, the importance of creating affirming environments, which may increase the likelihood of young LGBTQ students engaging in help seeking behaviors and familiarity with local resources (LGBT centers, The Trevor Project, GSAs, etc.) must be critical parts of the training. Legislation is needed to mandate this important training.

**Safe and Supportive Schools:** Through our education work over the last year we have found many schools in urban centers have been making significant improvements in creating safe and affirming spaces for LGBTQ youth. However work remains to be done in many of California's rural counties. As budgetary decisions are made, allocation for more resources directed to programs that will help in rural areas is needed.

### ***Access to Medical and Mental Health Care***

**LGBT cultural competency training for Primary care physicians, urgent and emergency care providers in safety net hospitals, and psychiatric care unit professionals:** As California continues to lead in the implementation of the Affordable Care Act, it is essential that the medical and mental health care youth need is culturally competent. Studies show many LGBT people do not access care due to the lack of sensitivity from medical and mental health providers around specific issues LGBT people face. Having a better understanding will allow more appropriate referrals, follow up and perhaps earlier identification of anxiety and depression, key factors in suicide attempts. Additionally ensuring this competency training specifically for emergency room providers will ensure LGBTQ consumers are provided inclusive and competent assessment, treatment, and discharge, which may reduce the likelihood of repeat attempts (and loss of life) because of greater engagement in treatment and follow up by the patients. This includes assessing family support in accessing supportive (affirming) follow up care for youth.

### ***Research/Data Collection***

**Death Certificates:** Currently death certificates do not include information about sexual orientation or gender identity. Requiring this information will help researchers track specific health disparities for LGBT people.

**Medical records:** Medical records often lack information about youth's sexual orientation or gender identity. More must be done to ensure this information is collected. Identifying every opportunity to track this data will help in allocating resources to address many disparities LGBTQ youth face.

**National Violent Death Reporting System:** In 2002 the Centers for Disease Control and Prevention (CDC) began implementing the National Violent Death Reporting System (NVDRS). NVDRS is a state-based surveillance system that links data from law enforcement, coroners and medical examiners, vital statistics, and crime laboratories to assist each participating state in designing and implementing tailored prevention and intervention efforts. NVDRS provides data on violence trends at national and regional levels; each state can access all of these important data elements from one central database. California is not part of the system, which makes it challenging to gather this critical information that could inform policy and prevention program aimed at reducing suicide and other violent deaths specifically for people living in California.

### ***Homeless and Foster Care LGBT Youth***

**Training for Child Protective Social Workers:** There is disproportionate representation of LGBTQ youth in the foster care system. Hidden minority stress compounds and amplifies trauma experiences, particularly the chronic kinds of trauma often experienced by LGBT youth in particular. More must be done to have trauma informed systems of care for foster youth. Child protective social workers (PSWs) need to have a higher degree of working knowledge of LGBTQ competent risk assessment and linkages to services. We know that LGBTQ youth do better in affirming care environments (mental health and healthcare services) and a large part of what social workers do is coordinate care services. If PSWs were more uniformly trained and aware of the needs of the LGTBQ youth in foster care they would be more likely to refer these foster youth to services with a higher likelihood of success.

**Homeless Youth Services and Shelters:** As with youth in the foster care system there is a disproportion number of homeless youth who identify as LGBT (40%). Programs for homeless youth must also be designed to provide trauma informed, culturally competent care. Stressors and risks related to homeless youth are almost indistinguishable from those associated with suicidality. In addition more short and long term shelters must be developed, and those shelters must provide accommodations that welcome all LGBT homeless youth.





Rebecca Rolfe, *San Francisco LGBT Center*

In the last decade we have gained significant momentum and achieved some phenomenal milestones in our work to establish civil legal protections for LGBT people. In spite of these protections, LGBT people continue to face significant disparities in almost every indicator of health, well-being and long term security. These disparities are rooted in homophobia, transphobia, and the ways that inequities based in poverty, race, gender, gender expression, age, and physical ability intersect to impact our extraordinarily diverse LGBT community.

Too often we lack data about the disparities experienced by the broad LGBT community as well as data that would help us understand how the experiences of individuals within our very diverse community may differ.

Data would also help us to counteract two widespread myths about the LGBT community. The first is that our community is one of great affluence, consisting of two wage earners and no children. The second is that, with the supreme court ruling on marriage, equality has been achieved, and homophobia has been largely conquered and/or relegated to small pockets of the country.

What data we have indicated that there are widespread disparities for the broad LGBT community, and that within the broad community, the experiences of individuals differs widely based on their economic status, race, gender, gender identity, geography, age, and physical ability. Even in San Francisco, arguably one of the most accepting and supportive places for LGBT to live and work, we find significant disparities between the LGBT and allied communities as well as within the community.

The SF LGBT Center's work encompasses a broad range of community needs including economic development (helping people get and keep jobs, start and grow small businesses, and build financial capacity

and security), youth (working primarily with homeless or marginally housed transition age youth), health and wellness (information & referral/service navigation and violence prevention/intervention services), arts & culture, civic engagement, and a 27,000 square foot community center hosting over 3000 events a year.

Through our work, we see clear indications of how the broad community continues to see disparities as well as how those disparities vary widely within the LGBT community, but these challenges are demonstrated most strikingly in our economic development work and in a study on violence that we completed in February 2015.

## **Economic Development**

The economic barriers experienced by LGBT people are caused by multiple factors, including discrimination in employment, housing and education. Also, homophobia and transphobia often result in LGBT people receiving little economic support from their families of origin.

The most recent data demonstrate that rates of poverty and economic vulnerability among LGBT individuals are actually very high. A 2014 survey of homeless adults in San Francisco found that 29.1% of currently homeless adults identify as LGBTQ – more than double the number of adults in San Francisco who identify as LGBT. A Williams Institute study has documented that LGBT adults are 1.7 times more likely to be unable to afford to feed themselves than non-LGBT people. The 2010 Census shows that same-sex couples face significant economic disadvantages:

- Child poverty rates in same-sex-couple households are twice those of heterosexual married couple households.
- Median household income of same-sex couples with children is 23% less than that of heterosexual married parents.

- Only 51% of same-sex couples with children are homeowners, compared to 77% of heterosexual married parents.

Some same-sex families are more vulnerable than others: African Americans in same-sex couples have a poverty rate significantly higher than African Americans in heterosexual married couples and three times the rate of whites in same-sex couples. Also, lesbians are more likely to receive food stamps and public assistance than heterosexual women. However, the economic disadvantage experienced by LGBT people is pervasive: even gay men in couples (generally thought of as most likely to be affluent) have annual earnings 15% less than those of heterosexual married men.

Of all sectors of the LGBT community, transgender people are the most economically marginalized, with twice the poverty rate of the general population and an unemployment rate of 70%. A staggering 90% of transgender people report harassment, mistreatment or discrimination on the job.

Unfortunately, having experienced discrimination in multiple areas of their lives, LGBT individuals are less likely to access mainstream workforce, financial education, or asset-building services. In fact, of the clients served by the Center's Economic Development Department, 90% reported that they had not used any type of nonprofit or city service before.

Lesbian, gay, bisexual and transgender (LGBT) individuals have long faced discrimination in housing, employment, health care and education. Plus, LGBT families are undermined by exclusion from marriage and all the financial benefits it provides. As a result, LGBT people are more likely to have lower incomes and less likely to access mainstream services than their non-LGBT peers.

- This set of circumstances makes low- and moderate-income LGBT individuals and families especially vulnerable to the current economic crisis, and in need of services tailored to meet their specific financial challenges. In one striking example of the economic hurdles faced by this community, a recent study found that 29% of homeless people in San Francisco are LGBT.
- In spite of the need, LGBT people are underserved by existing services: 90% of the low- and moderate-income clients of the San

Francisco LGBT Community Center's Economic Development Program have never previously accessed nonprofit or public programs or services.

- The composition of San Francisco's LGBT community reflects the city's enormous ethnic, racial and language diversity. LGBT individuals from immigrant communities and communities of color face the same racial, cultural and language discrimination as their non-LGBT counterparts. In addition, all LGBT people face multiple barriers specific to our community.

**A full suite of integrated and culturally competent economic development services, linked to other city providers, is the best way to support LGBT people to build assets and achieve economic self-sufficiency.**

- Low- and moderate-income communities need economic opportunities to secure good jobs, accumulate savings, start their own businesses, and access adequate goods and services. They also need social networks to reduce isolation and support their connections to each other.
- When economic development services are culturally competent and delivered in an integrated, holistic fashion, low- and moderate-income LGBT individuals and families can build the self-sufficiency and economic stability that allows them to move ahead.
- Ensuring that financial capability is integrated into all services, and that clients are referred and supported to access public benefits and programs and the services of other nonprofits, will help them weather unexpected setbacks and build assets over time.

**The San Francisco LGBT Center (the Center) is a trusted, accessible, and highly competent provider of services to the city's LGBT community. As such, it is uniquely positioned to deliver an array of economic development programs that address the challenges facing low- and moderate-income LGBT individuals and families.**

## THE CONTEXT

The economic barriers experienced by LGBT people are caused by multiple factors, including discrimination in employment, housing and education. Also, homophobia and transphobia often result in LGBT people receiving little economic support from their families of origin.

A popular stereotype paints the LGBT community as affluent elite with little need for economic development assistance. In the past, with few agencies collecting economic data on LGBT families and individuals, it was challenging to debunk this perception. However, the most recent data demonstrate that rates of poverty and economic vulnerability among LGBT individuals are actually very high. For example, the 2010 Census shows that same-sex couples face significant economic disadvantages:

- Child poverty rates in same-sex-couple households are twice those of heterosexual married couple households.
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Unfortunately, having experienced discrimination in multiple areas of their lives, LGBT individuals are less likely to access mainstream workforce, financial education, or asset-building services. In fact, of the clients served by the Center's Economic Development Department, 90% reported that they had not used any type of nonprofit or city service before.

## THE CENTER'S ECONOMIC DEVELOPMENT DEPARTMENT

Established in 2004, the San Francisco LGBT Community Center's Economic Development Department is the first initiative in the nation to comprehensively address the economic barriers faced by low- and moderate-income LGBT individuals and families.

The Center's Economic Development Department offers services tailored to the needs of low- and moderate-income LGBT individuals and families. Our services engage LGBT clients who would otherwise be unlikely to access economic development services, and we integrate LGBT concerns—such as tax issues specific to same-sex couples, challenges facing people with HIV, and a commitment to eradicating workplace discrimination—that other agencies often are ill-equipped to address.

1) Employment Services offers one-on-one job search support, job fairs, vocational case management, a life skills workshop for transgender and gender non-conforming job seekers, skill-building workshops, resume review, interview practice, job leads, access to LGBT-friendly employers, and referrals to community resources and vocational training programs. It also includes the nation's first program helping transgender individuals succeed in the workplace. Fully 83% of employers who participated in one of our recent Career Fairs said they plan to follow up with candidates they met there. We are thrilled to celebrate our clients' successes, such as when one new client who found a job after eight years of unemployment.

2) Financial Services supports financial self-sufficiency and asset-building through financial education workshops, a First-Time Homebuyer Program, and financial coaching. In 2011, we launched a Lending Circle program, offering participants community-based loans to help build their credit, and in 2012 we launched our Volunteer Income Tax Assistance (VITA) site, including free tax-preparation advice for same-sex couples. Often, clients may come seeking home-buying advice, and they learn debt-management in the process. One couple, eager to buy a home, reduced their spending by 32% and saved an additional \$6,000 in the three months following their first meeting with our financial counselor.

3) Business Services empowers entrepreneurs at any stage, from pre-startup to expansion, nurturing self-employment, supporting new LGBT-run small businesses and enabling existing businesses to thrive and create jobs. The program offers one-on-one technical assistance, an innovative credit-building microloan, a workshop series on access to capital, loan packaging and post-loan advising, small business mentorship and referrals to our vast small business development network. One of our long-term small-business clients, the owner of a mobile fashion truck, was offered an opportunity to participate in a Katy Perry-inspired Pop Chips tour. We worked with her to build financial models, adapt her cash flow and update her budget to ascertain the costs and benefits of this opportunity—skills that allowed her to accept the tour offer with confidence.

As the economic downturn has continued, our economic development programs have shifted from stand-alone services to an integrated model better geared to provide the multiple solutions our participants need to achieve long-term economic success.

Irrespective of their entry point, all clients are assessed for their economic needs. They then work with staff to create a plan to address those needs. Financial education is integrated into all of our curricula and financial coaching is offered to all participants.

The Center's economic programs are based on the same principles as the nationally recognized best-practice model developed by the Annie E. Casey Foundation's Centers for Working Families Research. This model demonstrates that clients receiving "bundled" economic development services are three to four times more likely to achieve a major economic outcome than clients receiving only one type of service.

By addressing the multiple financial obstacles experienced by low- and moderate-income LGBT individuals and families, our program supports stronger outcomes for all its clients and allows them to create and work towards a long-term economic vision for themselves.

We also leverage the services and resources of other agencies in order to increase efficiency and effectiveness. Partnerships and collaborations are key to our success, and range from close partnerships that jointly deliver direct services, to large collaborations knitting together key community service providers and thought leaders.

## THE OUTCOMES

During the 2012/2013 fiscal year, the program served more than 1,300 clients and celebrated a wide range of exciting outcomes.

In **Employment Services**, we hosted two job fairs attended by 551 jobseekers and 45 employers, placed 75 individuals in jobs, matched 20 transgender clients with career mentors, and offered life skills classes to 18 transgender job seekers. In **Small Business Services**, we provided technical assistance to 89 businesses, worked with 50 entrepreneurs to develop business plans, connected 7 businesses to mentors and helped 12 small businesses secure \$140,000 in growth capital. Our **Financial Services** programs provided financial education to 116 participants; The First-Time Homebuyer Program provided educational workshops to 134 participants, two bus tours for 40 participants, financial counseling for 49 people and saw 17 clients purchase their first homes. In this second year of Volunteer Income Tax Assistance (VITA) we provided free tax-preparation services to 36 people, including 12 same-sex married couples or registered domestic partners, and in our sec-

ond year with Lending Circles, a community-based credit-building loan program, we hosted 50 participants in 10 lending circles, and their credit scores increased by 132 points on average. Finally, *as a department* we hosted Economic Empowerment Week with 15 events, almost doubling our attendance to more than 1,000 attendees, 100 employers and 35 community partners. We reached over 40,000 people through our outreach and marketing.

During the coming year, we plan to achieve the following:

- Expand the reach of our Bicoastal Economic Empowerment Week to engage 1,200 participants locally.
- Provide a number of events to help over 800 LGBT clients overcome employment barriers and get hired, including a bi-weekly Internet job search clinic, two life skills class series for transgender job seekers, three job fairs, and workshops on resume-building, interview skills, and employment rights.
- Provide 250 job seekers with intensive case management and career counseling, place 100 clients in living-wage employment, and provide 20 transgender clients with mentors in their fields of work.
- Help 70 LGBT small business owners and entrepreneurs create, maintain and grow thriving businesses through provision of one-on-one technical assistance, workshops, credit counseling, financial literacy, a mentorship program, loan packaging services, and referrals.
- Support the economic stability of 110 low-income LGBT youth, adults, families, and seniors through financial literacy and asset-building services, including case management, workshops on financial literacy, budgeting, credit and debt management.
- Improve credit scores and support the savings habits of 50 individuals through our innovative Lending Circle program, a credit-building community loan initiative.
- Prepare 110 tax returns for low-income LGBT individuals through our LGBT-day VITA site.
- Help 140 clients make measurable gains towards homeownership and 12 first-time buyers purchase homes.

## THE SF LGBT CENTER

The Center is a welcoming place for our diverse LGBT community and its supporters to find innovative services and fabulous cultural programs that lead to a stronger, healthier community and more equitable world.

Opened in 2002, the Center is housed in a solar-powered state-of-the-art building in the Upper Market/Castro neighborhood. Open six days a week, the Center operates as a critical community resource where visitors can attend events ranging from support groups to town halls, classes to cultural programs. Local groups can rent meeting space and collaborate with the Center to provide on-site activities. A Cyber Center provides visitors free computer access. Each month, we host over 200 programs and welcome more than 9,000 individuals. We also partner with over 70 local organizations and maintain a network of 500 resources to advance the rights, access to services, and equality of LGBT Bay Area residents.

The Center offers services that address the needs of underserved members of our community—low-income people, people of color, transgender individuals, lesbian and bisexual women, people with disabilities, youth, elders, and immigrants—people who not only experience anti-LGBT discrimination, but also face additional barriers. Our programs include:

**Economic Development** provides comprehensive services to help LGBT individuals, communities and businesses to overcome obstacles and create long-term financial success.

**Health and Wellness** provides HIV/AIDS prevention and extensive information and referral, and access to critically needed health services and resources.

**Children, Youth and Family** provides over 500 LGBT youth with leadership development, job training, queer youth prom, and services for homeless and at-risk youth.

**Arts and Culture** hosts exhibits and programs to increase the visibility of LGBT artists and public access to cultural activities.

**Community and Policy Initiatives** respond to issues such as marriage equality and employment protection.

We also work with employers to develop best practices for creating LGBT-friendly worksites, and partner with S.F. Unified School District to prevent bullying and teach LGBT history.

## **THE OPPORTUNITY**

One of the unique aspects of the Center is that we have a local and direct impact on our community. In addition, the Center's Economic Development Department is the only initiative of its kind in the nation, providing our funders with a unique platform—one that positions them as supporters of an innovative model that stands to advance the asset-building field at large.

The Center is a leader in identifying and addressing the economic needs of the LGBT community. By integrating evidence-based best practices with services that address the unique needs of the LGBT individuals and families, it is on the cutting edge. As such, it has garnered attention from public and nonprofit entities across the country.

The annual operating budget of the Center is \$2,200,000; the Economic Development Department's budget is \$695,000.

**The San Francisco LGBT Center**  
1800 Market St., San Francisco, CA 9412  
415-865-5555  
<http://www.sfccenter.org/the-center>



# Focus on California:

A look at the  
socioeconomic well-being  
of LGBT people in California

**1,334,000**

Number of LGBT adults in  
California<sup>1</sup>

**98,150**

Number of Same-sex Couples  
in California<sup>2</sup>

**16%**

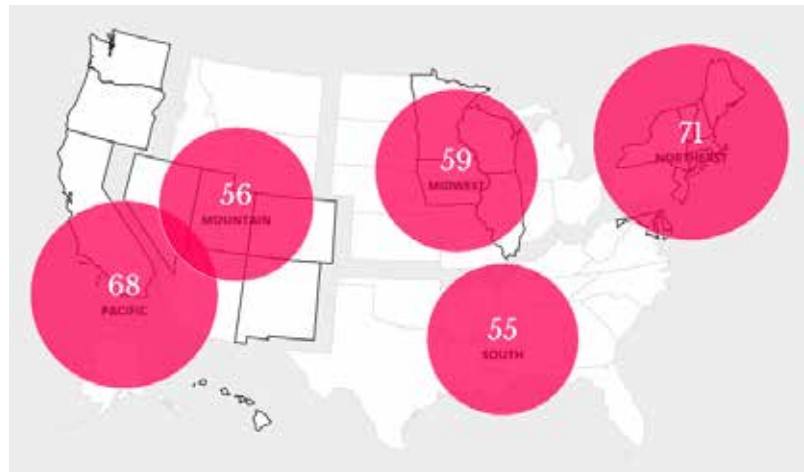
Percent of Same-sex  
Couples Raising Children<sup>2</sup>

Within a rapidly changing landscape with respect to LGBT equality across the United States, it remains that the social acceptance of lesbian, gay, bisexual and transgender people differs by region.

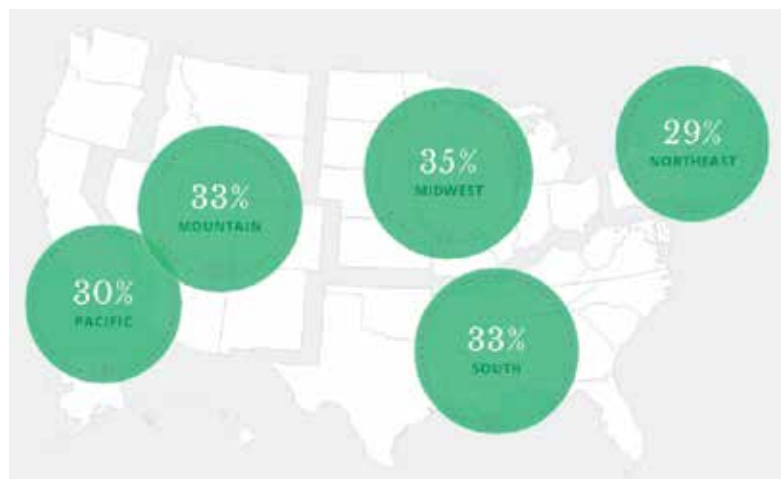
In fact, **the social and political climate toward LGB people and existing state-level legal protections based on sexual orientation and gender identity are highly intertwined.** In our regional U.S. data interactive, states with protective laws for LGB people have social climate indices, a measure of public attitudes about LGBT people, that are much more LGB-supportive than the states that lack those protections.<sup>3</sup>

**Legal and social differences across states and regions are likely both causes and effects of disparities in socioeconomic well-being.**

Poverty gaps are at their highest in the Midwest and Mountain states, where LGBT individuals are almost 1.5 times more likely to have incomes below \$24,000 than non-LGBT people.



Law and Social Climate Index



% LGBT Individuals with Income <\$24,000

According to our U.S. regional data interactive the LGBT Divide, **the Pacific states are generally doing well when looking at measures of well-being.**

Data for the Pacific states are mainly driven by California's numbers, as **California accounts for 77% of all LGBT adults living in the Pacific states.**

As a whole, LGBT people in California are doing better than the national estimates on indicators such as educational attainment, income and money for healthcare.

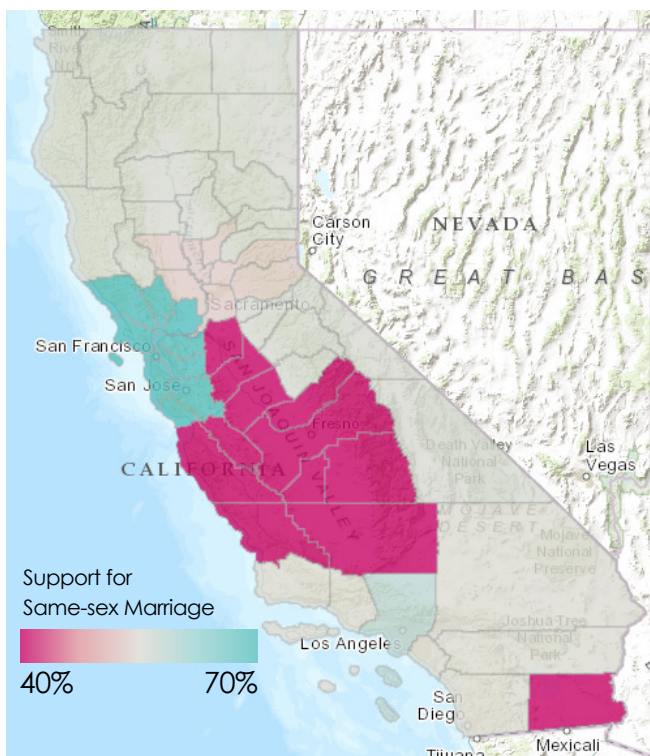
## But what happens when we look at regional differences within California?



In terms of the percentage of LGBT residents living in the regions of California:

- Los Angeles County (31%)
- Southern California (26%)
- Bay Area (22%)
- Southern/Central Farm (10%)
- Central Valley (6%)
- North and Mountain (4%)

## Social Climate



San Francisco and Los Angeles are two large urban areas known to be particularly supportive environments for LGBT people.

But how does the LGBT social climate measure up outside of those areas?

Using support for same-sex marriage as a proxy for measuring LGBT acceptance in the state, social climate varies by region.

**The Central/Southern Farm region reports the lowest level of acceptance (40%), while the Bay Area reports the highest (67%).**



## Education



The urban areas of San Francisco and Los Angeles are home to larger proportions of LGBT college graduates compared to the rest of the state.

However, four of the six regions still have lower rates of educational attainment than the national estimate of 34%.

**The LGBT population living in the Central/Southern Farm region reports the lowest rate of college completion (28%) in the state.**

**This proportion is even lower than the college completion rate in the Southern(33%) and Midwest(29%) regions of the U.S.**

## Income



The North and Mountain region has more than a third(34%) of the LGBT population earning less than \$24,000 annually. This region is the only region in California that has a higher proportion of LGBT people with an income below \$24,000 than the national estimate of 32%.

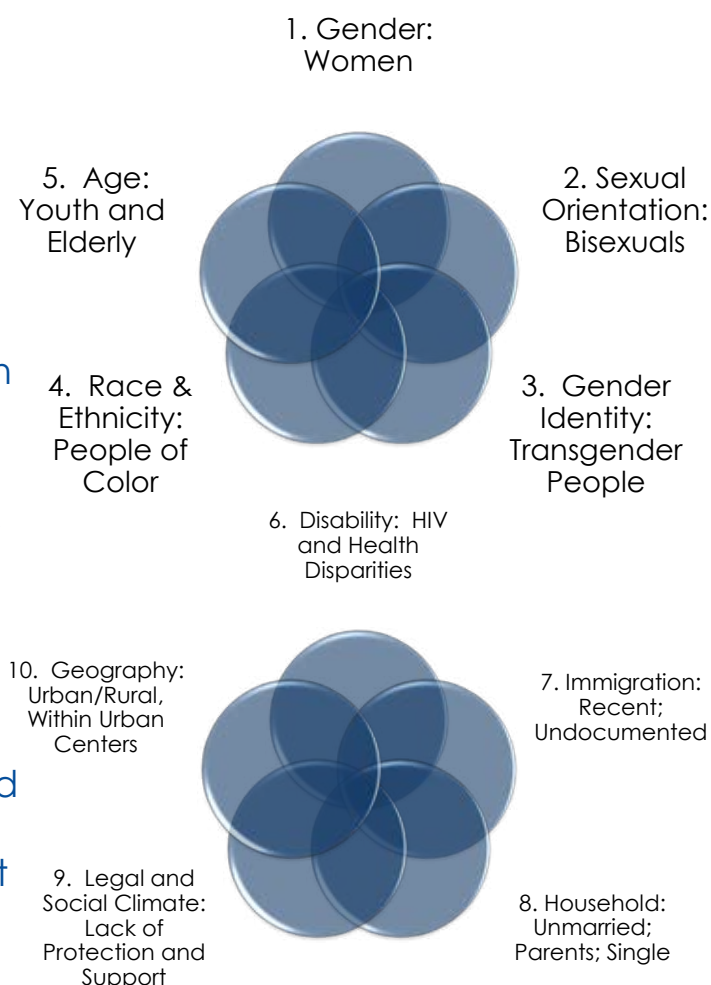
**The proportion of LGBT people earning less than \$24,000 per year in the North and Mountain region is comparable to the rate in the Southern(33%) and Midwest(35%) regions of the U.S.**

# 10 Intersecting Dimensions of LGBT Poverty

According to our 2013 report on patterns of poverty in the LGB community, as poverty rates for nearly all populations increased during the recession, LGB Americans remained more likely to be poor than non-LGB people.<sup>5</sup>

In the report, gender, race & ethnicity, education and geography all influence poverty rates among LGB populations, and children of same-sex couples are particularly vulnerable to poverty.

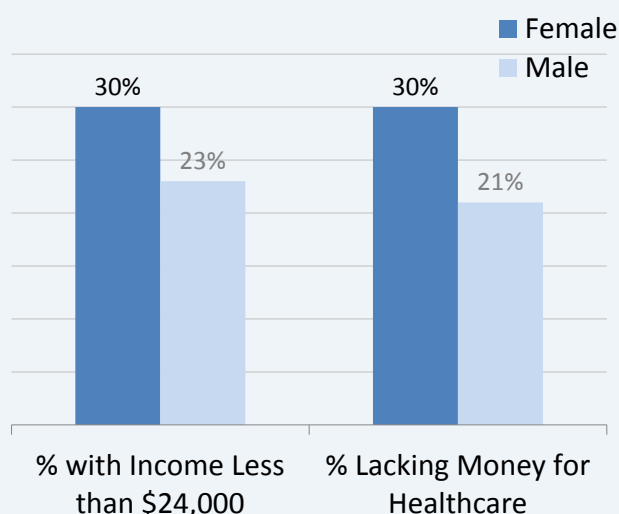
In addition to these factors, we would like to highlight other intersecting dimensions of LGBT poverty that must be considered in order to begin to address socioeconomic disparities and poverty within the LGBT community.



## California Sub-populations

### Gender

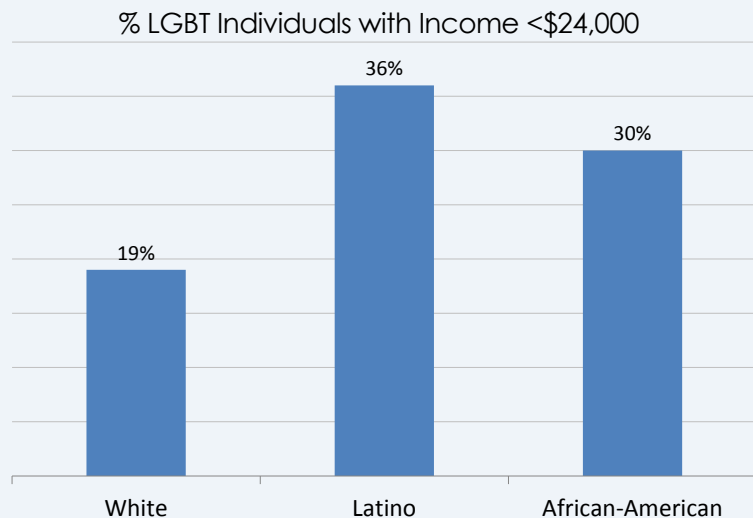
**LGBT Females in California are doing worse than their male counterparts** on socioeconomic indicators such as income and whether they have enough money for healthcare.



## Race & Ethnicity

Latino and African-American LGBT individuals report similar numbers for income compared to their non-LGBT counterparts. However, when compared to White LGBT people, there are significant disparities.

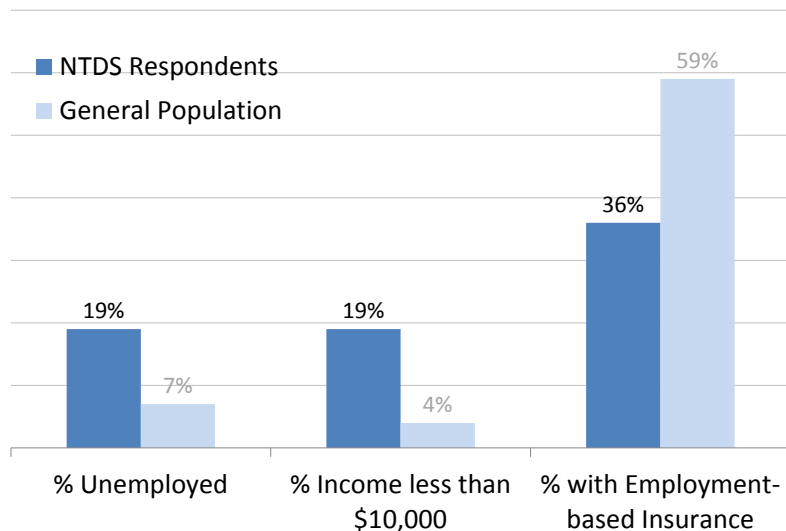
\*Due to small sample sizes, we could only confidently report data for these three groups.



## Gender Identity

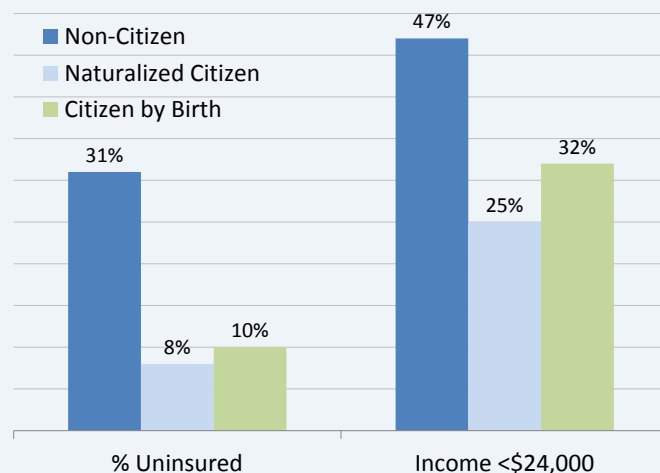
Currently, the well-being of transgender individuals is not captured by any national population-based survey.

In a survey of over 6,000 transgender and gender non-conforming people, **respondents experienced poverty, unemployment and health risks at much higher rates than the general population.**<sup>4</sup>



## Immigration Status

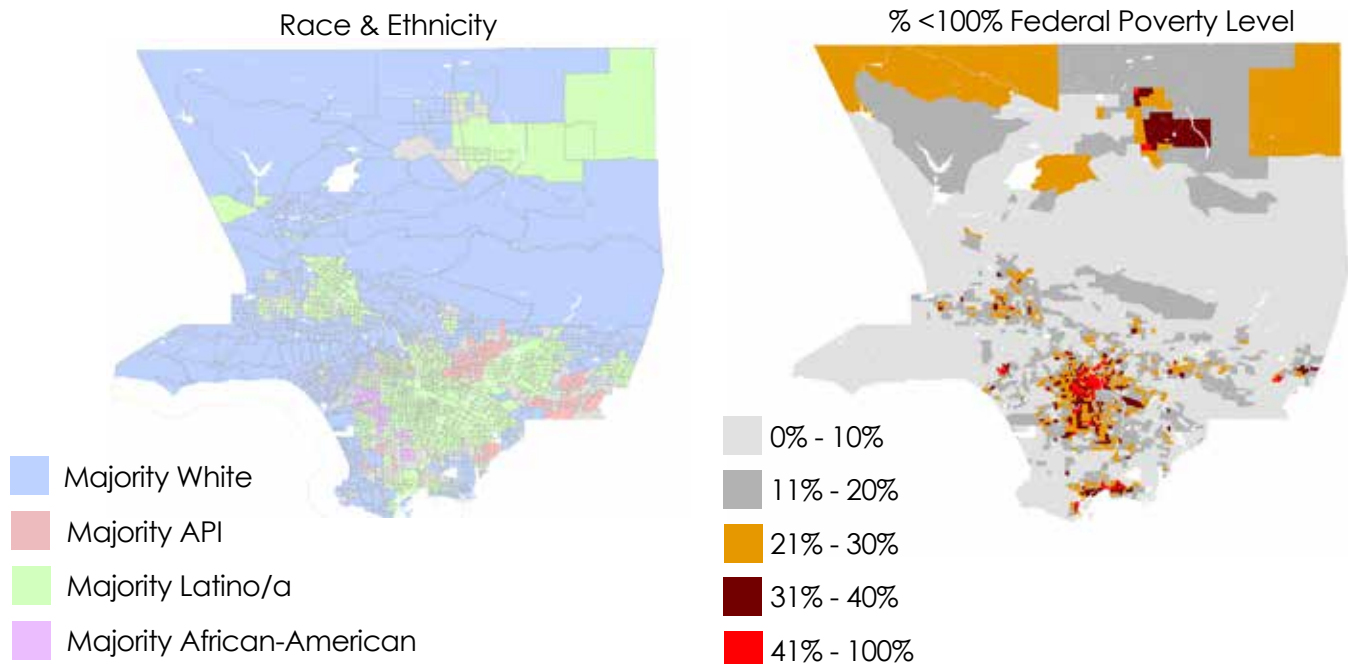
Non-citizen individuals in same-sex couples are about **3 times more likely to be uninsured than citizens**, whether by birth or naturalization. Non-citizens are also more likely to have an income less than \$24,000.





**In California, there is a geography to socioeconomic disparities for individuals and families. This is evident in local urban centers, as well.**

## Los Angeles County



This geography of disparities is also present for LGBT people and families. Addressing LGBT disparities in California means addressing disparities more widely throughout the state and local regions.

### Citations:

1. Census Population Estimate 2014; Gallup Daily tracking survey 2014
2. Census 2010
3. <http://williamsinstitute.law.ucla.edu/lgbtdivide>
4. *Findings of the National Transgender Discrimination Survey: California Results.* (2011)  
Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force.
5. M.V. Lee Badgett, Laura E. Durso, & Alyssa Schneebaum. (2013). *New Patterns of Poverty in the Lesbian, Gay, and Bisexual Community.* Los Angeles: Williams Institute.

Connect with the Williams Institute: <http://williamsinstitute.law.ucla.edu/>







Dana Van Gorder, *Project Inform*  
Sonali Kulkarni, MD., *Los Angeles County Department of Health*  
Terry Smith, *APLA Health & Wellness*

## We have powerful tools to end the HIV epidemic

This is a moment of great opportunity in the effort to end the HIV/AIDS epidemic in California and nationally. While we still do not have a cure or vaccine (robust research continues in these areas), currently available anti-HIV medications are capable of greatly increasing longevity and quality of life for people living with HIV. An individual newly infected with HIV who starts antiretroviral therapy immediately and remains on treatment can expect to live very nearly as long as someone without HIV.

Today's HIV medications are also powerful tools for preventing new infections. An HIV-positive person who is fully virally suppressed – the goal of HIV treatment – is up to 93 percent less likely to pass the virus to others.<sup>1</sup> And an HIV-negative person who takes a daily HIV antiretroviral medication can be over 90 percent less likely to acquire HIV.<sup>2</sup> This is a prevention method called pre-exposure prophylaxis (PrEP). HIV-negative individuals can also take anti-HIV medications after a potential exposure, known as post-exposure prophylaxis (PEP).

In addition, California's successful implementation of the Affordable Care Act (ACA) has resulted in broad expansion of insurance coverage for both HIV-negative and HIV-positive individuals. The increased number of people living with and at risk for HIV who have access to affordable health insurance combined with the capabilities of the current arsenal of HIV medications make it possible to gain nearly complete control over the epidemic.

## Current data on California's HIV epidemic – Progress, but still much farther to go

The HIV epidemic is one of the most pressing public health issues in California, with approximately 4,700 individuals becoming newly diagnosed each year.<sup>3</sup> California now has the second-highest rate of HIV infections in the United States. In addition, a total of 137,000 Californians are now living with HIV. According to the California Department of Public Health, at least 15,000 Californians likely have HIV but have not yet been diagnosed, just half of HIV-diagnosed individuals currently receive proper care, and only 45 percent of people living with HIV are considered virally suppressed.<sup>4</sup>

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1 Cohen MS; HPTN 052 Study Team. Final results of the HPTN 052 randomized controlled trial: antiretroviral therapy prevents HIV transmission. Abstract MOAC010LB. Presented at the 8th International AIDS Society Conference on HIV Pathogenesis, Treatment, and Prevention; Vancouver Canada; 2015. Available at [http://www.jiasociety.org/index.php/jias/article/download/20479/pdf\\_1](http://www.jiasociety.org/index.php/jias/article/download/20479/pdf_1).

2 Grant RM, Lama JR, Anderson PL, et al. Preexposure chemoprophylaxis for HIV prevention in men who have sex with men. *N Engl J Med* 2010;363:2587–99.

Baeten JM, Donnell D, Ndase P, et al. Antiretroviral prophylaxis for HIV prevention in heterosexual men and women. *N Engl J Med* 2012;367:399–410.

3 California Healthline. "California Has Second-Highest Rate of HIV-Infected Individuals." Web. <http://www.californiahealthline.org/articles/2015/11/20/california-has-secondhighest-rate-of-hivinfected-individuals>

4 Ibid

Chart 1 below provides an overview of California's HIV epidemic, showing trends in HIV/AIDS diagnoses, AIDS diagnoses, and HIV/AIDS related deaths since 1982. Chart 2 details the demographics of Californians living with HIV as of 2013. Charts 3 and 4 show the demographics of people newly diagnosed with HIV in 2013. African American and Latino gay and bisexual men—especially those who are younger—are disproportionately impacted by HIV in California. Transgender individuals and women of color are also among the groups at highest risk for HIV infection. All available data make it abundantly clear that more culturally competent outreach, testing, linkage to and retention in quality, affordable care must be provided for young gay and bisexual men of color, women of color, and transgender individuals. Chart 5 details progress in making sure that all HIV-positive people know their status, are engaged in health care services, and are virally suppressed. This data compares the United States, California and San Francisco.

Extensive investments of intellect, advocacy, commitment, time, and money have led to great strides against HIV. But all three of these charts make clear that the nation, California, and even well-resourced jurisdictions have much work to do in order to end the epidemic. Without renewed commitment from the Legislature and the Governor, California will not retain its leadership role in the fight against HIV and is at serious risk of losing the progress it has made and joining other states in which the HIV epidemic continues to rage out of control. This will result in significant, long-term health consequences for thousands of Californians and dramatically increased costs in public and private health care for individuals who might otherwise have avoided infection or been retained in effective treatment.

### **How will we go farther?**

In 2010, President Obama released the first National HIV/AIDS Strategy to bring focus and establish priorities to improve the health and well-being of HIV-positive people and eliminate new infections. The Strategy, updated in 2015, calls for strengthened programs to ensure that all Americans are tested and know their HIV status; that those who are positive are linked to care and treatment as early in infection as possible; that they are retained in care and treatment throughout their lives and achieve full viral suppression; and that PrEP is fully implemented to further support the preventive effect of treatment as prevention.

Indeed, the implementation of the National HIV/AIDS Strategy is leading to further progress against the epidemic. In the United States, the percentage of HIV-positive people unaware of their status has decreased from 21 percent in 2010 to 18 percent today. The percentage of HIV-positive people linked and retained in care within 3 months of infection has increased from 65 percent to over 81 percent. And new HIV infections appear to have decreased from a persistent 50,000 in the past decade to an estimated 40,000 today.

Another critical opportunity to gain further control of the HIV epidemic came in 2012 with the approval of the ACA, which greatly increased access to medical care and prescription medications for both HIV-positive and HIV-negative people, among many others. Although the ACA has been implemented inconsistently across all states, California has committed to full implementation of quality health care programs. Coupled with California's investment in programs that help make coverage affordable for people living with HIV such as the AIDS Drug Assistance Program (ADAP) and the Office of AIDS Health Insurance Premium Payment Program (OA-HIPP), it is possible to make even further gains in treating and preventing HIV.

### **Can some states and cities now END their HIV epidemics? Can California?**

The momentum and assets we now have in the effort to end the HIV epidemic have prompted some jurisdictions, already leading in the nation's response to the epidemic, to develop their own strategies for achieving the previously unimaginable goal of ending the HIV epidemic. San Francisco, New York, and Washington State have developed such plans, and other jurisdictions are considering similar efforts.

Advocates in California are currently considering a process to develop a California state strategy, and the State Office of AIDS is both developing a statewide plan to increase PrEP uptake and supporting the development of a more comprehensive strategy to end the epidemic. Developing and assuring the successful implementation

of a California plan will take the active support and involvement of multiple sectors and health jurisdictions in the state, including the Governor and Legislature, state agencies, medical associations and providers, insurers, the business community, corporations, foundations, local AIDS Directors, county health departments, AIDS service organizations, and community members.

Some suggestions about important issues policy makers will need to monitor and address to support the success of an eventual California plan appear later in this briefing.

### **San Francisco's Getting to Zero effort**

A plan to end the HIV epidemic in California might take some cues from the Getting to Zero effort in San Francisco. There, a broad based consortium of over 100 representatives of government, academic, AIDS service organizations, medical providers, elected officials, and community members has established a four point strategy. That strategy builds upon three city policies established some five years ago, the implementation of which has greatly accelerated the pace of progress against HIV related deaths and new infections. Those policies are:

1. To significantly increase and maintain routine testing among individuals at risk for infection;
2. To offer and encourage HIV treatment for everyone diagnosed with HIV in order to improve their health outcomes and prevent new infections; and
3. To participate in clinical trials and demonstration projects to establish the effectiveness and practicality of PrEP as a means of preventing new infections.

Getting to Zero has established four signature initiatives, all in service of the goals of reducing HIV related deaths, and new infections, by 90 percent by 2020. A subsequent revision of the strategy will establish the blueprint for eliminating deaths and new infections altogether. Those four initiatives are:

1. To speed up the linkage of HIV-positive people to care and treatment by doing everything possible to start a person with HIV on medications on the same day they are diagnosed – and in every case within three days of diagnosis;
2. To assure that all people diagnosed with HIV are retained in care and treatment, and to take steps to re-engage individuals who have been lost to care;
3. To further increase the number of people (now estimated at 5,000) who are actively using PrEP; and
4. To reduce the stigma still associated with HIV, which discourages people from knowing their HIV status, engaging in care and treatment if they are HIV-positive, and considering the use of PrEP.

Getting to Zero is also working to assure greater collaboration and coordination of activities among the multiple planning bodies and agencies with responsibility to address San Francisco's HIV epidemic. Mayor Ed Lee has committed \$1.3 million to the first year activities of Getting to Zero, and \$500,000 in private support has also been secured. Second year program plans are being made by the consortium, and additional funds will be sought to carry out the four initiatives described above. These funds, it is hoped, will increase access to housing, mental health, and substance use treatment programs, which are needed to support retention in care and treatment for many HIV-positive people, as well as many people working to remain HIV-negative.

### **What will California policy makers need to do to support a state plan to Get to Zero?**

In order to support the effort to end California's HIV epidemic once and for all, the Governor and Legislature will need to respond to a set of issues. Some of these issues are described in greater detail later in this document.

*Funding of HIV programs* – While California has been a leader in investing state funds in HIV programs, \$85 million was cut from care, treatment, and prevention funds in 2010. This included \$26 million in funding for HIV/AIDS prevention funding as well as assistance to many local programs and smaller counties. Some of those cuts have recently been restored, including \$3 million ongoing for demonstration projects seeking to improve linkage to and retention in care and \$2 million ongoing to support increased PrEP implementation. However,

increased investment will be needed for California to Get to Zero. Priorities must include assuring full funding of ADAP and OA-HIPP; full implementation of insurance affordability assistance for people with HIV and those at risk; increased funding for PrEP and PEP implementation; increased affordable housing; support for gaining and retaining adequate mental health and substance use treatment; and other outreach, linkage, and care retention programs, including surveillance and health care system navigation programs. ADAP provides free medications for low-income people with HIV, while OA-HIPP supports health insurance premium payments and cost-sharing required by private insurers. Last year, the Legislature raised the income eligibility level for ADAP and OA-HIPP from a flat cap of \$50,000 to 500% of the federal poverty level (approximately \$58,350 for a single individual). However, the programs and the assistance they offer could face serious cuts if Congress cuts federal appropriations to the Ryan White Program or current attempts to curtail the federal 340B program succeed. The 340B program provides for discounts and/or rebates on medications purchased by qualified entities.

*Health care reforms* – California has committed to fully implementing health care reform. Between October 2013 and November of 2014, 2.7 million Californians were enrolled in Medi-Cal and approximately 30 percent of the state's residents are now covered by Medi-Cal. In 2015, Governor Brown signed legislation that opened Medi-Cal to all children in California regardless of documentation status. Covered California's marketplace has been equally aggressive with health care reform implementation. As a state-based active purchasing marketplace, it has worked with consumers, plans, and state regulators to standardize California's marketplace plans to better consumer ease in navigating the marketplace. More than 2 million Californians have purchased private insurance in Covered California and it currently serves 1.3 million Californians. Significant improvements have been made to Covered California plans for people with HIV, including Covered California regulations that require plans to post drug formularies, including the exception and appeals process, implement a prescription drug assistance line for consumers, and cap prescription drug costs at \$250 per month for one 30-day supply of prescription drugs for Silver, Gold and Platinum plans and no more than up to \$500 per 30-day supply for Bronze plans.

Additionally, AB 339 (Gordon) extends certain reforms to all 2017 California health insurance plans (other than those that are grandfathered in the ACA) and codifies the federal anti-discrimination language by stating that placing all or most prescription medications that treat a specific medical condition on the highest cost tiers of a formulary may effectively discourage enrollment by chronically ill individuals, and that plan formularies for outpatient prescription drugs shall not discourage the enrollment of individuals with health conditions and shall not reduce the generosity of the benefit for enrollees with a particular condition. The law also requires that plans cover single table regimens for treatment of HIV unless the multi-tablet regimen is clinically equally or more effective and more likely to result in adherence to a drug regimen. It also caps cost sharing on specialty drugs consistent with the regulations adopted by Covered California in 2016.

A significant number of Californians with HIV get their health care coverage through their employer. Rising health care costs are causing more and more employers to offer plans with high employee cost sharing including high deductibles and medical and drug out-of-pocket costs. AB 339 addresses some of the costs associated with employer drug coverage as it extends to all California plans; however, more will need to be done in terms of affordability and access to ensure that Californians in employer based insurance have access to the care they need.

In spite of the reforms to California health care coverage, continued efforts are needed to assure that people with HIV, hepatitis C (which affects up to one-third of people with HIV), and people seeking to use PrEP can access and afford the care and treatment necessary to optimize their health and reduce new infections.

*Drug Pricing* – An increasingly alarming issue in the provision of health care for people with HIV, hepatitis C, and other serious medical conditions is the high and increasing cost of newer, curative and "specialty" or high cost drugs. This trend is continuing into the future. Last year 70 percent of all drugs approved by the FDA were specialty drugs. Both public payers such as Medi-Cal and Medicare and private payers including Covered California and employer-based plans are impacted by the increasing costs of prescription drugs. The issues surrounding drug pricing and purchasing are so complex that simple solutions are not effective. It is



clear, however, that in the battle between drug manufacturers and health insurance plans over the cost and appropriate consumer cost sharing for prescription drugs, consumers are facing increasing barriers to accessing the drugs they need. It is critical that policy makers seek new and innovative solutions to address the high cost of prescription medications, alongside efforts to assure non-discrimination by insurers, in order to assure patient access to life-prolonging treatment and cures.

*Funding of Hepatitis C programs* – Not only because it affects an estimated 45,000 Californians living with HIV, but an additional 455,000 Californians, and because only the bare minimum of public investment has been made to address this now curable disease, a significant investment needs to be made to increase outreach and prevention services for those at risk; screening and diagnosis; linkage to care and other services for those living with the virus; and access to medications that cure people living with hepatitis C. This investment will help end the hepatitis C epidemic in California.

In 2015, the legislature allocated \$3 million for the Department of Public Health to purchase syringe access and disposal supplies to be used by local health departments and community-based organizations to support HIV and hepatitis C prevention among people who inject drugs, the group at highest risk for new hepatitis C infections in California. The Legislature also allocated approximately \$2 million for demonstration projects aimed at improving hepatitis C prevention, screening, and linkage to care. These projects will include innovative outreach, screening, and linkage to and retention in care efforts for low income individuals living with hepatitis C. Lessons learned from these projects will be disseminated to programs around the state to serve as models for addressing hepatitis C.

Access to hepatitis C medications is crucial to ending the epidemic as these therapies can cure close to 100 percent of people living with the virus. In 2014, access to medications through Medi-Cal was seriously limited by a treatment utilization policy that restricted access to only people with advanced fibrosis or cirrhosis and that created significant barriers to treatment for people who use drugs or alcohol. In that year, only a little more than 2,000 people were treated for hepatitis C through Medi-Cal. Through significant advocacy efforts, the 2015 policy has been changed to allow for broader access for people with mild fibrosis or greater, and many of the most egregious restrictions have been removed. While this policy is an improvement, more needs to be done to ensure that all Californians living with hepatitis C, particularly the lowest income Californians receiving Medi-Cal benefits, receive access to the medications that can cure them of this chronic infectious disease. This curative treatment not only improves individuals' lives, it improves the public's health by removing the virus from people's bodies and thus removing the possibility of onward transmission.

We have the tools to end hepatitis C in California. We have effective screening and diagnostic tests to detect the virus. We have medications that can cure almost everyone living with the virus. We need significant investment in outreach, preventive services, screening and testing, linkage to care, and treatment access to achieve this winnable goal.

*Increasing PrEP awareness and uptake* –As stated previously, PrEP is a remarkably effective HIV prevention method that involves taking a daily pill to reduce the risk of infection. Several randomized, placebo-controlled clinical trials have reported that with high medication adherence, PrEP reduced new HIV infections by over 90 percent among gay and bisexual men and heterosexual men and women,<sup>5</sup> and over 70 percent among people who inject drugs.<sup>6</sup> Most recently, researchers at Kaiser Permanente San Francisco Medical Center found no new HIV infections among over 600 PrEP patients during more than two and a half years of observation.<sup>7</sup>

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5 Grant RM, Lama JR, Anderson PL, et al. Preexposure chemoprophylaxis for HIV prevention in men who have sex with men. *N Engl J Med* 2010;363:2587–99.

6 Baeten JM, Donnell D, Ndase P, et al. Antiretroviral prophylaxis for HIV prevention in heterosexual men and women. *N Engl J Med* 2012;367:399–410.  
6 Choopanya K, Martin M, Suntharasamai P, et al. Antiretroviral prophylaxis for HIV infection in injecting drug users in Bangkok, Thailand (the Bangkok Tenofovir Study): a randomised, double-blind, placebo-controlled phase 3 trial. *Lancet* 2013;381:2083–90.

7 Volk JE, Marcus JL, Phengrasamy T, et al. No new HIV infections with increasing use of HIV preexposure prophylaxis in a clinical practice setting. *Clin Infect Dis* 2015;61:1601–3.

The World Health Organization now recommends that all people at substantial risk of HIV should be offered PrEP. PrEP is also a key component of the National HIV/AIDS Strategy. According to the Strategy, “Federal, and local agencies should increase awareness of PrEP and PEP among persons at risk for HIV infection, educate and train health care providers and identify mechanisms to ensure access to PrEP and PEP for persons who can benefit most, including use of prevention funds.”<sup>8</sup> In 2015, the Centers for Disease Control and Prevention estimated that 1 in 4 sexually active gay and bisexual men, 1 in 5 people who inject drugs, and 1 in 200 sexually active heterosexual adults are good candidates for PrEP.<sup>9</sup>

Despite PrEP’s efficacy, utilization of the intervention among Californians at risk for HIV remains extremely low.<sup>10</sup> In 2015, the California HIV/AIDS Research Program conducted a survey of 602 young gay and bisexual men and found that only 1 in 10 had ever taken PrEP. Although awareness of the intervention was high even among those who had never taken PrEP (73%), awareness was significantly higher among respondents identifying as White (87.3%) compared to Black (62.9%) and Latino (71.8%) respondents. In addition, among those who were aware of PrEP but had never taken it, the majority (70.5%) said that they did not have enough information to make a decision about whether or not they should begin taking PrEP. In addition, the majority (61%) said that they would not know how to access PrEP if they wanted to start taking it. PrEP outreach and education efforts must be scaled-up, particularly within communities of color, to ensure that all individuals at risk for HIV receive accurate information about PrEP and have access to the medication if it is appropriate for them.

PrEP is covered by Medi-Cal, Medicare, and most major health insurance plans in California, but more work must be done to ensure that individuals at risk for HIV are enrolled in comprehensive health coverage and receive culturally competent care. The 2015 CHRP survey found that approximately 1 in 4 respondents who had never taken PrEP did not have health insurance. Among these individuals, less than half (44.7%) had ever tried to enroll in health coverage and a majority (62.7%) did not know where to go to enroll in health coverage. Further, even individuals with health insurance may be unable to afford the medication because of extremely high deductibles, copays, and coinsurance. For example, individuals enrolled in Bronze-plans through Covered California could be required to pay \$500 per month for the medication in addition to copays for labs and doctor visits.

Several cost-sharing programs have been developed to help improve access to PrEP. These include copay and patient assistance programs from Gilead Sciences, Patient Access Network Foundation, and Patient Advocate Foundation. Although these programs are extremely helpful, they do not cover medical out-of-pocket expenses for PrEP. Individuals taking PrEP are required to see a health care provider at least four times a year for HIV and STI testing and lab work, which can result in exorbitant out-of-pocket costs for uninsured and underinsured patients.

Several states have implemented programs to reduce cost-sharing and improve access to PrEP. In April 2014, the Washington State Department of Health launched the first ever PrEP Drug Assistance Program. The program provides co-pay assistance for individuals with health insurance and full drug coverage for the uninsured. In January 2015, the New York State Department of Health implemented a program to help pay for routine medical expenses associated with PrEP. The program is modeled on the state’s AIDS Drug Assistance Program, and provides reimbursement for monitoring and care services delivered to uninsured and underinsured individuals on PrEP. Similar efforts should be explored in California to ensure that high cost-sharing is not a barrier to PrEP uptake.

In addition to the high cost of PrEP medication and medical out-of-pocket expenses, many individuals do not

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8 White House Office of National AIDS Policy. “National HIV/AIDS Strategy for the United States: Updated to 2020.” Web. <https://www.aids.gov/federal-resources/national-hiv-aids-strategy/nhas-update.pdf>

9 Smith, Dawn K., et al. “Vital signs: Estimated percentages and numbers of adults with indications for preexposure prophylaxis to prevent HIV acquisition—United States, 2015.” *MMWR. Morbidity and mortality weekly report* 64.46 (2015): 1291.

10 Krakower, Douglas S., et al. “Limited awareness and low immediate uptake of pre-exposure prophylaxis among men who have sex with men using an internet social networking site.” *PloS one* 7.3 (2012): e33119.

have the knowledge or skills necessary to navigate the health care system and available financial assistance programs to access PrEP. Last year, the California Legislature approved \$2.2 million for a statewide PrEP navigation services program. This funding will allow community-based organizations and local health department to hire PrEP navigators who can help individuals obtain health coverage and apply for patient assistance programs. Funding for this program must be maintained to ensure that all Californians have the tools necessary to navigate the health care system and access PrEP.

While PrEP will not eliminate the spread of HIV on its own, it is a critical component of California's overall HIV prevention strategy that includes HIV testing, education, condom distribution, access to sterile syringes, treatment as prevention, PEP, and mental health and substance abuse services. Further, when implemented appropriately, PrEP supports increased engagement with health care providers that will prevent the transmission of other sexually transmitted infections and promote overall health and wellness.

*Modernization of HIV Criminal Laws* - Beginning over twenty-five years ago, several laws were passed in California that criminalized behaviors of people living with HIV/AIDS or added penalties to existing crimes for those who are HIV-positive. These laws were based on fear and the limited medical science of the time. In 1988, when most of these laws were passed, there were no effective treatments for HIV/AIDS and discrimination towards people living with HIV/AIDS was extremely high. These crimes and penalty enhancements uniquely singled out HIV and did not include other infectious diseases; they did not require actual transmission of HIV; and, in some cases, they did not require conduct that would be likely to transmit the disease. These laws codified the high level of fear and lack of medical knowledge of the early AIDS epidemic into California law.

California has four HIV-specific criminal laws, and one non-HIV-related criminal law that criminalizes exposure to any communicable disease. In December 2015, the Williams Institute and CHRP released a study which analyzed data obtained from the California Department of Justice on the criminal history of all individuals who have had contact with the criminal justice system under four of the state's HIV-related criminal laws. Key findings from the report include:

- Nearly every incident in which charges were brought resulted in a conviction (389 out of 390 incidents). Among those with known sentences at the time of conviction, 91 percent were sent to prison or jail for an average of 27 months.
- The vast majority of these incidents (95 percent) involved sex work. The law that criminalizes sex workers living with HIV does not require intent to transmit HIV or exposure to HIV.
- Women made up 43 percent of those who came into contact with the criminal justice system based on their HIV-positive status.
- Black people and Latino/as make up two-thirds (67 percent) of those who came into contact based on charges of these crimes.
- Across all HIV-related crimes, white men were significantly more likely to be released and not charged (in 60 percent of their HIV-specific criminal incidents) than expected. Black men (36 percent), black women (43 percent) and white women (39 percent) were significantly less likely to be released and not charged.
- While the average age at the time of arrest for the first HIV-related incident was 37, the arrestees ranged from 14 to 71 years old.
- Nearly half (48 percent) of these incidents occurred in Los Angeles County. By contrast, 37 percent of people living with HIV/AIDS in California have lived in Los Angeles County.

In the decades since these laws were passed, societal and medical understanding of HIV/AIDS has greatly improved. There are now effective treatments that lengthen and improve the quality of life for people living with HIV/AIDS, and successfully treated HIV-positive individuals have a normal life expectancy. In addition, biomedical prevention methods, including treatment as prevention and PrEP, can be highly effective in reducing HIV transmission. Furthermore, research indicates that these laws do not help reduce HIV infection in our communities, and criminal prosecution serves only to fuel continued stigma and discrimination.

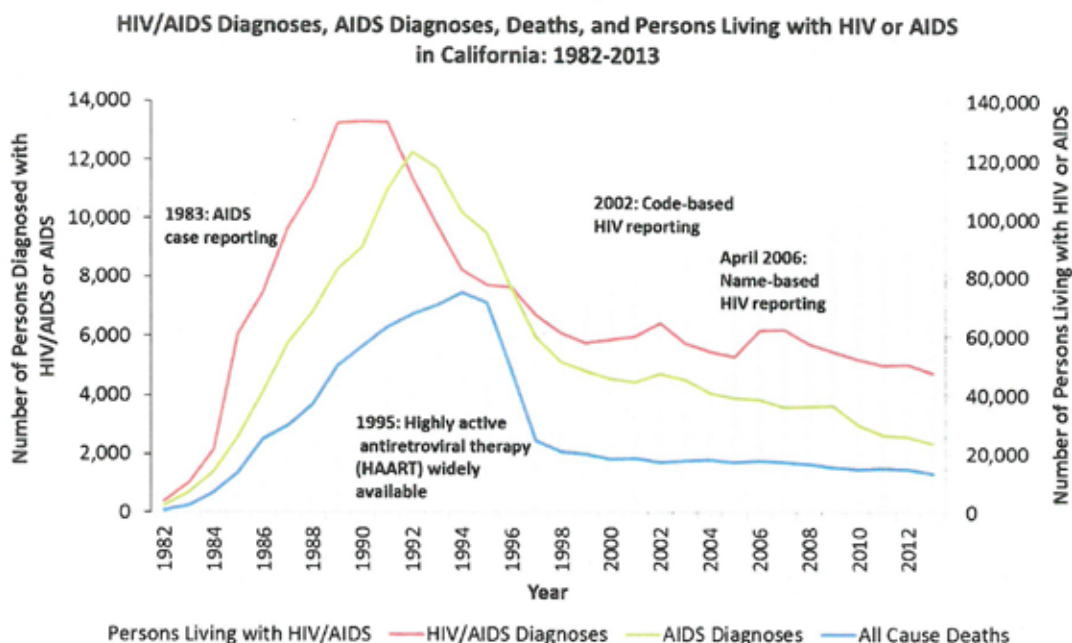
In May 2013, California Congresswomen Barbara Lee (D-Calif.) and Ileana Ros-Lehtinen (R-Fla.), introduced H.R. 1843, the Repeal Existing Policies that Encourage and Allow Legal (REPEAL) HIV Discrimination Act, which

encourages state and federal legislators to work together to assess and modernize outdated laws relating to HIV. Endorsers of the REPEAL Act include: the National Alliance for State and Territorial AIDS Directors, the President's Advisory Council on HIV/AIDS, the American Academy of HIV Medicine, the American Psychological Association, the HIV Medicine Association, the Ryan White Medical Providers Coalition, the AIDS Institute, and UNC Chapel Hill School of Medicine.

In June 2014, the Department of Justice and Centers for Disease Control and Prevention published a joint paper reviewing the existing HIV criminal laws throughout the United States. They concluded by stating, "Given that HIV-specific criminal laws may have wide-ranging social implications—including (but not limited to) the perpetuation of misinformation regarding modes of HIV transmission— states are encouraged to utilize the findings of this paper as a basis to re-examine those laws, assess the laws' alignment with current evidence regarding HIV transmission risk, and consider whether current laws are the best vehicle to achieve their intended purposes."

The National HIV/AIDS Strategy calls on state legislatures to review HIV-specific criminal statutes to ensure that they are consistent with current scientific knowledge of HIV transmission and support public health approaches to preventing and treating HIV. According to the Strategy, "HIV-specific laws do not influence the behavior of people living with HIV in those States where these laws exist. DOJ issued best practice guidance for States that wish to reform their HIV-specific criminal statutes, and legislators should reconsider whether existing laws continue to further the public interest and public health. In too many instances, the existence and enforcement of these types of laws run counter to scientific evidence about routes of HIV transmission and effective measures of HIV prevention, and undermine the public health goals of promoting HIV screening and treatment." It is vital that California lawmakers review California's HIV criminal laws and modernize them to ensure that they reflect current scientific information regarding HIV transmission and prevention.

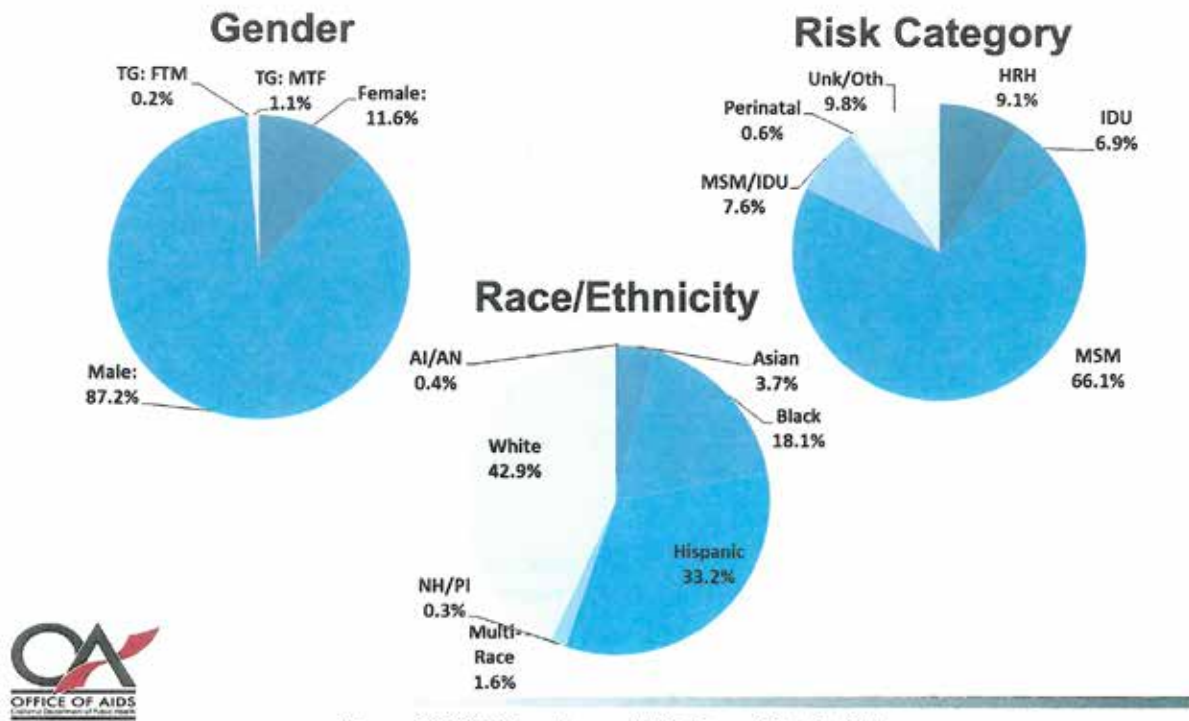
## The Big Picture



Source: HIV/AIDS Surveillance, eHARS data as of Dec 23, 2014.

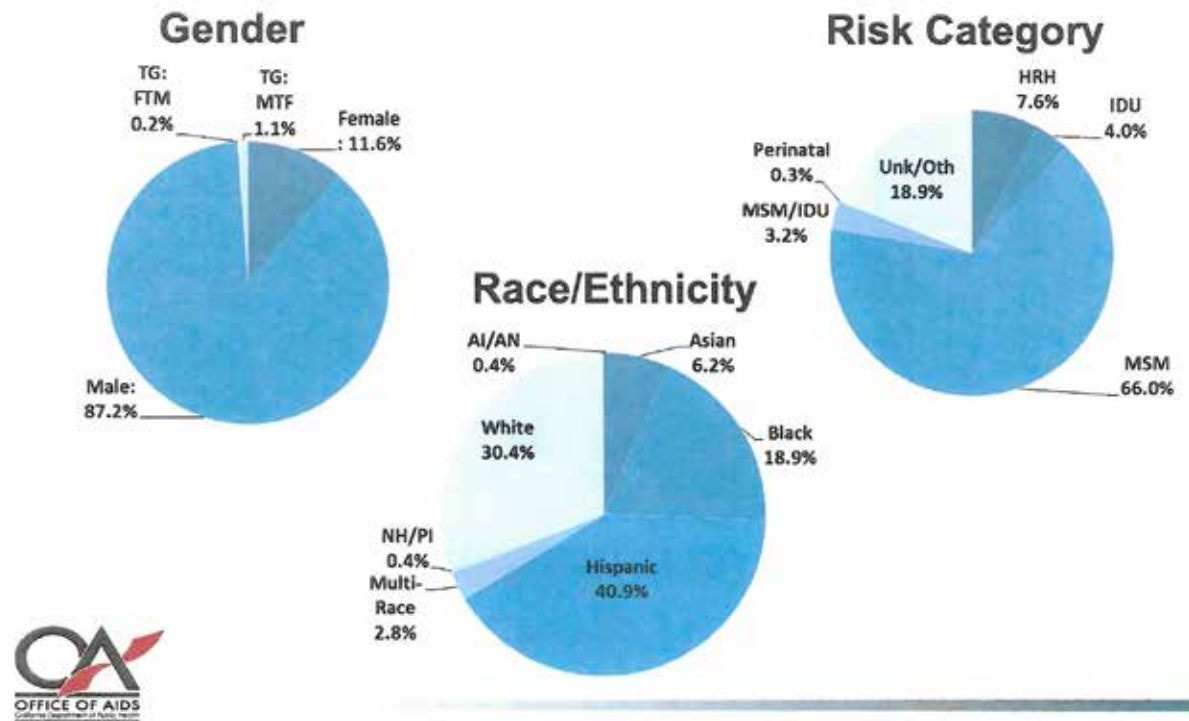


# Demographic Characteristics of Persons Living with HIV/AIDS, California, 2013



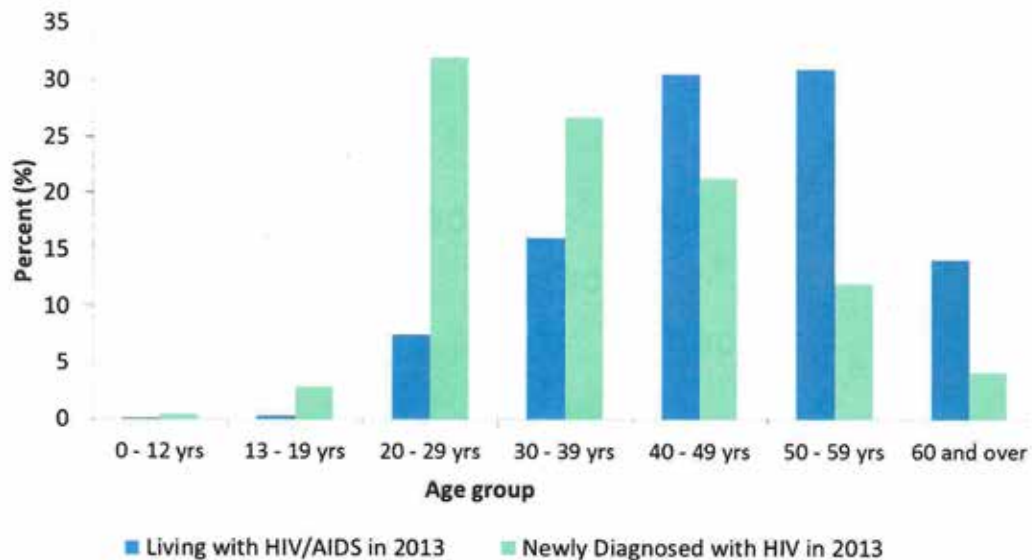
Source: HIV/AIDS Surveillance, eHARS data as of Dec 23, 2014

# Demographic Characteristics of Persons Newly Diagnosed with HIV/AIDS, California, 2013



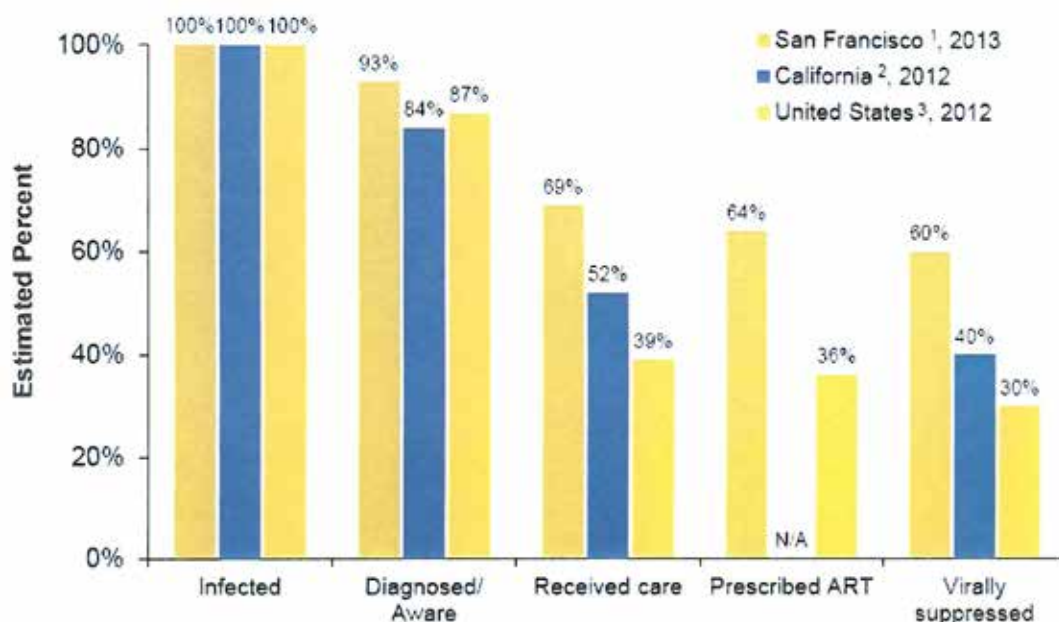
Source: HIV/AIDS Surveillance, eHARS data as of Dec 23, 2014

## Age Distribution of Newly Diagnosed HIV Infection and Living HIV/AIDS Cases, California, 2013



Source: HIV/AIDS Surveillance, eHARS data as of Dec 23, 2014

## HIV Care Cascade, San Francisco compared with CA and USA







## *Ayako Miyashita, Los Angeles HIV Law & Policy Project*

The Los Angeles HIV Law and Policy Project ("LA HLPP") is a unique collaborative partnership between four primary organizations—Los Angeles County Bar Association's AIDS Legal Services Program ("ALSP"), UCLA School of Law ("UCLA") and its Williams Institute ("WI"), Inner City Law Center ("ICLC") and Bet Tzedek Legal Services ("Bet Tzedek"). Several key leaders interested in HIV legal services came together after HIV & AIDS Legal Services Alliance ("HALSA"), the dedicated provider of HIV legal services in Los Angeles County ("LAC"), closed its doors in 2012. A collaborative, LA HLPP, was formed in 2013 to increase access to legal services for people living with HIV and/or AIDS ("PLWH") and to conduct research and to address HIV-related policies and legislation.

Each partner provides unmatched expertise in the areas of community legal services for PLWH, pro bono lawyer referral recruitment, coordination, and oversight, and HIV law and policy research. The collective mission of LA HLPP is to provide a single, centralized intake line to connect low-income PLWH to no cost legal consultation and advice, and referral, when possible, to meaningful legal assistance and representation. This is achieved through partnership between LA HLPP's legal staff at UCLA School of Law, UCLA law student volunteers, scholars and researchers at the Williams Institute, and a network of legal services providers including ICLC and Bet Tzedek and several hundred private bar attorneys volunteering for ALSP. Through its direct service work, the project is able to effectively inform current policy debates regarding issues of HIV and the law.

In Los Angeles County, the second largest community of PLWH in the United States, almost 65% of the estimated 60,000 individuals living with HIV are people of color. At 77%, the primary mode of HIV transmission includes men who acquire HIV through having sex with other men. While Latinos carry the greatest HIV disease burden in LAC, Black communities are most disproportionately impacted by HIV and AIDS. Communities who are disproportionately impacted by HIV are often in the worst positions to address the continued stigma and discrimination associated with HIV and/or AIDS. This is due to the additional burdens of navigating existing social and structural barriers resulting from poverty, hunger, homelessness, inadequate health care, racial/ethnic discrimination, homophobia and transphobia.

To better understand these needs, WI completed a comprehensive needs assessment of PLWH in LAC in April, 2015. Through interviewing mostly low-income PLWH throughout LAC, the study determined that 98% of individuals experienced a legal need in the year prior to the survey, only 16% of individuals received legal assistance with their most recent legal need, and affordability and awareness of legal services was a barrier to accessing assistance. Participants of the study reported that as a result of unmet legal needs, they experienced difficulty carrying on normal life (70%), stress-related illness (59%), physical ill health (25%), difficulty keeping medical appointments (19%), loss of income or financial difficulty (19%), and difficulty taking medications (17%). The most common legal issues identified as areas of need included lack of testamentary documents and advance health care directives (85%), consumer law including debtor/creditor matters (49%), health care access (47%), housing (42%), public benefits (30%), criminal law matters (28%), HIV-related discrimination (21%) and immigration (19%). Immigration was an area of legal need for a significant subgroup of the study—93% of those who identified a legal need in immigration identified as Hispanic, Latino or of Spanish origin.

LA HLPP is committed to addressing the social and legal needs of the diverse LAC communities impacted by HIV and/or AIDS. The project has found success in achieving this mission through implementing three key strategies: (1) providing access to legal services and referrals for other social services to PLWH via a centralized

intake line; (2) conducting community outreach and education to PLWH and their medical and social service providers; and (3) engaging in client-informed, evidence-based law and policy advocacy on behalf of PLWH. For more information, you can reach LA HLPP's centralized intake at (310) 794-7367 or Toll-Free at (855) 259-4364, or contact Ayako Miyashita, Director of LA HLPP at [miyashita@law.ucla.edu](mailto:miyashita@law.ucla.edu).

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Melissa Goodman, *American Civil Liberties Union*

## ACLU of California

### Fair Share for Equality Submission: School Issues

#### BACKGROUND

The ACLU of California is a collaboration of all the ACLU affiliates in California, with more than 100,000 members and supporters. The ACLU of California's LGBTQ Rights team works to create a society free of discrimination based on sexual orientation and gender identity. This means a state where lesbian, gay, bisexual, transgender and queer and/or questioning (LGBTQ) people can live openly and with dignity; where their identities, relationships and families are respected; and where there is fair treatment on the job, in schools, in housing, in public places, and in government programs.

#### LGBTQ RIGHTS CONTEXT IN CALIFORNIA

LGBTQ people now have full legal equality in California. But our laws that demand equal treatment of LGBTQ people on paper have not yet translated to true lived equality for all LGBTQ people in our state. Far too many of our landmark reforms—such as improving school climate with better approaches to bullying; unbiased, LGBTQ-inclusive education; respect for transgender students' gender identities; and improving safety and health care access for LGBTQ incarcerated people—remain, at best, only partially implemented and enforced throughout our state, and sometimes almost wholly unimplemented and unenforced. And far too few LGBTQ Californians know their rights, let alone how to enforce those rights.

Outside of main urban centers, LGBTQ people in wide swaths of our state are still fired, denied jobs, denied services, denied access to programs and facilities, harassed, pushed out of school, and treated disrespectfully as they go about their daily lives, too often with impunity. LGBTQ people, and particularly people of color and transgender women, are subjected to violence, profiled, arrested, and jailed at alarmingly high rates. Once incarcerated, they are too often locked up in segregated custody, without access to rehabilitative programming or the medical care they need. Far too often, LGBTQ people who are victims of crime are simply ignored by the police, especially in domestic violence situations, and then their treatment by the police often only serves to re-traumatize them. Huge numbers of LGBTQ youth are homeless, pushed out of home by families, and thrown into government systems still incapable of handling issues related to sexual orientation or gender identity. Transgender people whose gender identity is not respected and a rapidly growing number of people who identify as genderqueer—as something other than male or female—must navigate a world in which we are constantly forced to declare, mark, and segregate ourselves based on outdated notions of gender binaries, often in a way that is painful and entirely unnecessary.

California has long been a leader in establishing LGBTQ equality and our legal and policy victories are typically exported to other states. California must remain at the vanguard. But it is equally important that California create systems and devote sufficient resources and people power to the hard task of ensuring all of our great LGBTQ

rights laws are actually implemented in our schools, our restaurants, our doctor's offices, our police stations, our jails and prisons, our streets, and at our restroom doors. It is equally important that we ensure LGBTQ people in every part of the state can realize the same promise of equality, respect, dignity, and equal opportunity.

## SCHOOL ISSUES

- **Many school districts have not done basic policy implementation of LGBTQ student rights laws.** Far too many school districts we come into contact with are still lacking basic board policies to comply with Seth's Law (effective in 2012), the FAIR Education Act (also effective in 2012), and transgender student non-discrimination laws, including the School Success and Opportunity Act (effective in 2014). In many districts that do have such policies, reports from the ground suggest they are not being operationalized in practice.
- **LGBTQ students often remain invisible in the classroom.** Despite our laws that require LGBTQ inclusive history and social science lessons, newly required LGBTQ inclusive sex education, and our laws that have long prohibited biased instruction, LGBTQ youth still report feeling invisible and marginalized in the classroom, never seeing any depiction of gay, lesbian, bisexual or transgender people. Many curriculum frameworks have failed to keep pace with LGBTQ rights legislation and still fail to reflect LGBTQ inclusiveness mandates.
- **Too many schools do not understand the privacy rights of LGBTQ students and out them in potentially illegal and harmful ways.** Students have a constitutional right of privacy which includes the right to control when and to whom to disclose highly personal information about their sexual orientation or gender identity. Schools cannot disclose a student's LGBTQ status to anyone—including a parent—absent a specific, compelling justification, even if the student is out at school. Yet we frequently receive complaints that students are outed to their parents when they file discrimination and harassment complaints or in the context of discipline. Transgender students are often inappropriately outed by school and district failures to change their name and gender in the student record system or because of the inability to capture correctly or change such data in statewide databases.
- **Too hard for LGBTQ students and parents of LGBTQ students to find information about their rights.** Too few parents and students can easily learn about their rights on school district websites, California Department of Education (CDE) websites, or in Student Handbooks. While advocacy and legal support groups like the ACLU have know-your-rights materials, we cannot keep pace with the need or get them in the hands of everyone who needs them.
- **Too hard for LGBTQ students and parents of LGBTQ students to find information about what to do when rights are violated.** Too few students and parents can easily find information about how or to whom to complain when they are experiencing bias, harassment, discrimination, or their school is not complying with LGBTQ student rights laws.
- **Ineffective and under-resourced statewide monitoring and accountability systems for compliance with LGBTQ student rights laws.** There is no statewide body affirmatively monitoring whether schools are creating safe climates for LGBTQ students or are complying with LGBTQ student rights laws. Very little state funds are expended for this purpose. By way of example, sexual health and HIV prevention education must now be LGBTQ inclusive. But there is and long has been no state funding for CDE to do screening, monitoring, or enforcement of sexual health and HIV education laws; the only funds spent for this purpose come from a small federal grant. The only review of district compliance with basic LGBT-protective anti-bullying and harassment laws in recent years occurred as a result of a Joint Legislative Audit Committee that looked at only a small sample of districts.

As a result, we have no real picture of how well or badly our schools are doing in terms of respecting LGBTQ youth and following LGBTQ student rights laws. The burden instead falls to local community and advocacy groups to do this time-consuming and resource-intensive work. As a result problems—and LGBTQ students—fall through the cracks. The one system that is in place—the Uniform Complaint Procedure process—is reactive, not proactive; individual, not systemic; and wholly ineffective and under-resourced.

In our experience, students' problems never get resolved through this process, as it results in only cursory investigations, consistently adverse determinations at the local level, and an appeals process that can literally take years and rarely, if ever, results in any change on the ground.

## **NEEDED ACTIONS**

- **Reform of current monitoring and accountability system statewide.** California needs to invest in real monitoring and enforcement of LGBTQ student rights laws, create systems that can do this important work across-the-board, and reform the broken Uniform Complaint Procedure system. We cannot continue to pass groundbreaking laws to create safe and bias-free school climates but leave them under-implemented and under- and unevenly-enforced in our state.
- **Update the health framework and ensure all frameworks reflect LGBTQ equality in our schools.** The core of our health instruction framework has not been updated since 1994. Sex education and health class is a key place where LGBTQ students experience discrimination. State law now requires these to be LGBTQ inclusive spaces. Our health framework needs to keep pace. The health framework must be updated urgently and CDE needs funds to make this happen.
- **Ensure parents can easily find information about their rights and complaint mechanisms through district and CDE websites.** California should devote effort and resources to the simple task of making important information about LGBTQ student rights accessible to parents and students.
- **Improve data systems to ensure transgender students can consistently use their preferred names and pronouns and are not improperly outed as transgender throughout the day as a result of system problems.** School districts routinely cite technical problems and restraints in the statewide student data system as a reason it cannot fully respect transgender and genderqueer students' gender identity. The systems must be assessed and fixed so that it is easy for the system to reflect a transgender or genderqueer student's identity.

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Ari Gutierrez, *Latino Equality Alliance*

## **Recommendations for LGBTQ Public Education & Policy Advocacy in Urban Immigrant & Low Income Communities**

The Latino Equality Alliance (LEA) was established by grassroots Latino LGBBT leaders in response to Proposition 8, the ballot initiative that took away marriage rights from same sex couples. Its purpose then and now is to increase public education, awareness and access to services for LGBT people who live in communities of color and their families.

Its work began with community forums in communities that voted "against us" in Prop 8. That is, in communities that stood to benefit most from community outreach and public education work and communities in which our stakeholders live. LEA's work includes a focus on family acceptance, policy advocacy and LGBT inclusive immigration reform.

Community engagement has included forums in the cities of El Monte, Huntington Park and Bell as well as the Los Angeles communities of Highland Park and Boyle Heights. All of these locations are in high density urban areas miles from the nearest LGBT center and with limited access to LGBT competent social support, mental health and medical services.

In recent years, as part of The California Endowment's **Building Health Communities** place based initiative, LEA participates in the **Health Happens in Schools** campaign to improve school climate for all students including those who identify as LGBTQ. Through a bilingual AntiBullying public education competency training program, LEA is working at Mendez and Roosevelt high schools and in several charter schools. The public education program includes audience appropriate trainings for 1) students, 2) parents and 3) on-campus professionals including teachers and administrators.

### **Reaching Monolingual Spanish Speaking Parents**

LEA has experienced success in working with Spanish monolingual parents on these campuses. Overall, while they may or may not have a child or relative that identifies as LGBT, these parents clearly understand that bullying because of LGBT issues is a problem at schools and they want to do what they can to improve things for students. From our perspective, every parent who completes the 6 week / 2-hour per week series of presentations is another strong advocate who will be well prepared to intervene in a crisis when their "comadre" or "compadre" experiences a crisis moment when their child comes out to them. This type of informed intervention will go far in helping an LGBTQ youth through the coming out process and alleviate the family ostracism that too often leads to homelessness and high risk behavior for Latino/a LGBT youth.

### **Reaching On-Campus Professionals**

Challenges exist in reaching professionals because they are limited in time for professional development training. However, through a brief one-hour presentation we are able to provide an overview of our Anti-Bullying presentation and provide community based resources which they may provide to the students as well. Importantly, LEA is providing a professional point of reference in addressing bullying issues for students and connecting it to on-campus Restorative Justice and Wellness Center social service support that LEA and other regional non-profits are providing or in the community including Mi Centro, the LGBT community center LEA has opened in Boyle Heights in collaboration with the Los Angeles LGBT Center. Critically, teachers and administrators are our

front line in reaching students that need referrals to mental health and/or medical health services – we must provide to them the information they need to make such referrals to LGBTQ students and their parents.

## Reaching Students

Reaching LGBTQ students on campus is difficult as they do not have existing support systems at school. Specifically, although schools are supportive of on campus GSA (Gay Straight Alliance) group on campus, students must every new school year 1) ask an administrator for a GSA to be established and 2) the school administration must identify a volunteer faculty advisor – typically one that identifies as LGBT and 3) students and the faculty advisor typically start from scratch with no funds and limited resources. As such, LGBTQ identified students are invited to join a regional LGBTQ Youth Council, which LEA leads.

At the schools, LEA's student Anti-Bullying curriculum is presented to as many students as possible to help them better understand what bullying is and helping them recognized and stand up to bullying in appropriate ways. For students in these communities, reviewing concepts of bullying in their lives equates to addressing issues of violence they face at home and in their community. Additional support is needed to help them work through the "normalization" of violence they face daily as a way of helping to improve school climate for all students including those who are beginning to identify as LGBTQ.

## Recommendations for Creating Safe Spaces for LGBTQ Youth at School, Home and in their Communities:

- Provide LGBTQ competency training to school professionals, parents and students with a high priority to reach students in schools that serve low income, English as a second language and foster youth. Supplementary funds from the LCFF (Local Control Funding Formula) may add LGBT students as a target high risk population.
- Provide LGBTQ students and their parents with local and accessible LGBTQ competent support services including through on-campus medical and psychology professionals. On-campus wellness centers should offer HIV/AIDS testing and counseling services just as they may provide pregnancy prevention services. Again, supplementary funds from the LCFF (Local Control

Funding Formula) may be earmarked to on-campus support for social, mental health and medical support programs that are LGBT inclusive. LGBT service providers may be allowed and encouraged to offer services on-campus.

- LGBTQ students, whether they are "out" yet or not, that most need a support structures on campus are the least likely to ask an administrator to start a GSA (Gay Straight Alliance) group. GSA or similar LGBTQ youth support and advocacy programs should be offered at middle and high schools as part of the regular "clubs" programs that are supported with paid faculty and LGBTQ inclusive curriculum. Additionally, school professionals may provide referrals for parents of LGBTQ students for PFLAG (Parents and Friends of Lesbians and Gays) and/or mental health support services.
- School investment in violence education and management programs including Restorative Justice should be at least equal to the school district investment for on-campus police. Additionally, supplementary funds from the LCFF (Local Control Funding Formula) may be invested in violence abatement programs that will benefit school climate and provide an important base for violence prevention at home and in the community before and after graduation.
- Community programs including those provided by municipal after school and recreational facilities should be LGBT inclusive and follow inclusion policies secured by state laws for schools. For example, Transgender youth should be allowed to participate on municipal/community sport teams as the gender with which they identify and should be allowed to use public bathroom facilities for the gender with which they identify.

## Latino Equality Alliance

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Laura Kanter, *The LGBT Center Orange County*

## **Building Safe Schools Through Youth and Community Empowerment in Orange County**

Thanks to funding starting in 2011 from The California Endowment's Santa Ana Building Healthy Communities initiative, the LGBT Center OC's youth program evolved at the same time that many new policies supporting LGBTQ students were signed into law: Seth's Law, The FAIR Education Act, and The School Success and Opportunity Act.

Over the last four years, the program has grown from a weekly social drop-in group to one that provides groups, education, and advocacy for youth, families, educators, schools, social and health-services providers across the county.

As we embarked on a mission to ensure school district compliance with the comprehensive and progressive policy wins of California legislators, we were confronted with the challenges of implementation. In Orange County these challenges included the absence of funding or mandated training for how to implement these laws within a generally unsupportive, and often hostile, political environment. So hostile in fact, that Sharon Quirk Silva's courageous vote in support of AB1266 was successfully used against her in her 2012 campaign for re-election.

While we saw an increase in anti-bullying programs, we were hearing from the youth in our budding program YETA (Youth Empowered to Act) that what was most distressing for them was a lack of awareness and enforcement of the new laws by the adults in their schools. The youth wanted the adults in their schools to know who they were and how to support and stand up for them. They wanted teachers and administrators to openly acknowledge and value their LGBTQ identities and rights as students. And they wanted visible safe spaces so they could fully be themselves. While some groups engaged in litigation to ensure compliance, our youth wanted to be involved in creating change on their campuses and in their districts. Our staff, youth, teachers, and allies learned about the laws and in collaboration with policy advocates from the ACLU, developed presentations about LGBTQ student rights, inclusive language, safe spaces and school district transgender student advocacy. We have also been able to explore the use of restorative justice practices to increase awareness and understanding about LGBTQ students, and to promote a culture of social justice.

At the same time, through our collaboration with community partners in SABHC and using LCFF as a vehicle, we developed a Safe Schools Resolution and a campaign that succeeded in getting SAUSD to incorporate significant recommendations and funding in their LCAP

**From our SABHC Safe Schools Resolution we prioritized the following recommendations:**

- Full Implementation of Restorative Justice/Practices (RJ/RP) and School-Wide Positive Behavior

Interventions and Supports (SWPBIS): Develop a short and long term strategy with time lines to fully implement District-Wide Positive Behavior Interventions (PBIS), including the use of restorative intervention best practices.

- Use restorative intervention best practices to reduce suspensions, increase days of instruction and make Santa Ana schools healthy and supportive learning environments.
- Regular and Accurate Data Reporting On Disciplinary Measures and Interventions: The data shall be published two times a year on the District's website and in the parent-student handbook. A summary of such data translated into multiple languages, including Spanish, shall be provided to parents at each school in SAUSD at least three times per year, including at a school-site council and an ELAC meeting.
- Bullying Prevention Policy and Training: As required by California state laws, develop and implement a comprehensive anti-bullying policy that includes LGBT cultural sensitivity and safe schools training and support on sexual orientation and gender identity for all school leaders, staff, and teachers.
- Supportive Schools Climate Partnership Committee: Establish a proactive relationship with the Supportive School Climate Partnership Committee led by parents, students and community members to help shape and support a safer and more positive and nurturing school climate.

Now a part of SAUSD, our School Climate Committee consists of parents, students and community members who work collaboratively with district leaders and the schools. The current focus is on ensuring implementation of these LCAP school climate wins to maximize the potential for success among Santa Ana youth.

Through these efforts, we have also developed a School Support Specialist program. LGBTQ School Support Specialists are at the school site one day per week and provide dedicated support for LGBTQ students and for the school and district to help develop and support Safe Zone Culture and to link student, family, school, district and community through Gay Straight Alliances (GSAs) and activities; advocacy for LGBTQ students; culturally competent resources; and coordination and implementation of training for educators, counselors, parents, and students.

**A LGBT School Support Specialist is at the school site one day per week to:**

- provide direct support for students, teachers, staff
- provide resources and training
- support Gay Straight Alliances (GSAs) or similar clubs and helps to implement school-wide events: Day of Silence, Harvey Milk Day, Pride
- teaches Safe Zone trainings and Know Your Rights presentations to students and helps coordinate school-wide training
- works with students, parents and school staff to create transgender student support plans
- conduct restorative practices such as healing circles to address bullying and increase awareness

Further collaboration with the ACLU also led to formation of the Orange County Transgender Student



Advocacy Task Force. We conducted research to determine which Orange County School Districts had updated Board Policies related to AB1266. We looked at the ease (or lack of ease) in accessing information and support and developed and conducted Transgender Student Advocacy Trainings for students, parents, teachers, and community organizers to support them in advocating for the adoption of CSBA model transgender nondiscrimination policy in their districts. This led to a very recent success in Capistrano Unified School District.

<http://www.thecapistranodispatch.com/a-call-for-equality-in-the-classroom/>

We need to continue to urge the District to speak the language that represents all of our youth. Too many teachers, administrators, and staff lack the knowledge or are too afraid or too biased to discuss sexual orientation and gender identity in age-appropriate ways. We must urge the leaders to continue to be bold and move in this positive direction of inclusivity and support. We cannot make them safe if we cannot speak their true names.

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Aaron Fox, *Los Angeles LGBT Center*

### **Investing California General Funds to Reduce LGBT Health Disparities**

California's commitment to public health has been vastly reduced due to the last five years of economic turmoil. Health disparities that already existed in LGBT communities have been exacerbated and our most vulnerable face even more challenges to stay healthy and happy. While the Affordable Care Act will make significant progress in achieving a healthier LGBT community, it will not solve the deep and pervasive disparities that continue to exist.

California must invest General Fund dollars in order to target health disparities and, ultimately, achieve health equity. While California has committed to doing this by creating a statewide plan to achieve health equity under the California Department of Public Health Office of Health Equity, a plan that does not come with targeted funding cannot be successful.

We propose a General Fund investment in the following areas:

- **LGBT Homeless Youth** – New research has found approximately 40% of the Los Angeles' homeless youth are LGBT. Parental rejection, lack of employment opportunities and physical assault and bullying all contribute to a disproportionate amount of young LGBT being forced to live on the streets. Existing programs in Los Angeles and San Diego are at capacity and waiting lists are common. These programs help homeless LGBT youth with life skills, employment navigation and stable housing, and are cost effective and have demonstrated long-term successful outcomes.
- **Implementation of AB 959** – LGBT people have historically not been counted. It has been common practice for behavior health surveys, electronic health records, and state-run program applications to exclude sexual orientation and gender identity questions. Collecting this data will allow for a more coordinated and culturally competent response to the real life challenges that LGBT people face. A standardized, community approved process for asking sexual orientation and gender identity questions will benefit the community greatly.
- **Substance Use Prevention and Treatment** – LGBT people experience higher rates of substance use due to a number of cultural and social influences that result in reduced health outcomes and increased cost to the overall healthcare system. Targeted funding that relies on trusted community providers and culturally competent prevention and treatment strategies is needed to reduce persisting disparities.
- **HIV/AIDS Prevention and Treatment** – The CDC reports that new cases of HIV infection are on the rise among young gay men of color and transgender women. California cut approximately \$80 million in HIV funding in 2009 that exacerbated an already existing trend in new infections among this population. CA must follow the lead of states like New York and Washington by creating state funded programs to increase access to new biomedical interventions like Pre-Exposure Prophylaxis (PrEP) and Post-Exposure Prophylaxis (PEP). CA continues to have the second highest HIV burden in the nation.

For more information on the LA LGBT Center or questions regarding this document please contact Aaron Fox at (323) 993-7464 or [afox@lgbtcenter.org](mailto:afox@lgbtcenter.org).



The last three years have seen an explosion in public policy aimed at improving access to affirming health care and health coverage for transgender people. Still, translating these wins into lived experience continues to be a challenge, particularly for individuals in rural or suburban areas, where resource density is lower. Transgender people generally experience four main types of barriers to health. The table below summarizes these barriers, notes improvements in California, and outlines remaining challenges.

Barrier	Improvements	Remaining Challenges
<b>Cost of health care/ health coverage</b>	<ul style="list-style-type: none"> <li>➤ Subsidies through <b>Covered California</b></li> <li>➤ Expanded Medi-Cal reaches many low-income individuals</li> <li>➤ <b>Undocumented youth</b> will be able to access Medi-Cal (SB 4 passed)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Covered California <b>premiums</b> still out of range for many</li> <li>➤ Undocumented adult Californians still excluded from Medi-Cal (pending SB 10)</li> </ul>
<b>Insurance exclusions</b> of transition-related and gender-specific care	<ul style="list-style-type: none"> <li>➤ <b>Out-of-state companies</b> doing business with CA must offer <b>equal benefits</b> to transgender workers (SB 703)</li> <li>➤ <b>Affordable Care Act Section 1557</b> proposed regulations <i>could</i> close loophole with self-funded plans</li> </ul>	<ul style="list-style-type: none"> <li>➤ Exclusions remain in many <b>self-funded</b> health plans</li> <li>➤ Surgery exclusions remain in <b>Veterans Health Administration</b> plans</li> </ul>
Insurer <b>noncompliance</b> with gender identity nondiscrimination	<ul style="list-style-type: none"> <li>➤ Department of Managed Health Care <b>All-Plan Letter</b> (2/5/15) clarifies scope of treatments</li> <li>➤ Department of Managed Health Care and CA Department of Insurance <b>Independent Medical Reviews</b> <b>overturn improper denials</b></li> </ul>	<ul style="list-style-type: none"> <li>➤ Customer service reps provide <b>inaccurate information</b></li> <li>➤ Insurance carriers issue improper <b>denials of coverage</b></li> <li>➤ <b>Appeals processes are time-intensive</b> for individuals, health care providers, and legal services advocates</li> <li>➤ Individuals and non-expert providers lack <b>knowledge of appeal rights</b> and procedures</li> </ul>
Provider <b>network inadequacy</b>	<ul style="list-style-type: none"> <li>➤ Growth in awareness and access to <b>quality-controlled information</b></li> <li>➤ Cultural Competency Task Force will report on findings Jan 2016 (<b>2014's AB 496</b>)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Refusals to treat based on <b>religious objections</b> in private practices and hospitals</li> <li>➤ <b>Scheduling bottleneck</b> with surgeons</li> <li>➤</li> </ul>
Extreme <b>vulnerability to HIV</b> and co-factors	<ul style="list-style-type: none"> <li>➤ <b>HIV education</b> in schools must be accurate (AB 329)</li> <li>➤ <b>Foster youth</b> must be placed in housing that corresponds with gender identity (SB 731)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Archaic and draconian <b>laws criminalize HIV</b> transmission and non-disclosure</li> <li>➤ Institutional and interpersonal <b>violence</b></li> <li>➤ <b>School pushout</b> and <b>employment discrimination</b> coerce into survival economies</li> </ul>

For more information on the Transgender Law Center visit [TransgenderLawCenter.org](http://TransgenderLawCenter.org) or call 415-865-0176.







Poshi Mikalson Walker, *Mental Health America of Northern California*

### **If We Are Not Counted, We Do Not Count: Collecting Sexual Orientation and Gender Identity Demographic Data**

The California LGBTQ Reducing Disparities Project report, *First, Do No Harm: Reducing Disparities for Lesbian, Gay, Bisexual, Transgender, Queer and Questioning Populations in California* states:

LGBTQ individuals are being harmed on a daily, weekly, monthly, yearly, and sometimes lifetime basis due to stigma, discrimination, prejudice, rejection and legal inequality. They represent essentially invisible populations whose existence is not accurately documented and rarely acknowledged in any form of official data gathering. (p. 19)

The lack of sexual orientation and gender identity (SOGI) demographic data collection by government and health care entities renders LGBTQ people essentially invisible. This invisibility is a disparity and a harm that can be corrected. The number one recommendation from *First, Do No Harm* is therefore:

Demographic information should be collected for LGBTQ people across the lifespan, and across all demographic variations (race, ethnicity, age, geography) at the State and County levels. Standardization of sexual orientation and gender identity measures should be developed for demographic data collection and reporting at the State and County levels. Race, ethnicity, culture and age should be considered and the measures differentiated accordingly.

*Implementation example:*

Whenever demographic data (e.g. race, ethnicity) is collected as a tool to evaluate and improve services, sexual orientation and gender identity data should be included. (p. 172)

The Lesbian, Gay, Bisexual, and Transgender Disparities Reduction Act (AB 959) was recently passed by the California Legislature and signed into law by the Governor. AB 959 requires four state departments to begin collecting SOGI demographic data by July 1, 2018. In the bill, the Legislature states their intent that the named state agencies “utilize existing work and research, including, but not limited to, referencing research on promising and community-defined practices and stakeholders when developing questions.” It is vital that SOGI demographic data collected by these state agencies have consistency of identity categories, and that these identity categories are community-defined and culturally appropriate. To facilitate this process, a stakeholder workgroup made up of subject-matter experts and LGBTQ community representatives, including staff from NorCal MHA, is being formed through EQCA.

We recommend:

- The state agencies named in AB 959 should use the findings and recommendations developed by the stakeholder workgroup, including recommended categories for sexual orientation and gender identity.
- The legislature should pass, and the Governor should sign into law, legislation which broadens the collection of SOGI demographic data. Wherever governmental agencies collect race/ethnicity demographic data, SOGI demographic data should also be collected.

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Jenny Pizer, *Lambda Legal*

## I. Introduction

I will address the intersections and perceived tensions between individual and institutional religious rights, on the one hand, and equality rights of LGBT and HIV-positive people on the other. To begin with, it must be stressed that this analysis is not anti-religion. It is about meeting secular health needs.

The presentation will conclude with a series of policy recommendations that emphasize the need for:

- (i) State funding for health programs and providers that are culturally competent in meeting the needs of LGBT people and people living with HIV;
- (ii) training grants and programs to increase cultural competence in LGBT health;
- (iii) strong enforcement of California's nondiscrimination laws and rules that protect the health and wellbeing of LGBT people, as well as enforcement of the nondiscrimination terms of state contracts;
- (iv) collection of data to permit monitoring and enforcement of nondiscrimination rules and standards of care, including cultural competence;
- (v) enforcement action against manipulation or coercion of patient decisions for religious reasons by health care providers and institutions; and
- (vi) updating and enforcement of state accreditation and licensing requirements to insist that hospitals have nondiscrimination policies and training, inform patients accurately and fully about treatment options, and maintain adequate staffing to meet patient needs when individual health care workers refuse on religious grounds to provide medically appropriate treatment or other services.

## II. The Problem: Discriminatory Individual Refusals and Institutional Refusals

### A. Individual Refusals

We see this problem in private medical practices and clinics when individual doctors or other health care providers refuse to provide standard care based on the patient's sexual orientation, gender identity or HIV status, and assert a religious reason for the discrimination<sup>1</sup>. Common examples are:

- Direct religious condemnation of patients based on sexual orientation or gender identity<sup>2</sup>.
- Infertility care for lesbian or gay male patients based on objections to same-sex relationships<sup>3</sup>.
- Sexual health care or relationship counselling for LGBT patients based on objections to same-sex relationships or gender transition<sup>4</sup>.

1 See discussion in Letter of Jennifer Pizer, et al. to Office of Civil Rights, U.S. Dep't of Health & Hum. Svcs., responding to HHS Requests for Information 0945-AA02 & 0945-ZA01, pages 32-34 (Sept. 30, 2013) ("Pizer Sept. 30, 2013 Letter to HHS"), [http://www.lambdalegal.org/in-court/legal-docs/ltr\\_hhs\\_20130930\\_discrimination-in-health-services-and-Lambda-Legal\\_WHEN\\_HEALTH\\_CARE\\_ISN'T\\_CARING\\_\(2010\)\\_http://data.lambdalegal.org/publications/downloads/whcic-report\\_when-health-care-isnt-caring.pdf](http://www.lambdalegal.org/in-court/legal-docs/ltr_hhs_20130930_discrimination-in-health-services-and-Lambda-Legal_WHEN_HEALTH_CARE_ISN'T_CARING_(2010)_http://data.lambdalegal.org/publications/downloads/whcic-report_when-health-care-isnt-caring.pdf).

2 For example, in *Knight v. Conn. Dep't of Pub. Health*, 275 F.3d 156 (2d Cir. 2001), a visiting nurse claimed religious discrimination when fired for antigay proselytizing to home-bound AIDS patient. See also Pizer Sept. 30, 2013 Letter to HHS, page 33.

3 See, e.g., *North Coast Women's Care Med. Grp., Inc. v. San Diego Cnty. Superior Court* (Benitez), 189 P.3d 959 (Cal. 2008) (physicians objected to providing infertility care to lesbian patient).

4 See, e.g., *In re Shuffield* (physician's religious objection to providing sexual health care to gay man), <http://www.lambdalegal.org/in-court/cases/in-re-shuffield>; *Keeton v. Anderson-Wiley*, 664 F.3d 865 (11th Cir. 2011) (counseling student refused on religious grounds to counsel patients in same-sex relationships, contrary to professional standards requiring nonjudgmental, nondiscriminatory treatment of all patients).

- Gender transition-related care<sup>5</sup>.
- HIV care or any involvement in testing or other care for patient thought to be HIV-positive<sup>6</sup>.

The California Supreme Court has rejected religion as a defense for sexual orientation discrimination in health care<sup>7</sup>. But, at least two problems remain:

1. **Discrimination by providers tends to deter patients from returning regularly for care, which increases morbidity.**<sup>8</sup> Most people do not complain, let alone sue, when mistreated in health care settings. Too many health professionals do not fully understand what the laws, ethics rules, and cultural competence standards require of them. Confusion and barriers to proper care of LGBT patients persist.
2. **There can be confusion about whether providers have a duty to provide particular health services.** Nondiscrimination rules can be insufficient when a service is only required by some patients. Thus, we sometimes hear arguments that try to distinguish between discrimination against a group, and refusal to provide a service or treatment to anyone, period. This is a line that has developed from misguided rules that have deemed abortion and other women's reproductive health care services "exceptional" – that is, if only women need a service, it's "different" and not sex discrimination to exclude it from public funding or insurance, or otherwise to impede access to it.

The U.S. Supreme Court's Hobby Lobby decision in June 2014 heightened the tension around this question.<sup>9</sup> The Court allowed private employers to object to inclusion of birth control coverage in the employee health plans they must provide under the ACA, but said their analysis does not invite or allow discrimination.<sup>10</sup> They ignored the sex discrimination argument made by the Obama Administration.<sup>11</sup>

Since that decision, we have seen an explosion of state legislation seeking to expand religious rights to demand exemptions from laws that usually apply, especially to discriminate against same-sex couples.<sup>12</sup> We don't know whether courts will follow Hobby Lobby and decide it means employers and others can turn people away or selectively refuse services of various kinds for religious reasons.

We don't know whether courts will consider Hobby Lobby an abortion case, or a discrimination case. Will courts understand it to mean that sterilization or infertility care also can be withheld if everyone ostensibly is treated the same? And that gender-transition care or HIV medications, for example, can be deemed "special" and "different" – like abortion – such that objections are not seen as discrimination? We will fight such arguments in court and with policy advocacy. But the likelihood that we will face such assertions underscores the need for funding to expand welcoming, culturally competent services.

## B. Refusals and Restrictions By Religiously Affiliated Institutions

Today, an increasing amount of medical and social services are delivered to the general public by faith-based or religiously affiliated providers that assert a religious right to discriminate based on sexual orientation or gender identity, or to refuse basic services needed by LGBT people, HIV-positive people, women, people of other faiths, and others. A significant contributor to this problem is mergers of secular hospitals with Catholic hospitals, during which the Ethical Religious Directives for Catholic Health Care Services ("ERDs") are applied

<sup>9</sup> *Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751, 2014 U.S. LEXIS 4505, \*87, 2014 WL 2921709 (2014).

<sup>10</sup> *Id.* See also discussion in Lambda Legal, Comments on U.S. Dep't of Health & Hum. Svcs. Proposed Rule re Nondiscrimination in Health Programs and Activities, at page 6 (Nov. 9, 2015) ("Lambda Legal ACA Section 1557 Comments"), [http://www.lambdalegal.org/in-court/legal-docs/hhs\\_dc\\_20151117\\_letter-re-1557](http://www.lambdalegal.org/in-court/legal-docs/hhs_dc_20151117_letter-re-1557).

<sup>11</sup> See Pizer, What the Supreme Court's Hobby Lobby Decision Means for LGBT People (July 8, 2014), [http://www.lambdalegal.org/blog/20140708\\_what-hobby-lobby-decision-means-for-lgbt-people](http://www.lambdalegal.org/blog/20140708_what-hobby-lobby-decision-means-for-lgbt-people).

<sup>12</sup> ACLU tracks these bills at <https://www.aclu.org/anti-lgbt-religious-refusals-legislation-across-country>.

to the entire merged hospital system as a required term of the merger.<sup>13</sup>

MergerWatch issued an important report two years ago called *Miscarriage of Medicine: The Growth of Catholic Hospitals and the Threat to Reproductive Health Care*.<sup>14</sup> It presents data for the decade 2001 to 2011 and includes many eye-opening findings, including the following:

- Between 2001 and 2011, the number of Catholic-sponsored or –affiliated acute-care hospitals increased by 16%, while all other types of non-profit hospitals declined in numbers.
- In 2011, 10 of the 25 largest health systems in the nation were Catholic sponsored.
- In 2011, these systems had combined gross patient revenues of \$213.7 billion, \$115 billion of which came from the publicly funded Medicare and Medicaid programs.

The MergerWatch report concludes that, based on the financial data and other data, “Catholic hospitals have left far behind their humble beginnings as facilities established by orders of nuns and brothers to serve the faithful and the poor. They have organized into large systems that behave like businesses – aggressively expanding to capture greater market share – but rely on public funding and use religious doctrine to *compromise women’s health care*.”<sup>15</sup>

That *compromise* very easily may be to LGBT health care, too. The U.S. Conference of Catholic Bishops (“USCCB”) has been direct and firm claiming a religious right to disregard the marriages of same-sex couples and the medical consensus about treatment of gender dysphoria. For example, the USCCB filed comments last month criticizing HHS’s proposed rules for implementing Section 1557 of the ACA.<sup>16</sup> Section 1557 prohibits discrimination in health care services and programs receiving federal funding on various grounds including sex. Like the EEOC, HHS interprets “sex” as including gender identity and may, in the final version of the rules, interpret it similarly as including sexual orientation. But, the USCCB position claims a religious right to forbid gender transition care at its facilities, and to deny spousal benefits to its employees with a same-sex spouse.<sup>17</sup>

Other Catholic ERDs forbid vasectomy, tubal ligation, abortion even to end a life-threatening ectopic pregnancy, contraception, many forms of infertility care and assisted reproduction, and aid-in-dying medications.<sup>18</sup> Members of the public of diverse religious faiths, or no faith, can be surprised and distressed to learn that their medical options are limited in so many respects by beliefs they do not share. This distress can become acute when they learn that an institution’s rule concerning terminally ill patients who request aid in dying because their “suffering ... cannot be alleviated,” is that such patients “should be helped to appreciate the Christian understanding of redemptive suffering.”<sup>19</sup>

At Lambda Legal, we know these are not hypothetical concerns because we currently are representing numerous people who have been denied medical care as patients or equal spousal benefits as employees. We worry that we will see such problems more frequently as religiously affiliated hospitals, nursing homes and other facilities deny visitation, medical decision-making, and other rights to same-sex spouses and transgender people. In addition, we have represented patients with HIV discrimination claims in which there was nothing

13 Much information about these mergers is available from MergerWatch at <http://www.mergerwatch.org/>.

14 <http://www.mergerwatch.org/mergerwatch-news/2013/12/18/rise-in-catholic-sponsored-hospitals-threatens-womens-health.html>.

15 *Miscarriage of Medicine*, at page 1 (emphasis added).

16 U.S. Conference of Catholic Bishops, *Nondiscrimination in Health Programs and Activities*, RIN 0945-AA02 (Nov. 6, 2015), <http://www.usccb.org/about/general-counsel/rulemaking/upload/Comments-Proposal-HHS-Reg-Nondiscrimination-Federally-Funded-Health.pdf>.

17 *Id.* at p. 9, fn. 17; see also USCCB Comments re U.S. Dep’t of Labor’s proposed sex discrimination regulations (March 30, 2015) (addressing proposed OFCCP rules governing federal contractors and employers covered by Title VII, the federal employment nondiscrimination law), <http://www.usccb.org/about/general-counsel/rulemaking/upload/Comments-Discrimination-Basis-of-Sex-March-2015.pdf>.

18 *Miscarriage of Medicine*, at pages 22-24.

19 *Id.* at page 24. The Directives are available in full at <http://www.usccb.org/issues-and-action/human-life-and-dignity/health-care/upload/Ethical-Religious-Directives-Catholic-Health-Care-Services-fifth-edition-2009.pdf>.



public to indicate that the medical facility in question was controlled by a religious organization that would assert that it was exempt from the Americans with Disabilities Act.<sup>20</sup> Among MergerWatch's important recommendations is a call for clear, strong rules that all hospitals, regardless of religious affiliation, must provide complete information about all treatment options, emergency care, and referrals.<sup>21</sup>

### III. Policy Recommendations:

1. Substantially increased funding for providers of culturally competent services for LGBT people and people living with HIV. While we must continue to press all health care providers to provide medically appropriate care, it is an urgent priority to expand the capacity of those providers who do – and affirmatively want to – provide medically sound, culturally competent care now.
2. Expanded funding for training and educational programs about cultural competence and nondiscrimination rules for all types of state-licensed service providers.
3. Enforcement of ACA “network adequacy” requirements for LGBT health care, as well as for reproductive health and end-of-life care, especially in low-income and rural communities.
4. Enforcement of nondiscrimination requirements in public contracts for medical and social services.
5. Enforcement of state laws and rules against discrimination by licensed medical and social service providers who serve the general public.
6. Collection of appropriate data and ongoing monitoring to make possible effective enforcement of nondiscrimination requirements and allocation of quality services in underserved areas. This should include inclusion of questions concerning sexual orientation and gender identity on the Covered California enrollment form, which unfortunately has been blocked by the U.S. Centers for Medicare and Medicaid Services (CMS).
7. Require that medical and social service providers who serve the general public give clear notice of any services within the standard of care that are not provided for religious reasons.
8. Prohibit licensed medical and social service providers from withholding information needed for patients’ informed consent, and from providing false or misleading information designed to skew patients’ decisions concerning treatment options.
9. Where government approval is required for hospital mergers, closely scrutinize proposed mergers of secular and religiously affiliated hospitals or health plans, and secure enforceable guarantees that religious restrictions will not be imposed on the merged entity in ways that limit patients’ care and treatment options, cultural competence of care provided, or treatment of the merged entity’s LGBT employees. Public attention also is warranted concerning proposed business partnerships between religiously affiliated and secular institutions providing licensed health-related services – such as hospitals and pharmacies – that present a likelihood of restricting care options for religious reasons.

#### **Lambda Legal**

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20 For example, see *Rose v. Cahee* at <http://www.lambdalegal.org/in-court/cases/rose-v-cahee-et-al>.

21 *Miscarriage of Medicine*, at pages 18-20.

Pilar Schiavo, *California Nurses Association*



**The Campaign for a Healthy California** (CHC) is a coalition of organizations committed to building and broadening a grassroots movement to replace private health insurance with guaranteed healthcare for all Californians.

The Affordable Care Act (ACA) made history in the United States by expanding health insurance to millions of Californians for the first time. However, it left insurance companies in charge of our healthcare system. In addition, even when the ACA is fully implemented in California, between three and four million Californians will remain uninsured.

In 2017 states will be eligible to improve upon the Affordable Care Act, and implement a plan that is truly universal and finally gets costs under control. Through our extensive statewide organizing and legislative work, the CHC is committed to building and broadening a grassroots movement to replace private health insurance with a single payer system that guarantees healthcare for all Californians.

California can set the trend for the country by implementing a just and equitable healthcare system. Through our statewide work and extensive field program, the CHC is committed to building and broadening the movement that can make improved Medicare For All a reality in California.

# HOW THEY STACK UP Covered California vs. Medicare for All

## COVERED CALIFORNIA (CA Insurance Exchange)

## MEDICARE FOR ALL (MFA)

How many Californians are covered?	The expansion of MediCal and private insurance will provide millions of Californians with insurance. <b>However, it is estimated there will be 3–4 million uninsured by 2019.</b>	<b>Guaranteed healthcare for all.</b> Every Californian receives a single standard of quality care, including immigrants.
Is my health coverage continuous?	Complicated administrative structure. Depending on employment status and income, you can be forced to change insurance companies several times a year. Needless paperwork, and you may lose access to your current provider.	<b>Even if you are unemployed, or lose or change your job, your health coverage goes with you.</b>
How is preventive care covered?	Prevention must be a covered benefit at no cost. However, exorbitant copayments for follow-up treatments like labs and X-rays are barriers to getting care that keeps Californians healthy.	By removing financial roadblocks, MFA encourages preventive care that lowers an individual's cost of pain and suffering when problems are neglected, and societal cost in the over-utilization of ERs or the spread of communicable disease.
What are my out-of-pocket costs?	<b>Annual out-of-pocket costs could range</b> from \$2,250 for an individual earning just above federal poverty level up to \$13,000 for a family at four times the federal poverty level. High out-of-pocket costs if you don't use an in-network provider.	<b>Uniform benefits.</b> One level of comprehensive care no matter what the size of your wallet.
How are locations of healthcare facilities determined?	Currently, healthcare facilities are built in high-profit areas, mainly high-income locations. This means that access will continue to be poor for the millions living in poor or rural communities.	One of the causes of racial health disparities is availability of medical services in a particular community. MFA provides health planning so hospitals and clinics are built in communities where they are needed. Access to care in our local communities improves racial disparities and life expectancy.
Can I choose my own health-care provider?	Private insurers continue to determine what care is received, and which providers you can go to. Access to specialists only through gatekeepers.	Patients choose their providers and all providers are assured a fair reimbursement.
How are decisions made in my medical care?	The Affordable Care Act advances initiatives such as "best practices." This mandates the use of protocols for most treatments. Thus, clinical judgment of health professionals is minimized, which lowers the standard of care patients receive.	MFA ensures that clinical judgement by educated health professionals in consultation with their patients is the basis for healthcare decisions.
How is administrative overhead reduced?	Attempts to limit overhead spending by health insurance companies to 15%–20% percent.	Minimizes administrative waste to public insurance levels, currently 3% overhead for Medicare. <b>Every academic study for a single-payer system concludes:</b> <ul style="list-style-type: none"> <li>• <b>Everyone is insured</b></li> <li>• <b>Lives are saved</b></li> <li>• <b>Quality is improved</b></li> <li>• <b>Money is saved</b></li> </ul>

California Nurses Association, 225 W Broadway # 500, Glendale, CA 91204. Contact: 818-240-1900.  
<http://www.nationalnursesunited.org/site/entry/california-nurses-association>



Matthew Barragan,  
*Mexican American Legal Defense and Educational Fund*

MALDEF strives to implement programs that are structured to bring Latinos into the mainstream of American political and socio-economic life; providing better educational opportunities; encouraging participation in all aspects of society; and offering a positive vision for the future.

## STRATEGIES

**Protecting Immigrants' Rights:** Whether at work, at school, or at home, immigration affects every family, business, and community in the United States; indeed, it is at the core of our national identity. Today, Latinos are the largest-growing ethnic group in the country. MALDEF is at the forefront of the law and policy efforts to create and preserve opportunities for those in search of economic opportunity and personal freedom in America. MALDEF attorneys and staff have successfully challenged divisive and unconstitutional anti-immigrant ordinances across the nation. MALDEF has created an advocacy and litigation Action Tool Kit for use by community leaders to understand the implications of the ordinances and challenge them.

**Standing up for Immigrants' Rights in the Legislatures:** Comprehensive immigration reform at the federal level is MALDEF's top policy priority. As we advocate for sensible, effective changes to U.S. immigration policy, MALDEF is also battling state, local, and federal initiatives that discriminate against immigrants and violate basic civil rights.

**Hate Crimes:** In the past several years, hate crimes against Latinos have risen 40%. This is a national epidemic whose growth is spurred each day by hate speech, distortion of facts, and anti-immigrant sentiment expressed on cable shows, local radio shows and across the airwaves. MALDEF calls upon national representatives, faith leaders, educators, and parents to stand up and take immediate action against this national wave of hatred. Local and federal authorities must prosecute hate crimes to the fullest extent under law. Local officials and media personalities must take responsibility for the consequences of their extremist rhetoric and should spread messages of respect and tolerance.

**Immigrant Integration:** As immigrants continue to be a growing portion of our nation's schools and workforce, it is critical that investments are made to train and educate English language learners (ELL) and assist them transition into their new communities.

**Language Access:** MALDEF recognizes that learning English is critical to participating in, contributing to, and succeeding in American society. However, English-only and Official English laws do nothing constructive to advance the important goal of English proficiency. Laws that interfere with or undermine the government's ability to communicate quickly and effectively are simply bad public policy.

**Promoting Fair Employment Practices:** Discrimination continues to affect Latino workers at all levels of the economy, whether as a result of a hostile work environment, the denial of promotions, or being forced to work unpaid “overtime.” MALDEF litigation efforts seek to create workplaces that are free from discrimination and to remove systematic barriers to Latino advancement.

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Ron Coleman, *California Immigrant Policy Center*

## **What Lies Ahead for Health For All? Opportunities and Advocacy on Health Coverage for California Immigrants**

Millions of Californians are now able to access coverage through Covered California or Medi-Cal, but there is more work to be done to expand healthcare access to those who are unjustly excluded due to their immigration status. The Health for All campaign, at the state and county level, is key to addressing this health injustice. By forming a coalition, advocates and community members have engaged in legislative and field efforts to pass SB 4 (Lara) and create a more inclusive narrative on healthcare access. The coalition of over 80 organizations which includes immigrant rights, health advocates, labor and faith based groups drives state and legislative advocacy on expanding healthcare coverage to all Californians.

### **BUDGET**

#### **2015-2016 California State Budget, Health For All Children and Youth**

On June 24, 2015 Governor Brown signed the \$115.4 Billion General Fund budget which includes historic investments for immigrant families. With an initial investment of \$40 million in the 2015-2016 budget (and \$132 million in future years) California will take a key first step toward expanding healthcare for all. This funding will guarantee comprehensive, full-scope Medi-Cal coverage to over 170,000 undocumented children and youth until they turn 19.

This expansion is set to begin no sooner than May 1, 2016. Advocates and the Department of Health Care Services (DHCS) are currently working together to implement this expansion.

### **LEGISLATION**

#### **SB 4 (Sen. Ricardo Lara)**

Previous version: A previous version of SB 4 that moved through the Senate would have expanded Medi-Cal to all Californians regardless of immigration status, while also requesting a federal Section 1332 waiver to allow undocumented immigrants to purchase a health plan through the State exchange, without subsidies. After the state budget investment towards health coverage for all children, the provision in SB 4 to expand health coverage to all children was no longer necessary and was taken out of the bill. Furthermore, the provision that would ensure all adults in California could receive comprehensive Medi-Cal to the extent funding is available and the request for a federal Section 1332 waiver were both moved to SB 10. Please see below for more information on SB 10.

- SB 4 contains important “technical fixes” to ensure that undocumented children and youth who will be eligible for comprehensive Medi-Cal under the state budget will transition from restricted scope Medi-Cal to full scope Medi-Cal seamlessly without barriers to continued enrollment.
- SB 4 also ensures that those children with serious medical conditions that require specialty care, who are being newly enrolled in the program, will be properly evaluated and referred.



SB 4 was signed by Governor Brown on October 9, 2015.

### SB 10 (Sen. Ricardo Lara)

SB 10 was originally a bill that sought to establish an “Office of New Americans” in California. However, the 2015-2016 budget created a Statewide Director of Immigrant Integration, housed in the Governor’s office as a compromise to the original proposal. Thus, SB 10 was completely redesigned and is now a health bill.

As amended, SB 10 would allow undocumented adults 19 years and older to receive comprehensive Medi-Cal, if funding is made available. In addition, SB 10 seeks to allow all Californians, regardless of immigration status, to purchase coverage through Covered California with their own money by requiring the state to apply for a federal Section 1332 waiver (a formal request to the federal government)<sup>1</sup>. SB 10 is a two-year bill and is expected to move through the legislative process in early 2016, and stories, voices, and targeted advocacy by LGBT community members will be crucial as we embark on next steps in the health for all campaign.



**California Immigrant Policy Center**  
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### Health Program Eligibility Chart for California Immigrants

*Revised: December 2015*

PROGRAM		Full-Scope Medi-Cal	Restricted <sup>1</sup> Medi-Cal	Covered CA (* denotes eligibility for Advanced Premium Tax Credit)	Child Health and Disability Prevention Program	Family Planning, Access, Care, and Treatment	Medi-Cal Access Program <sup>2</sup>	Women, Infants, and Children
Immigrant Benefit Eligibility Category	Lawful Permanent Resident	Eligible	Eligible	Eligible (100% to 400% of the FPL*)	Eligible	Eligible	Eligible	Eligible
	Refugees & Asylees <sup>3</sup>	Eligible	Eligible	Eligible (100% to 400% of the FPL*)	Eligible	Eligible	Eligible	Eligible
	PRUCOLs & “lawfully present” under U.S. HHS rules <sup>4</sup>	Eligible	Eligible	Eligible (0% to 400% of the FPL*)	Eligible	Eligible	Eligible	Eligible
	Deferred Action for Childhood Arrivals (DACA) <sup>5</sup>	Eligible	Eligible	Not Eligible	Eligible	Eligible	Eligible	Eligible
	Survivors of Human Trafficking or Serious Crime (T or U Visa Holders) <sup>6</sup>	Eligible	Eligible	Eligible (100% to 400% of the FPL*)	Eligible	Eligible	Eligible	Eligible
	Other Non-immigrant Visa Holders <sup>7</sup>	Maybe <sup>8</sup>	Maybe <sup>7</sup>	Maybe <sup>9</sup>	Maybe <sup>7</sup>	Maybe <sup>7</sup>	Maybe <sup>7</sup>	Maybe <sup>7</sup>
	Undocumented Immigrants <sup>10</sup>	Not Eligible <sup>11</sup>	Eligible	Not Eligible <sup>12</sup>	Eligible	Eligible	Eligible	Eligible
	Undocumented Children and Youth <sup>13</sup>	Eligible <sup>14</sup>	Eligible	Not Eligible	Eligible	Eligible <sup>15</sup>	Eligible <sup>16</sup>	Eligible

For more information contact:

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<sup>1</sup> Center on Budget and Policy Priorities, Understanding the ACA’s State Innovation (“1332”) Waivers, February, 2015. : <http://www.cbpp.org/cms/?-fa=view&id=5265>



## Clement Lee, *Immigration Equality*

Today, California is home to nearly 25% of all undocumented immigrants living in the U.S., a population of more than 2.5 million people. As such, LGBT activists in the state should fight for reforms to protect and empower members of the community who are immigrants. While the federal government must pass comprehensive immigration reform, there are many changes that can take place in California right now.

### **Access to Counsel**

While immigrants being threatened with deportation have the right to an attorney if they can afford one, the federal government will not pay for their lawyers. This is fundamentally unfair, where the government will always pay for attorneys to try to convince a judge to deport the immigrants. Furthermore, because many LGBT immigrants flee to the U.S. to escape homophobic and transphobic persecution, having an attorney to help them win their cases can be a matter of life and death.

**Recommendation:** California should provide funding to pay attorneys to represent vulnerable immigrant populations like the LGBT community. It should do so especially for LGBT immigrants in detention facilities, who are six to seven times more likely to be granted asylum if they have a lawyer.

### **Santa Ana City Jail**

For several years now, ICE has detained GBT immigrants in a segregated housing unit at the Santa Ana City Jail. The immigrants are held there until they have had a chance to explain to a judge why they should be allowed to stay in the United States. While the immigrants are in civil detention, they are nevertheless housed in conditions that are overly punitive and closely resemble prison. The jail must treat GBT immigrants more humanely.

**Recommendation:** Demand that local politicians increase oversight of the facility: (1) to stop repeated and unnecessary strip searches, (2) to improve the facility's overall healthcare and to increase access to hormone therapy to transgender women who need it, and (3) to forbid staff from placing transgender women into solitary confinement as a form of punishment.

### **AB60 Licenses**

In January 2015, California began to issue driver licenses to residents regardless of immigration status. As of December 1, 2015, almost 600,000 AB60 licenses were issued. Often, an AB60 license may be the only valid identity document available to some transgender immigrants.

**Recommendation:** California should make it easy for immigrants to choose the gender marker that best reflects their gender identity, regardless of what their other documents may reflect.

### **Reducing criminal sentences**

LGBT immigrants who lack community support and the authorization to work legally are often forced to seek employment in the underground economy. Unfortunately, a conviction for certain crimes of survival that carry a sentence of one year or more may bar an immigrant from obtaining legal status in the United States. This is unfair and unduly punitive for the most vulnerable among us.

**Recommendation:** Reduce the maximum possible misdemeanor sentence in the state from one year to 364 days, especially for crimes of survival.

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