

EQUALITY CALIFORNIA INSTITUTE  
presents

*Fair*  
**SHARE**  
→ **FOR** ←  
**EQUALITY**



**REPORT OF THE THIRD CONVENING**  
AND COMPANION REPORTS OF PROGRAM PARTICIPANTS

FEBRUARY 1, 2017 | SACRAMENTO, CALIFORNIA



**EQUALITY**  
**CALIFORNIA**

# THANK YOU TO SPONSORS & PARTICIPANTS



**Brownstein Hyatt  
Farber Schreck**



## PRESENTING SPONSORS:

Brownstein Hyatt Farber Shreck, LLP  
The California Endowment  
Microsoft

## CO-SPONSORING ORGANIZATIONS:

American Civil Liberties Union of California  
Anti-Defamation League  
APLA Health  
Black AIDS Institute  
California Immigrant Policy Center  
California LGBT Health & Human Services Network  
Gender Health Center  
GSA Network  
Health Access  
Human Rights Campaign  
Immigrant Legal Resource Center  
LA HIV Law and Policy Project  
Lambda Legal  
The Los Angeles LGBT Center  
Movement Advancement Project  
National Center for Lesbian Rights  
National Immigration Law Center  
Our Family Coalition  
Planned Parenthood Affiliates of California  
Positive Women's Network USA  
Project Angel Food  
Project Inform  
Ready California  
San Francisco AIDS Foundation  
The San Francisco LGBT Center

## EQUALITY CALIFORNIA INSTITUTE STAFF:

Alice Kessler, *DiMare, Brown, Hicks & Kessler LLC*  
Allison VanKuiken, *Program Director*  
Brad Lundahl, *Program Manager*  
Chelsea Mottern, *Program Associate*  
Scott J. Gizicki, *Development Manager*  
Estrella Lucero, *Program Associate*  
Jo Michael, *Legislative Manager*  
Kenny Cassidy, *Development Director*  
Rick Rivas, *San Francisco Program Manager*  
Rick Zbur, *Executive Director*  
Robbie Rodriguez, *Program Director*  
Sue Ellen Rector, *Administrative Associate*  
Tami A. Martin, *Program Manager*  
Tony Hoang, *Managing Director*

Valecia Phillips, *Director of Finance & Administration*

## KEYNOTE SPEAKERS:

Assembly Speaker Anthony Rendon  
Assemblymember Evan Low  
Senate pro Tem Kevin de León

## PROGRAM PARTICIPANTS:

Amanda Wallner, *Health Access, California LGBT Health & Human Services Network*  
Amira Hasenbush, *The Williams Institute*  
Anthony Wright, *Health Access*  
Assemblymember Susan Eggman  
Assemblymember Todd Gloria  
Ben Hudson, *Gender Health Center*  
Craig Pulsipher, *APLA Health*  
Ilan Meyer, *The Williams Institute*  
Jodi Hicks, *DiMare, Brown, Hicks & Kessler LLC*  
Karen Mark, *California Department of Public Health/Office of AIDS*  
Kate Kendell, *National Center for Lesbian Rights*  
Kathy Kneer, *Planned Parenthood California*  
Naomi Goldberg, *Movement Advancement Project*  
Ola Osaze, *Transgender Law Center*  
Rebecca Rolfe, *The San Francisco LGBT Center*  
Renata Moreira, *Our Family Coalition*  
Richard Ayoub, *Project Angel Food*  
Rob Newells, *AIDS Project East Bay*  
Ronald Coleman, *California Immigrant Policy Center*  
Sara Feldman, *Immigrant Legal Resource Center*  
Senator Ricardo Lara  
Senator Scott Wiener  
Shawn Meerkamper, *Transgender Law Center*  
Shedrick Davis, *Lambda Legal*  
Shiu Ming Cheer, *National Immigration Law Center*  
Tasha Hill, *American Civil Liberties Union*  
Valerie Ploumpis, *Equality California*  
Vincent Pompei, *Human Rights Campaign*

# TABLE OF CONTENTS

LETTER FROM THE EXECUTIVE DIRECTOR	4
EQUALITY CALIFORNIA SUMMARY REPORT	6
REPORTS FROM PROGRAM PARTICIPANTS	14
<b>HEALTH DISPARITIES &amp; THREATS TO AFFORDABLE CARE:</b>	
Amanda Wallner, <i>California LGBT Health &amp; Human Services Network</i>	
and Anthony Wright, <i>Health Access</i>	16
Kathy Kneer, <i>Planned Parenthood California</i>	18
<b>HIV/AIDS DECRIMINALIZATION, PrEP EFFORTS, &amp; GETTING TO ZERO:</b>	
Amira Hasenbush, <i>The Williams Institute</i>	21
Craig Pulsipher, <i>APLA Health</i>	23
Karen Mark, <i>California Department of Public Health, Office of AIDS</i>	26
Gerald Garth, <i>Black AIDS Institute</i>	28
<b>TRANSFORMING CALIFORNIA: IMPROVING THE LIVES OF TGNC PEOPLE:</b>	
Shedrick Davis, <i>Lambda Legal</i>	31
Jo Michael, <i>Equality California</i> ; Shawn Meerkamper, <i>Transgender Law Center</i> ; and Ben Hudson, <i>Gender Health Center</i>	33
<b>PROTECTING LGBTQ FAMILIES, SENIORS, &amp; YOUTH:</b>	
Shedrick Davis, <i>Lambda Legal</i>	36
Rebecca Rolfe, <i>San Francisco LGBT Center</i>	38
Richard Ayoub, <i>Project Angel Food</i>	42
Renata Moreira and Polly Pagenhart, <i>Our Family Coalition</i>	44
<b>MEETING THE CHALLENGES UNDER A TRUMP ADMINISTRATION:</b>	
Valerie Ploumpis, <i>Equality California</i>	48
Kate Kendell, <i>National Center for Lesbian Rights, Transcribed Remarks</i>	50
Sue Dunlap, <i>Planned Parenthood Los Angeles</i>	52
<b>THE LGBTQ EXPERIENCE AND THE CRIMINAL JUSTICE SYSTEM:</b>	
Naomi Goldberg, <i>The Movement Advancement Project</i>	55
Ilan Meyer, <i>The Williams Institute</i>	58
<b>THE IMMIGRATION LANDSCAPE AND HOW WE CAN SHAPE IT:</b>	
Shiu-Ming Cheer and Angelo Mathay, <i>National Immigration Law Center</i> ; and Ronald Coleman, <i>California Immigrant Policy Center</i>	62
Sara Feldman, <i>Immigrant Legal Resource Center</i>	65

Equality California is the nation's largest statewide lesbian, gay, bisexual, transgender, and queer (LGBTQ) civil rights organization. Equality California's mission is to bring the voices of LGBTQ people and allies to institutions of power in California and across the United States, striving to create a world that is healthy, just, and fully equal for all LGBTQ people. We advance civil rights and social justice by inspiring, advocating, and mobilizing through an inclusive movement that works tirelessly on behalf of those we serve.

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.

## LETTER FROM THE EXECUTIVE DIRECTOR



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

We are proud to present the report of the third annual Fair Share for Equality convening that took place in Sacramento on February 1, 2017. Community leaders, elected officials, policy makers and advocates from across California came together in the state's capital for a full day of panels and discussions on the most pressing challenges the LGBTQ community is facing and will face in the years ahead. Speakers shared how the community and our government can better meet the needs of LGBTQ people and vulnerable communities that we are a part of.

Despite considerable advances, the LGBTQ community continues to face significant disparities in health and well-being compared to the broader community. Doctors today know more than ever before about HIV treatment and prevention, but many lack the cultural competency necessary to foster welcoming environments for their LGBTQ patients. The Affordable Care Act (ACA) made quality health insurance accessible to millions of additional Californians, but contingents in Congress are attempting to roll back the ACA in a manner that would eliminate and harm health coverage for millions of LGBTQ people. Dynamic and thriving immigrant families contribute to California's communities, but the new federal administration plays on hate and xenophobia by calling to deport millions of immigrants, ripping them from their homes, jobs, schools, and families. LGBTQ people—particularly seniors, youth, and people who are transgender or gender non-conforming—still disproportionately lack necessities like food and housing. California has one of the most pro-equality legal frameworks in the world yet, until recently, had outdated criminal laws that fostered HIV stigma and hindered treatment, testing, and public health goals. In the criminal justice system, LGBTQ people face higher rates of arrest, incarceration, recidivism, and physical and sexual assault in prisons compared to the general population. Lawmakers and community members lack sufficient data, and funding, to combat these disparities.

In this time of political upheaval and uncertainty, one thing is clear—our communities must come together to clarify objectives and coordinate responses. Equality California Institute's groundbreaking Fair Share for Equality initiative forges community connections and educates legislators and policy makers about how to advance the health and well-being of California's LGBTQ community. It also brings together leaders and experts to develop program recommendations that will be beneficial to those in our community who are most vulnerable.

Almost 200 people attended the 2017 Fair Share for Equality convening, including LGBTQ leaders, representatives from community organizations, educators, social service experts, and government officials and staff. Expert panelists outlined critical program and funding needs and prepared detailed reports with policy recommendations. Equality California Institute thanks these speakers and co-sponsoring organizations, which are set forth on the

preceding pages, for their contributions. Each report is included herein, and we recommend that you review them.

The partner reports were provided by program participants in 2017 and represent the policy views and perspectives of their authors; they do not necessarily represent policy views of other individuals or organizations participating in the convening.

Our summary report represents the views of Equality California and Equality California Institute. The following recommendations inform our legislative and education strategies:

- Defend access to high-quality, affirming, and affordable health care.
- Support implementation and funding for a statewide coalition plan for “getting to zero.”
- Modernize HIV transmission laws that single out and stigmatize people with HIV.
- Address systemic bias and violence against transgender and gender non-conforming people.
- Implement programs to increase employment opportunities for LGBTQ people, especially transgender and gender non-conforming people.
- Support enforcement of legal protections, and push for new protections, for LGBTQ seniors.
- Ensure that schools are fostering safe and supportive learning environments and working to combat bullying and discrimination.
- Address the epidemic of LGBTQ homelessness, especially among LGBTQ youth.
- Within the criminal justice system, reduce violence against, and differential treatment of, LGBTQ people, especially transgender and gender non-conforming people.
- Defend California’s legacy as a welcoming home to a dynamic immigrant population.
- Expand and implement data collection relevant to the LGBTQ community.
- Assure that budgetary resources meet the needs of LGBTQ people and people living with HIV.

As a result of these recommendations, we advanced a number of key bills in the 2017 legislative cycle. We thank Governor Brown and members of the California legislature for modernizing discriminatory HIV criminalization laws by ushering SB 239 into law. In addition, the Gender Recognition Act of 2017, SB 179, enables transgender, intersex, and nonbinary people to obtain state-issued identity documents that more accurately reflect their gender identity and streamlines the process for changing gender markers on these identifying documents. The Seniors Long Term Care Bill of Rights, SB 219, strengthens protections for LGBTQ seniors living in long-term care facilities against discrimination. The bill to establish a Tiered System for California’s Sex Offender Registry, SB 384, addresses the unfair targeting and entrapment, particularly of gay men, on charges that required registration when their actions hurt no one, including for simply engaging in same-sex contact when that action was criminalized in the past. These are just a few of the key legislative advancements we moved forward in 2017.

We carry many of these recommendations into our 2018 legislative package, which includes bills to make clear in California statute that conversion therapy is consumer fraud, ensure access to gender-affirming healthcare for foster youth, provide California schools with resources for LGBTQ cultural competency training, invest in services for youth experiencing homelessness, update local hate crime policies, and respond to other important priorities.

We encourage you to read our report and each companion report. We hope they will provide a better understanding of some of the challenges that the LGBTQ community struggles with every day. As our leaders and public policy makers, you are uniquely positioned to make a difference. Thank you for your time and your interest.

Sincerely,



Rick Zbur  
Executive Director  
EQUALITY CALIFORNIA  
EQUALITY CALIFORNIA INSTITUTE

# EQUALITY CALIFORNIA SUMMARY REPORT

California has developed some of the most robust LGBTQ protections in the world, but LGBTQ people continue to experience disproportionately high rates of poverty, suicide, homelessness, social isolation, bullying in school, negative health outcomes, substance abuse, violence, police profiling, and criminal convictions. These disparities are catalyzed by discrimination against, and lack of acceptance and respect for, LGBTQ people and are even more pronounced for women, seniors, communities of color, transgender people, and undocumented immigrants.

Equality California Institute (EQCAI) created its groundbreaking Fair Share for Equality initiative to address these disparities. Through the annual Fair Share for Equality convening, EQCAI helps state legislators and policy makers better understand how to allocate a “fair share” of government resources toward advancing the health and wellbeing of California’s LGBTQ community. Health care professionals, immigration advocates, data experts, attorneys, and others from the LGBTQ community and its allies participated in the conference.

We invited our panelists to submit recommendations for California policy makers. Panelists provided recommendations in the areas of health care, HIV treatment and prevention, HIV decriminalization, the transgender and gender non-conforming community, the criminal justice system, LGBTQ youth and seniors, immigration, data collection, and more. These recommendations are laid out in more detail in the pages that follow.

This report is advised both by colleague priorities and by EQCAI’s independent program priorities. What follows are EQCAI’s recommendations for California lawmakers and policy makers.



## DEFEND ACCESS TO HIGH-QUALITY, AFFIRMING, AND AFFORDABLE HEALTH CARE.

Health care remains one of the highest priorities for our state and community. LGBTQ people are more likely than non-LGBTQ counterparts to lack health insurance, be denied employment, live in poverty, and be discriminated against in health care settings. Due to these systemic barriers to quality, affordable, and affirming health care, LGBTQ people experience high rates of cancer, substance abuse, and HIV.

To address these disparities, Equality California urges California's lawmakers and policy makers to defend access to the ACA, to preserve the Medicaid expansion, and to expand health care options for the undocumented immigrant community.

Even when LGBTQ people are able to access health care, they often encounter providers who are unfamiliar with, or outright hostile to, them and their needs. However, many LGBTQ people do not have access to a doctor to begin with. Repeal of the Affordable Care Act (ACA), a reversal of the Medicaid expansion, or elimination of LGBTQ non-discrimination protections would reduce access to care even further. Following the ACA's enactment, nearly four million Californians gained health insurance, and California's uninsured rate fell from 17.2% to 7.4%.

The impact of losing the ACA would be disproportionately felt by the LGBTQ community, including hundreds of thousands of LGBTQ Californians. While LGBTQ people face many of the same health conditions as the general public, they are profoundly impacted by discrimination, bullying, violence, rejection by families and communities, and lack of acceptance in employment and housing. A higher prevalence of certain conditions such as HIV/AIDS and certain kinds of cancers take a heavy toll on LGBTQ people and their families. Economic inequalities aggravate this cycle of discrimination. The LGBTQ poverty rate is double that of the general population and 16 times higher for transgender people alone. Nearly 90 percent of the 130,000 LGBTQ Californians who buy coverage through Covered California get federal financial assistance to pay for their insurance.

We ask California lawmakers and members of the California congressional delegation to use their influence and platforms to do everything they can to retain nine key provisions of the ACA:

- Subsidize insurance premium increases to keep quality health care coverage affordable at all income levels.
- Protect expansion of Medicaid and Medi-Cal. Switching

to a block grant system would profoundly undermine the nation's health safety net, reduce health care coverage, and hurt quality of care.

- No change in policies related to people with pre-existing conditions.
- Non-discrimination on the basis of gender, sexual orientation, and gender identity.
- Covered, manageable costs for specialty medications such as HIV treatment and prevention medications.
- No lifetime cap and no annual limit so chronic diseases are properly treated.
- Mandated coverage for children up to age 26.
- A prohibition on dropping people when they get sick.
- Covered preventive care for services such as contraception, HIV testing, and recommended cancer screenings.

We urge you to leverage the state's influence in Washington to preserve the Medicaid expansion and to oppose any ACA replacement proposals that do not provide the robust health care provisions above. To the extent these provisions are in jeopardy, we ask that you look for ways that California can fill any resulting gaps.

We also urge California's lawmakers to expand health care options for the undocumented immigrant community. There are an estimated 250,000 LGBTQ undocumented immigrants in California. LGBTQ undocumented people are some of the most vulnerable members of our society due to tremendous negative effects for being members of two marginalized groups. It is a public health and ethical necessity to expand health care options to people in California regardless of immigration status. We urge California lawmakers to support the implementation of the Health4All Kids Medi-Cal expansion—which extended full-scope, comprehensive Medi-Cal to nearly 200,000 additional low-income undocumented children since it took effect in 2016—and to allocate funding to extend Medi-Cal to low-income undocumented young adults up to age 26.

## SUPPORT IMPLEMENTATION AND FUNDING FOR A STATEWIDE COALITION PLAN FOR "GETTING TO ZERO."

Due to lack of health care, lack of provider knowledge regarding HIV prevention, poverty, social stigma and other barriers, transgender people and gay and bisexual men of color continue to face particularly high rates of HIV transmission. If current rates persist, the Centers for Disease Control and Prevention predicted in 2016 that a quarter of Latino and half of African-American gay and bisexual men will become HIV-positive at some point in their lives.

Equality California Institute is committed to getting to zero—zero HIV transmission, zero AIDS-related deaths, and zero stigma against people living with HIV. With today’s prevention and treatment tools, this goal is within reach. Pre-exposure prophylaxis (PrEP) is a daily pill for HIV-negative people that can reduce the risk of HIV transmission by up to 99% when taken regularly. Despite its high effectiveness, PrEP remains underutilized due to cost and lack of awareness. People who are uninsured or underinsured often cannot afford the cost of doctor appointments, the medicine itself, or required laboratory tests. Even when costs are not prohibitive, about one third of primary care physicians in 2015 did not know what PrEP was.

In addition to prevention tools, investments into HIV treatment methods are critical to reducing new infections. Studies show that, with treatment, people with HIV can achieve an undetectable viral load and are significantly less likely to be capable of transmitting HIV. Viewing HIV treatment as a means of prevention is crucial to slowing the spread of HIV.

California must do everything it can to maintain the ACA, which has huge positive effects for low-income people generally and low-income people affected by HIV in particular. Prior to the ACA, private insurers often considered HIV a preexisting condition and denied coverage to people living with HIV.

To successfully end the HIV/AIDS epidemic, California lawmakers must increase government funding for people living with HIV, many of whom cannot afford treatment, and support statewide outreach campaigns that educate at-risk communities about prevention options. Several cities, including San Francisco and San Diego, adopted ‘getting to zero’ plans, but many lack sufficient or sustainable funding for those plans. It is important for local jurisdictions to adopt comprehensive plans to end the HIV/AIDS epidemic and for state and local entities to provide adequate funding for those plans.

## **MODERNIZE HIV TRANSMISSION LAWS THAT SINGLE OUT AND STIGMATIZE PEOPLE WITH HIV.**

Strategies for “getting to zero” must also recognize that stigma and outdated draconian penalties discourage people from learning their HIV status and seeking treatment. Modernizing HIV criminal laws to reflect the current understanding of HIV is one of Equality California’s highest priorities and a national policy recommended by the U.S. Department of Justice during the Obama Administration. It is also a key component of the “Getting to Zero” plan laid out by California’s Governor

and Department of Public Health. Many laws that criminalize HIV were adopted in the 1980s and 1990s and were shaped by ignorance regarding HIV and how it is transmitted. The resulting legal framework imposed felony penalties on people living with HIV, whereas people with other serious communicable diseases were subject instead to misdemeanor charges.

California’s felony solicitation law, which was invoked in 95% of criminal incidents that are specifically related to HIV, required neither intent to transmit HIV nor an action that could have transmitted HIV. People living with HIV were subject to felony charges merely for speaking with other people, regardless of whether they had an undetectable viral load, whether preventive measures were taken, or whether the other people themselves were HIV-positive.

These unjust laws can be used by current or former sexual partners to intimidate and harass people living with HIV even when they have not engaged in harmful or risky behavior. These outdated laws also add to the stigma surrounding HIV and discourage people from learning their HIV status and seeking treatment, thereby fueling the HIV epidemic. Medical professionals recognize that HIV criminalization does not reduce HIV transmission, is not supported by modern science, and should be updated as a public health necessity.

Equality California’s 2017 legislative package included a bill to update discriminatory HIV criminalization laws. SB 239, authored by Senator Wiener and Assemblymember Gloria, and signed by Governor Brown, brought California laws in line with the modern understanding of HIV prevention and treatment. SB 239 eliminates criminal laws that impose unnecessarily harsh and draconian penalties on people living with HIV for activities that pose no risk of transmitting the virus. Public health officials support the change as a means of achieving public health objectives.

Moving ahead, modernizing HIV criminal laws across the nation remains a high priority for Equality California and the HIV community. Currently, 32 states have laws that criminalize behaviors associated with HIV exposure. In order to successfully tackle the HIV epidemic, it is critical that these laws are not only reformed but updated to be fair, thorough, and effective. In this regard, California’s SB 239 will serve as a model for equitable and robust reform of HIV criminal laws in other states.

Equality California is committed to working with other statewide and national LGBTQ and HIV organizations, as well as members of Congress outside California, to educate communities and policy makers, help craft appropriate



legislation, and build statewide coalitions to advance HIV decriminalization throughout the country.

## **ADDRESS SYSTEMIC BIAS AND VIOLENCE AGAINST TRANSGENDER AND GENDER NON-CONFORMING PEOPLE.**

Transgender and gender non-conforming people are systemically marginalized at work, in health care settings, and on the street. The 2015 U.S. Transgender Survey reported that transgender people of color and undocumented transgender respondents faced disproportionately high rates of unemployment, physical attack, homelessness, poverty, and intimate partner violence. These disparities are the result of barriers like societal ignorance, outright discrimination, identification documents that do not accurately reflect name and gender, and lack of gender-affirming health care.

In 2016, Equality California Institute launched and led the Transform California campaign in partnership with the Transgender Law Center and over 25 partner organizations. The campaign educated the public about transgender Californians and the challenges they face, identified spokespeople from within the transgender community, and shaped effective messaging about transgender people.

Equality California is also committed to shaping the legislative landscape that affects our community. SB 179, the Gender Recognition Act of 2017, authored by Senator Atkins and Senator Wiener and signed by Governor Brown, creates a third, nonbinary gender marker option on state-issued identity documents. With this third gender marker, people who are intersex, transgender, or gender non-conforming will have identification that more closely reflects their identities. Without accurate identity documents, everyday activities like finding work, accessing health care, voting, and opening bank accounts can be difficult or impossible. SB 179 continues California's legacy as a state leader in respecting the right of its residents to live authentically.

SB 310, the Name and Dignity Act, introduced by Senator Atkins and signed by Governor Brown, helps to ensure that transgender people will be legally recognized for who they are while incarcerated and increases the likelihood of their successful reentry into society upon release. The belabored process that an incarcerated transgender person previously had to complete to petition the court to change their legal name or gender marker often resulted in improper denials or no resolution. SB 310 establishes a direct pathway for petitions and requires corrections officials to use the new name of a person who obtains a name change.

Moving ahead, it is a high priority for Equality California to take steps to ensure that transgender youth receive the care and support they need. Research shows that gender identity usually forms at a very early age, often in preschool. Children typically have a very strong sense of their gender, even when it does not match the sex they were assigned at birth. Unfortunately, when they begin to express an identity that does not match the sex they were assigned at birth, they often face discouragement at best and outright rejection at worst from the adults in their lives. Without the support of parents, guardians, or other caregivers, transgender youth can face significant challenges, even if they understand what they are experiencing through their own research. Young people who experience rejection and maltreatment based on their gender identity or expression are at significantly increased risk for negative health outcomes, being excluded from or dropping out of school, homelessness, and involvement in foster care and juvenile justice systems.

Young people need supportive adults to ensure they can access necessary interventions before puberty begins. These interventions include medications that delay puberty and prevent a transgender young person from enduring both the physical and mental health impacts of their body changing in a potentially traumatizing way. These medications put a young person in the best possible position for a physical transition to the gender that matches who they know they are inside when the time is right for them.

Even when parents, guardians, and other caregivers understand what transgender young people are experiencing and express support, obstacles can remain, including the resources needed to secure this care and access to knowledgeable gender-affirming health care providers. It is important to Equality California to expand access to transition-related care for young people and ensure that as many youth as possible in California can get the care they need, regardless of what part of the state they live in or their family circumstances.

## **IMPLEMENT PROGRAMS TO INCREASE EMPLOYMENT OPPORTUNITIES FOR LGBTQ PEOPLE, ESPECIALLY TRANSGENDER AND GENDER NON-CONFORMING PEOPLE.**

Relative to the U.S. adult population, transgender people are twice as likely to live in poverty and three times more likely to be unemployed. Transgender respondents to the 2015 U.S. Transgender Survey were three times more likely than other U.S. adults to earn less than \$10,000 a year. One in three respondents who had a job in the preceding year reported being fired, not given a promotion, harassed, attacked, or

otherwise mistreated at work due to their gender identity or expression. These disparities are due to discrimination and lack of societal and familial acceptance.

Employment is a key pathway to economic advancement. SB 396, or the Transgender Work Opportunity Act, which was introduced by Senator Lara and signed by Governor Brown in 2017, will foster workplaces that are affirming for transgender and gender non-conforming employees. SB 396 aims to lower employment barriers, combat harassment, and reduce discrimination against transgender workers. Lawmakers at the state and local levels should also consider dedicating resources to implement job training and mentoring programs to lift up the transgender community. City-funded programs to connect transgender applicants with welcoming employers, and to provide training on application essentials like resume drafting and interview preparation, provide a pathway for economic empowerment.

## **SUPPORT ENFORCEMENT OF LEGAL PROTECTIONS, AND PUSH FOR NEW PROTECTIONS, FOR LGBTQ SENIORS.**

Seniors are among the most vulnerable people in the LGBTQ community. LGBTQ or HIV-positive seniors who are in assisted living facilities, seeking housing, or seeking public benefits are often discriminated against and become isolated during a time in their lives when they need assistance most. Over a quarter of LGBTQ adults last year did not have enough money for food. Homelessness, hunger, and violence compound the negative effects of social isolation. Ameliorating these negative effects must be a priority in California. Although legal mechanisms exist to protect California's seniors, they must be enforced to be useful.

As part of Equality California's 2017 legislative package, SB 219—known as the Seniors Long Term Care Bill of Rights, authored by Senator Wiener and signed by Governor Brown—strengthens protections for LGBTQ seniors living in long-term care facilities. SB 219 prohibits long-term care facilities from refusing to use a resident's asserted name or pronoun, denying admission, transferring a resident based on anti-LGBTQ attitudes of other residents, or evicting or involuntarily discharging a resident based on a person's actual or perceived gender identity, gender expression, sexual orientation, or HIV status. SB 219 supports the safety and comfort of LGBTQ seniors and protects their right to live openly and authentically.

Equality California is investigating additional ways to ensure that more caregivers in long-term care facilities are equipped to provide inclusive care to LGBTQ seniors. Discrimination

and bias against LGBTQ seniors remains. Equality California continues to advance toward the goal of broad-based cultural competency among caregivers.

## **ENSURE THAT SCHOOLS ARE FOSTERING SAFE AND SUPPORTIVE LEARNING ENVIRONMENTS AND WORKING TO COMBAT BULLYING AND DISCRIMINATION.**

LGBTQ youth are often harassed and neglected at school. Existing laws cannot protect LGBTQ youth if they are not enforced. To support enforcement, and to assist school districts in becoming more sensitive to their LGBTQ students and staff, our Safe & Supportive Schools Index will assess which unified school districts in California are fulfilling legal duties to provide supportive learning environments for LGBTQ students and which could do more.

The index survey was crafted with the guidance of advisory committees that consisted of teachers' groups, LGBTQ organizations, and nonprofits with school-based programs. The survey investigates school districts' anti-bullying policies, suicide prevention programs, efforts to create affirming environments for transgender and gender non-conforming students, and other areas. The data will be a resource for schools, students, and parents seeking to understand which districts are meeting their legal obligations and which are going above and beyond in supporting California's youth.

State and local lawmakers can build on the results of the survey by funding programs to improve school success and to combat discrimination. One important goal is mandatory LGBTQ cultural competency training for student-facing school personnel, who must be equipped to identify students who are at risk of bullying or who may lack acceptance from families and communities. The California Teachers Association and the California Federation of Teachers support this important type of training. Equality California on several occasions advocated for mandatory LGBTQ cultural competency training in California schools. These efforts were stymied by budgetary limitations and decentralization of school resources under Local Control Funding Formulas. Securing funding for LGBTQ cultural competency in school districts across the state is key to reducing drop-out rates and equipping students to succeed.

## **ADDRESS THE EPIDEMIC OF LGBTQ HOMELESSNESS, ESPECIALLY AMONG LGBTQ YOUTH.**

LGBTQ youth are disproportionately homeless and underserved. A staggering 40% of homeless youth in the United States are LGBTQ. Nearly 70% of these homeless

youths were rejected by their families or forced to leave home by their parents because of the youths' sexual orientation or gender identity.

Government officials at all levels must do everything they can to fund homeless youth programs and service providers that are inclusive and affirming for LGBTQ youth. Funding plans must be updated to strategically target service providers that are LGBTQ culturally competent, rather than funding homeless programs generally or funding providers that exclude, or are hostile towards, LGBTQ youth. Strategic legislative action, additional budgetary resources, and improved data collection regarding the needs of homeless youth are necessary to ensure that LGBTQ homeless youth are not discriminated against and receive affirming services and support.

### **WITHIN THE CRIMINAL JUSTICE SYSTEM, REDUCE VIOLENCE AGAINST, AND DIFFERENTIAL TREATMENT OF, LGBTQ PEOPLE, ESPECIALLY TRANSGENDER AND GENDER NON-CONFORMING PEOPLE.**

LGBTQ individuals experience police harassment and discrimination within the criminal justice system at higher rates than the general population. LGBTQ people also face higher rates of incarceration, recidivism, and physical and sexual assault in prisons.

Disproportionate rates of food-insecurity, homelessness, and poverty often lead to LGBTQ people being incarcerated at higher rates than non-LGBTQ people, especially when they turn to substance abuse as a form of coping. Another common occurrence reported by transgender women of color is police profiling simply for living openly and authentically—an experience many have come to call “Walking While Trans.”

Cultural competency training for police and other criminal justice officials would help to address these issues. We urge state and local government agencies to dedicate budgetary resources to train their police officers, prison officials, deputies, and guards to be better prepared for interacting with members of the LGBTQ community, especially transgender people. Differential treatment of LGBTQ people based on prejudice or lack of awareness does not serve the interests of either the public or the criminal justice system.

Panelists also noted the intersectionality of factors in this space. Societal stigma, being unsafe at school, homelessness, police profiling, and coping mechanisms such as substance abuse all play into LGBTQ incarceration and discrimination. For real and persistent change to take place, these correlated issues must be addressed through comprehensive and

thoughtful programs that are adequately funded.

All incarcerated people are at risk of violence and discrimination, but particularly at risk are transgender inmates, many of whom encountered law enforcement because of survival sex and the drug trade. Some, but not all, transgender women in the prison/jail system are housed with men, where they are at higher risk for assault, prison rape, and HIV transmission. Equality California is especially concerned about their acute risk during the first week of incarceration and is researching ways to improve intake screenings for new prisoners. Other concerns are related to medical care for LGBTQ inmates including access to hormones, PrEP, and contraceptives. Housing LGBTQ juveniles with adult offenders is also a serious matter, as is the lack of support for these vulnerable young people while in the penal system. Another extremely dangerous time for all inmates is after their prison terms have been completed. Many LGBTQ people reenter society without much family or social support, few marketable skills, and very limited resources with which to begin or resume their lives.

### **DEFEND CALIFORNIA'S LEGACY AS A WELCOMING HOME TO A DYNAMIC IMMIGRANT POPULATION.**

By the time of the 2017 Fair Share for Equality convening, President Trump had only served a week and a half in office, but his administration had already done irreparable damage to our undocumented friends, family members, and neighbors through reckless executive orders and threats to established immigration programs. Many people who were blindsided by immigration enforcement found themselves without access to an attorney and unsure of how to exercise their constitutional rights.

With the assistance of legal counsel, people in detention are five times more likely to successfully challenge their deportation than those without representation, but over two-thirds of immigrants who are detained in California do not have legal representation. There simply are not enough pro bono attorneys who are competent in the nuances of immigration law and sensitive to cultural differences. LGBTQ detainees are often harassed, abused, not housed according to their gender identity, or left to languish in solitary confinement. Without legal representation, these Californians remain locked in inhumane conditions.

It is a high priority that state lawmakers provide adequate funding to support volunteer attorneys so that they can protect the rights of undocumented LGBTQ people and of undocumented people in general. Collaboration between Los

Angeles, the county, and philanthropic partners resulted in funding for attorneys to represent immigrants who are at risk of deportation, and this model can be replicated across the state. It is also a high priority that state lawmakers continue to facilitate access to health care and government-run social services, for which the undocumented community already helps pay. State and local lawmakers can also do more to improve conditions in detention facilities, limit the extent to which state and local resources are used on immigration enforcement, resist deportations, preserve administrative relief options such as DACA, support comprehensive immigration reform at the federal level, and facilitate just and functional paths to naturalization.

California is a leader in defending the rights of all of its residents. We must continue this legacy by resisting and dismantling discriminatory systems. Immigrants seek the ability to live authentically, and they are not alone in this pursuit. Improving the lives of California's 250,000 LGBTQ undocumented people requires that we improve the lives of ALL undocumented Californians.

## **EXPAND AND IMPLEMENT DATA COLLECTION RELEVANT TO THE LGBTQ COMMUNITY.**

Comprehensive and accurate data is crucial to understanding the challenges the LGBTQ community faces and to developing effective solutions. Due to lack of inclusive forms, surveys, and records, law and policy makers don't have sufficient data regarding sexual orientation, gender identity, disparities in health and wellbeing, and the extent to which government programs are reaching LGBTQ people.

If LGBTQ patient populations and health disparities are not quantified, health care providers will not be fully prepared to provide treatment or screenings that are tailored to their patients' unique needs and life experiences. Without data regarding school policies that affect educational environments, LGBTQ students will continue to be disproportionately discriminated against, harassed, and bullied while attending school. As part of Equality California's 2017 legislative package, AB 677—authored by Assemblymember Chiu and signed by Governor Brown—will reduce LGBTQ disparities in education and employment. The bill directs state entities to collect data on sexual orientation and gender identity, which government officials can use to improve public services. Additionally, AB 888—authored by Assemblymember Low—would increase transparency by revealing which institutions of higher education foster unsafe atmospheres for LGBTQ students via institutionalized discrimination.

At the time of the 2017 convening, the California Attorney

General's office was considering "Stop Data Regulations" to implement AB 953, the Racial and Identity Profiling Act of 2015. AB 953 required state and local law enforcement agents to record and report the perceived demographic information of people they stop, including the gender that an officer perceives a person to be. The proposal aimed to combat police profiling based on gender identity and gender expression but did not require data about perceived sexual orientation. It is important that data points related to gender identity and gender expression remain in the final rule, but it is equally important that sexual orientation be added to comply with AB 953, which includes "sexual orientation" in its definition of "racial or identity profiling."

At the Federal level, Equality California remains highly concerned about the 2020 Census. Funding in the two years prior to the Census historically surges as the Census Bureau refines questions and prepares for roll-out to hard-to-reach communities, including LGBTQ people, those with insecure housing, undocumented people, students, and young adults. But the Trump Administration's funding outlook nearly flat-lined in 2018 and 2019, giving rise to concern that the Census Bureau will not make the requisite effort to promote participation in the 2020 Census and that census-takers will not make requisite efforts to persuade hard-to-reach communities to fill out the survey. An undercount of LGBTQ people will directly translate to a lack of services and a distortion of congressional redistricting in 2022. Also of concern is that the Census Bureau's American Community Survey (ACS) does not now include a question about sexual orientation or gender identity. Equality California is committed to working with Members of Congress and national organizations to ensure full federal funding for the Census and LGBTQ-related questions in all federal data-collection efforts, including the ACS.

We urge state elected officials and other government officials to use their full range of advocacy tools to ensure that data collection requirements are implemented, that pending data regulations are inclusive, that the LGBTQ community is counted in the census, and that the data is available to those who serve the LGBTQ community. LGBTQ people have historically been excluded from data collection efforts, but these steps serve state interests and community needs. LGBTQ demographic data will help lawmakers and community members to improve public services, reduce health and income disparities, and combat victimization of LGBTQ people.

## **ASSURE THAT BUDGETARY RESOURCES MEET THE NEEDS OF LGBTQ PEOPLE AND PEOPLE LIVING WITH HIV.**

The Trump administration's past and proposed budget cuts jeopardize social services that LGBTQ and other vulnerable communities rely on for survival. Equality California urges state lawmakers to use their full range of advocacy tools to backfill state funding to the extent that Washington is putting it at risk. At the time of the 2017 convening, specific risks included potential setbacks to the Affordable Care Act, the federal Ryan White HIV/AIDS Program, and the Emergency Food and Shelter Program.

The Affordable Care Act (ACA) saved lives by making crucial health care services more accessible and affordable. The ACA's subsidies and regulations on insurance premiums ensured that health care would be more affordable for everyone. Under the ACA, insurance companies can no longer deny coverage to people with preexisting conditions, which previously included being HIV-positive or transgender. Other significant provisions prohibited discrimination based on sexual orientation or gender identity and required coverage for preventive care and medication so that patients can avoid and treat health concerns early and effectively.

California's health care exchange and state Medi-Cal make affordable health insurance a reality for millions of Californians who otherwise would not have coverage. ACA repeal would cost California an estimated \$20 billion, but contingents in Congress continue to mount assaults to repeal or gut the ACA. We urge California lawmakers to advocate for the retention of at least the nine key ACA provisions outlined earlier in this report and, to the extent that those provisions are in jeopardy, to deploy state resources to reduce the damage that their loss would cause.

The federal Ryan White HIV/AIDS Program provides comprehensive care via city, state, and community organizations for people with HIV who are underinsured or uninsured. This program is one crucial component of a national strategy to eliminate HIV transmission, AIDS-related deaths, and discrimination against people with HIV. In his fiscal year 2018 budget request, President Trump proposed to cut \$59 million from the Ryan White HIV/AIDS Program and to

eliminate its AIDS Education and Training Centers. A reduction in resources threatens the progress California and the nation have made towards eliminating the HIV epidemic.

We urge state legislators to increase budgetary resources to fund "Getting to Zero" plans, to oppose reductions to the federal Ryan White HIV/AIDS Program, and to ensure that HIV-related items in California's fiscal year 2017-2018 budget are properly and strategically implemented. The new state budget includes funding to help people enroll in the AIDS Drug Assistance and PrEP Assistance Programs and to increase reimbursements under the Medi-Cal AIDS Waiver Program. Under the PrEP Assistance Program, both insured and uninsured clients will be able to access the HIV-prevention medicine they need. All of these items are critical to eliminating the HIV epidemic.

The federal Emergency Food and Shelter Program (EFSP) remains at risk for deep cuts, elimination, or changes to make its funds more difficult to access. EFSP funding supports soup kitchens, food banks, and programs that help families keep roofs over their heads. The Trump administration continues to try to roll back important federal services, and we urge California lawmakers to allocate replacement funding and to advocate for the retention of federal dollars under EFSP and other programs that impact critical populations.

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

*Although this report considered the information shared at the Third Annual Fair Share for Equality Convening, it reflects Equality California Institute's public policy and educational priorities. We thank our partners 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 LGBTQ community. While common themes did arise throughout the 2017 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.*

## REPORTS FROM PROGRAM PARTICIPANTS

Each of the following reports were provided by program participants of the Fair Share for Equality Convening on February 1, 2017 in Sacramento, California. These reports represent the policy views and perspectives of their authors and do not necessarily represent policy views of Equality California or other individuals or organizations participating in the convening.



# HEALTH DISPARITIES & THREATS TO AFFORDABLE CARE

## PROTECTING OUR PROGRESS AND PURSUING A PROGRESSIVE LGBT HEALTH AGENDA

**Amanda Wallner** | *California LGBT Health & Human Services Network*

**Anthony Wright** | *Health Access*

Congressional proposals threaten the coverage of millions of Californians—and the progress made not just in the last five years, but the last fifty. The passage of the Patient Protection and Affordable Care Act (ACA) greatly expanded healthcare access for LGBTQ people throughout the country. And California went farther than any other state in making sure that the health reform reached the most vulnerable—specifically low income adults who gained coverage through the ACA's Medi-Cal expansion, low-and moderate income Californians who get affordability assistance through Covered California, and even undocumented children who gained access to Medi-Cal through policies that were specific to California.

Health care gains under the ACA—and federal proposals to roll it back—are particularly impactful for LGBTQ people, who are more likely than non-LGBTQ counterparts to live in poverty. Repeal of the ACA, or other proposals to cap the Medicaid program, meaning tens of billions of dollars in cuts to the Medi-Cal program, would make health insurance a luxury that many could not afford. Studies found that LGBTQ people were less likely to have insurance or a regular doctor and more likely to delay medical care and have trouble paying their medical bills. LGBTQ people historically faced additional barriers to healthcare as well, stemming from discrimination from health plans, hospitals, and providers. Prior to the ACA, being transgender was considered a pre-existing condition, and many plans excluded some, if not all, transition-related care. This lack of access to care is linked to the health disparities we witness in LGBTQ communities: higher rates of cancer, HIV, and heart disease and higher rates of tobacco use and other substance use disorders.

Thanks to the ACA and Medi-Cal, many more LGBTQ Californians have access to health care, including cancer screenings, HIV and STI testing, and other preventative care that helps our communities live long, healthy lives. The civil rights protections in Section 1557 of the ACA guard transgender people from discrimination in coverage, benefits, or treatment based on gender identity. California law mirrors this protection and bans discrimination based on sexual orientation. Because of the outsized impacts that the ACA has on LGBTQ communities, its repeal would also disproportionately affect us.

Our top priority as LGBTQ health advocates is to defend access to life-saving and life-affirming healthcare. We will work with federal and state decision-makers and other advocates to protect healthcare for all LGBTQ people and, where possible, expand access.

### DEFENDING HEALTH REFORM - #FIGHT4OURHEALTH

- Reject proposals to repeal the ACA, particularly without a replacement plan that keeps and expands on existing coverage.
- Protect programs that enable low-income Californians to access healthcare, including the Medicaid expansion and subsidies that benefit over 90% of people in Covered CA plans.
- Reject proposals to cut, cap, or privatize Medicaid and Medicare.
- Protect non-discrimination and consumer protections in the ACA, such as the ban on pre-existing conditions and lifetime benefit caps.
- Protect California's right to regulate its own health insurance market, including additional non-discrimination and consumer protections.

- Reject proposals that restrict access to reproductive healthcare or single out Planned Parenthood, an important provider for LGBTQ Californians.

Despite the progress of the last decade—and the challenges ahead—there is still more work to do, and LGBTQ health advocates in California can continue to set progressive and ambitious health equity goals. As long as health disparities persist, we will continue to work toward policies that address the underlying causes of health disparities and guarantee access to healthcare for all LGBTQ people.

We believe that California can continue to lead the way toward a future where LGBTQ people have equal access to healthcare and don't face the same health disparities as they do today. Below are some of the initiatives and policy innovations that LGBTQ healthcare advocates in California will be prioritizing in the coming years.

### **MAKING IT EASIER FOR LGBTQ PEOPLE TO ACCESS CULTURALLY COMPETENT CARE**

- Require cultural LGBTQ competency training for all health and mental health providers.
- Improve networks so that transgender people can access transition-related care regardless of where they live or how they pay for their healthcare.
- Create a listing of providers that specialize in LGBTQ care, making it easier for consumers to find the right doctor for them.
- Support efforts to address workforce shortages and increase the number of culturally competent providers in primary and specialty care.
- Rebut religious exemption policies that are overly broad and shut LGBTQ people out of affordable, accessible healthcare.

### **IDENTIFYING AND ADDRESSING DISPARITIES**

- Expand the collection of sexual orientation and gender identity data so that researchers and advocates can better understand LGBTQ health disparities.
- Invest in research examining the causes of LGBTQ health disparities, including cancer, substance use, and mental health disparities.
- Research, develop, and implement best practices for addressing and reducing LGBTQ health disparities.
- Support specific research and strategies to address health disparities experienced by LGBTQ people of color, LGBTQ immigrants, formerly incarcerated LGBTQ people, LGBTQ older adults, and other disproportionately-impacted members of LGBTQ communities.

### **ADDRESSING SOCIAL DETERMINANTS OF HEALTH**

- Support policies and investments that will help LGBTQ people obtain permanent housing and that will address LGBTQ homelessness.
- Support policies, such as employment programs, that will help lift LGBTQ people out of poverty.
- Promote policies that will make schools safer for LGBTQ youth, reduce youth suicide, and provide LGBTQ-inclusive sexual health education.
- Continue to educate the public and providers and to reduce anti-LGBTQ stigma that can lead to poor health and negative mental health outcomes.

## THE AFFORDABLE CARE ACT IS IMPORTANT TO WOMEN'S HEALTH

**Kathy Kneer** | *Planned Parenthood California*

The Affordable Care Act (ACA) is the greatest advancement in women's health in a generation. Thanks to the new health care law, millions of women have improved access to quality, affordable health care. Specifically, around 22 million Americans have gained insurance coverage as a result of the ACA. The uninsured rate in California has fallen by 54 percent since the ACA was enacted, translating into 3,826,000 Californians gaining coverage. In addition to residents who would otherwise be uninsured, millions more Californians with employer, Medicaid, individual market, or Medicare Coverage benefited from new protections as a result of the law.

Below are just a few things the ACA does to improve women's health.

### ***Preventive services without co-pays:***

The ACA requires that health plans cover important preventative services without any co-pays for enrollees. These services include birth control, breast and cervical cancer screenings, and annual well-woman exams. Since the policy went into effect, over 55 million women gained guaranteed coverage of these additional preventive benefits without cost sharing. This shift in access saves women an average of \$269 annually.

Further, the ACA established certain Essential Health Benefits, a minimum level of coverage that most health plans have to provide. Essential Health Benefits include important services, such as prescription drug coverage and maternity care. Prior to the ACA, only 12 percent of individual market plans covered maternity care.

### ***Women have direct access to OB/GYN providers:***

Access to OB/GYN providers is an essential component of women's health care. Prior to the ACA many insurance plans required that women see another doctor before they were able to receive a routine check-up with an OB/GYN provider. Now, under the ACA, women are guaranteed access to their OB/GYN provider without another doctor's referral or approval from the insurance company.

### ***The health care law creates affordable health insurance options:***

The ACA made great strides in improving access to health care. Over 12 million individuals enrolled through the marketplaces for coverage in 2016. Nearly 14 million people are expected to select a marketplace plan for 2017 coverage. An additional 16 million have already enrolled in Medicaid since the first open enrollment period and gained access to affordable health insurance coverage.

- **Medicaid:** Medicaid eligibility increased under the ACA, and states that elected to expand Medicaid have increased access to the nation's largest source of reproductive health care. Medicaid guarantees coverage of critical primary and preventative women's health services such as family planning services and pregnancy-related care, including pre-and post-natal care. Also, women enrolled in Medicaid can go to the provider of their choice to receive family planning services, such as birth control.
- **Federal or State Marketplaces:** The health insurance marketplace increased access to private insurance coverage. The majority of marketplace enrollees qualify for credits that will reduce the cost of their health insurance plan. For 2017 coverage, almost 12 million Americans can gain financial help to purchase a private plan.

### ***Young adults can now stay on their parents' health insurance until age 26:***

Young adults can now stay on their parents' health insurance plan until age 26, even if they are married, not living with their parents, or not in school.

***Women can no longer be discriminated against in health insurance:***

Prior to the ACA, women were often charged much higher rates for health insurance coverage just because they are women. For example, a healthy 22-year-old woman could be charged premiums 150 percent higher than a 22-year-old man. The ACA ended this practice in 2014.

Women can no longer be denied health care coverage because of a pre-existing condition. The ACA stops health insurers from denying people health insurance coverage because of pre-existing conditions, including cancer, high blood pressure, or diabetes. This is especially good news for women, who have even been denied coverage because some health insurers claimed that having a C-section or being a survivor of domestic violence qualified as a pre-existing condition.

***A few other important protections under the ACA:***

- Health insurance companies are no longer able to take away your health coverage after you get sick. The ACA also prevents health plans from turning people away when they apply for health coverage.
- Health insurance companies are prohibited from setting certain limits on coverage—such as annual or lifetime limits, whereby health plans put a restriction on how much health care they will pay for in a given year or lifetime.
- There are new limits on how much people have to pay in overall out-of-pocket costs, such as deductibles and co-pays.

**ACA AND CA FAMILY PACT PROGRAM**

Since 1997, California has provided family planning and reproductive health services at no cost to California's low-income women and men. Initially, these services were funded only by the State. California received a Centers for Medicare and Medicaid Services 1115 Waiver in 1999. Medicaid waivers allow states to waive Medicaid rules and are used to test new or promising ways to deliver or pay for health care services. Under the waiver, the state received federal matching funds for Family PACT services delivered. The ACA allowed states to connect the family planning waiver to a state plan amendment and allowed states to grandfather eligibility determinations and retain all features of the existing program.

At the time of the 2017 Fair Share for Equality convening, Congress and the White House were poised to move forward with the repeal and replacement of the ACA, but the exact details were unknown. The process by which they proposed to do this consisted of three parts: 1. Executive Order 2. Budget reconciliation and 3. Statutory replacement.

Of most immediate concern was the President's Executive Order (EO) that was aimed at "minimizing the economic burden" of the health care law "pending repeal." Every law that is passed requires Agency guidance and regulations in order to be fully implemented. This EO gave Agency Secretaries authority to begin dismantling the supporting structure and protections established by the Obama administration. While California had many important provisions already in state law, state officials must carefully monitor the current guidance and regulations to determine if further state protections are needed.

Budget reconciliation is a process to expedite the consideration of mandatory spending and tax legislation. A reconciliation bill cannot be filibustered by the Senate, so it only requires a majority vote to pass. While it cannot be used to repeal all of Obamacare, it can be used to impact the portions that affect federal spending such as the Medicaid expansion, consumer subsidies in the insurance exchange, ending the penalty for individuals who don't buy coverage and employer penalties. It cannot be used to end other provisions, such as the pre-existing condition prohibition or the mandatory adult coverage up to age 26, which must be done using replacement legislation that requires 60 votes in the Senate.

As of the time of the convening, statutory replacement legislation had not even begun, which worried Senate Republicans who wanted the replacement plan included in the repeal plan, as they feared the Senate Democrats would not provide the 8 votes necessary to reach the 60-vote threshold.

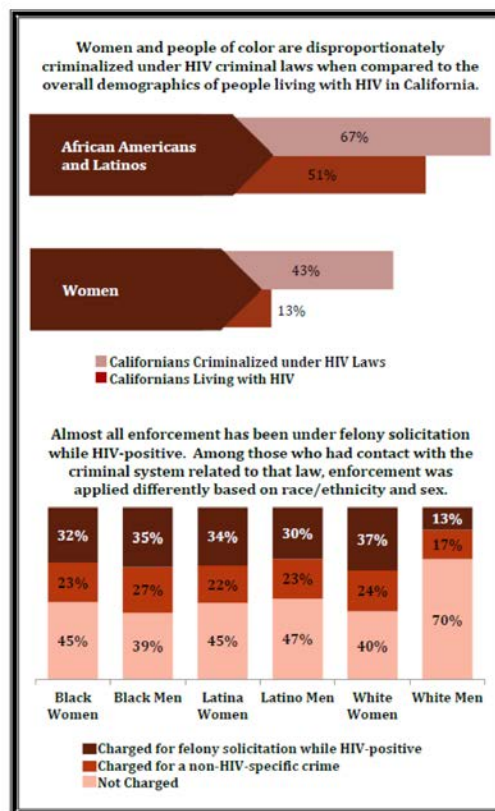
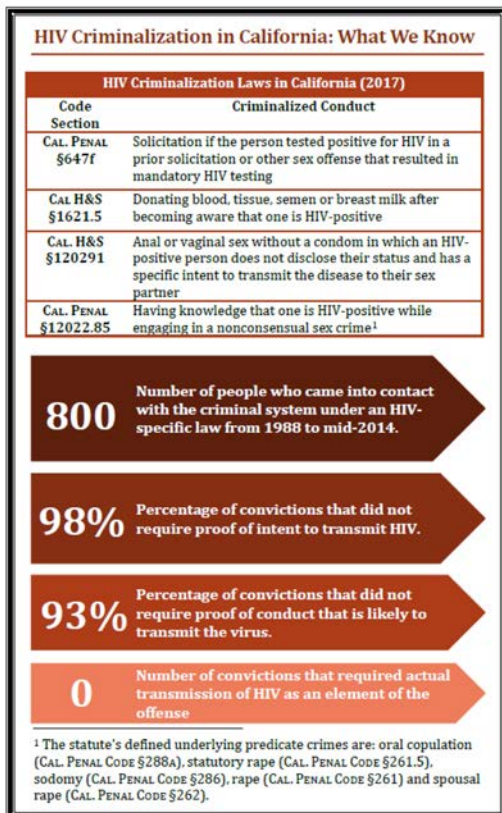
As Americans wake up to threats to their insurance coverage, Obamacare becomes Trumpcare, and for millions, the devil

# HIV/AIDS DECRIMINALIZATION, PrEP EFFORTS, & GETTING TO ZERO



## AUTHORED BY

Amira Hasenbush | *The Williams Institute*



“HIV criminalization” is a term used to describe laws that criminalize otherwise legal behavior or increase penalties for people living with HIV. At the time of the 2017 Fair Share for Equality Convening, California had four HIV-specific statutes on the books.

Since the enactment of these laws, over 800 people have come in contact with the criminal system based on their HIV status. While these laws have been enforced in 39 out of the 58 counties in California, more than half of all enforcement (57%) has been in Los Angeles County, and 9% has occurred in Sacramento County.

The vast majority of convictions—98%—required no proof of intent to transmit HIV, and none of the HIV criminal laws in California require actual transmission. Since the passage of these laws, medical science has developed treatments that have turned HIV from a nearly always fatal disease into a medically-manageable chronic condition. Drug therapies have also been developed that HIV-negative individuals use to prevent transmission of the virus both before and after exposure (better known as pre-exposure prophylaxis, PrEP, and post-exposure prophylaxis, PEP).

In California, 95% of HIV-specific criminal incidents have occurred under the felony solicitation law. In those cases, a misdemeanor solicitation charge becomes a felony solicitation charge when a person has a positive HIV test result in their criminal record. The felony solicitation statute has no intent element, nor does it require any activity that can transmit HIV. Therefore, a person can receive a felony charge for engaging in a conversation or exchanging money. A person can also be convicted of felony solicitation if they are on treatment that prevents transmission, always use condoms, and/or work

exclusively with HIV-positive clients.

HIV criminalization in California disproportionately impacts women and people of color: 13% of the people living with HIV in California are women, but 43% of the people criminalized under HIV specific laws are women. Also, 51% of people living with HIV in California are Black or Latino/a, but 67% of people criminalized under HIV specific laws are Black or Latino/a.

HIV criminalization laws are also disparately enforced based on race/ethnicity and sex, especially the felony solicitation law. Under the felony solicitation law, in incidents involving white men, charges were brought 13% of the time, while in incidents involving all others, charges were brought 33% of the time.

HIV criminalization is also likely to have disproportionate impacts on immigrants living with HIV. Even though foreign-born individuals were underrepresented among those criminalized based on their HIV status when compared to the foreign born population in California, for those who do have contact with the system, felony charges can trigger deportation proceedings. Based on the data available, it did appear that there were some individuals who had deportation proceedings brought immediately after an HIV-specific criminal incident.

Felony solicitation enforcement is also likely to disproportionately impact LGBTQ youth and transgender women of color. Under the statute, solicitation includes lewd acts exchanged for money “or other consideration,” which by definition includes survival sex work in which people work in exchange for housing or food. LGBTQ youth, who are disproportionately in the foster care system and homeless report high levels of subsistence sex work. Transgender women, especially transgender women of color, are particularly vulnerable to employment discrimination, and therefore are also more likely to resort to underground economies and survival sex work to get by.

#### FOR MORE INFORMATION:

Amira Hasenbush, Ayako Miyashita & Bianca D.M. Wilson, The Williams Inst. Uni. of Cal. L.A. Sch. of Law, HIV Criminalization in California: Penal Implications for People Living with HIV/AIDS (2015), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/HIV-Criminalization-California-Updated-June-2016.pdf>.

Amira Hasenbush & Bianca D.M. Wilson, The Williams Inst. Uni. of Cal. L.A. Sch. of Law, HIV Criminalization Against Immigrants in California (2016), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/HIVCriminalizationAgainstImmigrants.2016.pdf>.

Amira Hasenbush & Brian Zanon, The Williams Inst. Uni. of Cal. L.A. Sch. of Law, HIV Criminalization in California: Evaluation of Transmission Risk (2016), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/HIVCriminalization.EvaluationofTransmissionRisk.2016.pdf>.

## CAN CALIFORNIA END AIDS WITHOUT THE AFFORDABLE CARE ACT?

**Craig Pulsipher** | *APLA Health*

California and many other states are making real progress toward ending the AIDS epidemic. But if President Trump and Republicans in Congress repeal the Affordable Care Act (ACA) without an adequate replacement, California could be forced to scale back expansion of its Medi-Cal program and shut down the state's health care exchange, making the goal of an AIDS-free generation harder if not impossible to reach.

Nationwide, efforts to end AIDS or “getting to zero”—meaning zero new HIV infections, zero deaths from AIDS, and zero discrimination—are primarily based on ready access to HIV testing, sexual health education, and potent antiretroviral medications that can block transmission of HIV and prevent new infections. We now know that HIV-positive individuals taking antiretroviral medications can virtually eliminate the possibility of transmitting the virus to others. And through a process known as pre-exposure prophylaxis, or PrEP, high-risk HIV-negative individuals can take similar medications to reduce their risk of acquiring HIV by up to 99 percent.

These strategies require access to quality, affordable health care for HIV-positive as well as HIV-negative individuals. And since AIDS is and has long been a disease of the poor, health coverage for low-income at-risk populations is essential.

New diagnoses of HIV infection in the United States have decreased or stabilized among many populations in recent years. California's annual number of new diagnoses is down by over six percent between 2010 and 2014 (5,367 cases to 5,002). In Los Angeles and San Francisco, the decrease is more dramatic: Los Angeles County reports a 16 percent decrease between 2010 and 2013 (to 1,820 new infections) and last year San Francisco reported 250 new infections, a decrease of 90 percent of what the city reported in the 1990s.

HIV infection rates remain stubbornly high, however, among some populations, most notably transgender individuals and gay and bisexual men, in particular young African-American and Latino gay and bisexual men. In 2016, the Centers for Disease Control and Prevention estimated that at current rates, one in four Latino and half of all African-American gay and bisexual men will become HIV-positive in their lifetimes.

There are multiple reasons for these continuing rates of new infections, chief among them social and structural factors such as poverty, lack of education, stigma, and historically little or no access to health care.

The ACA has changed the game in California and renewed hope that ending AIDS is possible. Health coverage is now available for low-income individuals through the state's health care exchange, Covered California, and significantly, through the state's Medi-Cal program. Both options provide subsidized or free health insurance for millions of low-income Californians—the exception being the majority of undocumented individuals who do not qualify for ACA programs. There is strong evidence that Medi-Cal expansion saves money. A Robert Wood Johnson study of eight states (selected for regional and population diversity) showed a \$1.8 billion savings in health care costs through 2015 alone.

Before the ACA, people living with HIV were shut out of the private insurance market because of preexisting conditions or cost, and relied on the federal Ryan White HIV/AIDS Program for medical care. Medi-Cal generally did not cover low-income single men and women unless they were poor and elderly or met Medi-Cal's stringent disability standards. For many at risk for HIV, that often meant getting infected, sick, and close to death before getting coverage.

With coverage now available for all, regardless of age, gender, disability, or health condition, low-income Californians can now access HIV medications, ongoing medical care, and PrEP for those at risk.

California estimates that the state will lose upwards of \$20 billion if the ACA is repealed. That includes the federal funding for Medi-Cal's expansion population—over 3.5 million Californians—as well as subsidies for low-income individuals who purchase insurance through the exchange. If the ACA is repealed, without an equivalent or improved replacement, the state will be compelled to make some very difficult choices between who gets coverage and who does not. People living with HIV could have serious and long-term negative health consequences if they were to experience disruptions in their treatment and care.

Access to health coverage for both HIV-positive and HIV-negative individuals drives the hope of getting to zero in California. Repealing the ACA would once again leave low-income individuals without health coverage and delay getting to zero into the too distant future.

## REALIZING THE PROMISE OF PRE-EXPOSURE PROPHYLAXIS

In 2012, the first biomedical intervention was added to the arsenal of HIV prevention strategies with the Food and Drug Administration's approval of Truvada for use as pre-exposure prophylaxis (PrEP). PrEP is an HIV prevention strategy in which HIV-negative individuals take a daily medication to reduce their risk of becoming infected with HIV. PrEP is a highly effective intervention that holds the promise of drastically reducing new HIV infections in California and across the US. Clinical trials have reported that with high medication adherence, PrEP reduced new HIV infections by 92% among gay and bisexual men, 90% among heterosexually active men and women, and over 70% among persons who inject drugs. Statistical modeling has also projected that taking Truvada seven days a week reduces the risk of HIV infection by 99%, and up to 96% if taken at least four times per week.

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 and California's Laying the Foundation for Getting to Zero initiative. The CDC recently estimated that reaching national targets for HIV testing and treatment and scaling up use of PrEP could reduce new HIV infections in the US by as much as 70% by 2020.

Unfortunately, awareness and use of PrEP among individuals at risk for HIV remain extremely low. 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 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, 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.

PrEP outreach and education efforts must be scaled-up, particularly within communities of color. In 2015, the California Legislature approved \$2.2 million for a statewide PrEP navigation services program. These funds were recently awarded to several community-based organizations to provide PrEP navigation services including identifying individuals interested in PrEP, conducting financial screenings and insurance enrollment, referring qualified individuals to a PrEP-friendly medical provider and monitoring adherence. PrEP navigation services must be accessible throughout the state and programming should be tailored to meet the needs of communities most impacted by HIV.

Cost is also a major barrier to PrEP use. Truvada, the only medication currently approved for use as PrEP, is roughly \$1,500 for a 30-day supply. Individuals using PrEP are also required to see a doctor on a regular basis for routine HIV testing and lab work. Long-term success of PrEP will require that individuals have access to these services at low or no cost. PrEP is covered by Medi-Cal, Medicare, and most major health insurance plans in California. And Gilead Sciences, the manufacturer of Truvada, has patient assistance programs which provide free drugs to uninsured individuals with annual incomes below 500 percent of the Federal Poverty Level and up to \$3,600 per year for individuals with insurance. However, these programs do not cover costs associated with doctors' visits, HIV testing, and labs. These expenses can render PrEP cost prohibitive, particularly for uninsured and underinsured individuals.

In 2016, the California Legislature approved the development of a PrEP financial assistance program. The program will cover PrEP-related medical copays, coinsurance, and deductibles incurred by individuals with annual incomes below

500 percent of the Federal Poverty Level. Some jurisdictions have also begun implementing PrEP safety net programs. In 2016, Los Angeles County approved contracts to fund PrEP Centers of Excellence in areas with the highest rates of HIV infection. The Centers of Excellence will provide medical services related to PrEP for uninsured and underinsured patients and offer health insurance navigation and enrollment for individuals eligible for Medi-Cal and Covered California. These clinics will also offer post-exposure prophylaxis, or PEP, and refer patients with substance abuse and mental health service needs to appropriate providers.

While PrEP awareness and use are increasing, uptake remains limited among communities most impacted by HIV including gay and bisexual men of color and transgender individuals. PrEP implementation efforts must prioritize increasing education and improving access within these communities. In addition, these efforts must seek to address social and structural barriers that prevent many individuals from using PrEP successfully including discrimination, family rejection, lack of stable housing, unemployment, prohibitive immigration policies, and limited education. Targeted strategies are needed to increase PrEP uptake that take these barriers into account.

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, 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 STDs and promote overall health and wellness.

# LAYING A FOUNDATION FOR GETTING TO ZERO: CALIFORNIA'S INTEGRATED HIV SURVEILLANCE, PREVENTION, AND CARE PLAN

**Karen Mark** | *California Department of Public Health, Office of AIDS*

## EXECUTIVE SUMMARY

The California Integrated HIV Surveillance, Prevention and Care Plan (“the Integrated Plan”) outlines the strategies and objectives to be implemented in order to enable California to “Get to Zero.”

### Getting to zero means getting to a time when there are:

- Zero new HIV infections
- Zero AIDS-related deaths
- Zero stigma and discrimination against people living with HIV (PLWH)

The Integrated Plan was developed by the California Department of Public Health, Center for Infectious Diseases, Office of AIDS in collaboration with local health jurisdictions and HIV planning bodies throughout California, other state programs that serve PLWH including Medi-Cal, Covered California, and the California Department of Corrections and Rehabilitation, and key stakeholders in the private sector, with input and review by a broad array of community stakeholders. The Integrated Plan establishes a blueprint to guide the work of the state and local health departments from 2017 to 2021 as we strive to finally get to zero.

The four goals of California's Integrated HIV Surveillance, Prevention, and Care Plan align closely with the goals of the National HIV/AIDS Strategy.

### Our California-specific goals are to:

1. Reduce new HIV infections in California
2. Increase access to care and improve health outcomes for PLWH in California
3. Reduce HIV-related disparities and health inequities in California
4. Achieve a more coordinated statewide response to the HIV epidemic

With input from community stakeholders, local health jurisdictions and HIV planning bodies throughout California, fifteen strategies were identified to be implemented by 2021, all of which will contribute to realizing the goals needed to make getting to zero possible.

### The strategies to achieve the goals include:

- Improve pre-exposure prophylaxis (PrEP) utilization
- Increase and improve HIV testing
- Expand partner services
- Improve linkage to care
- Improve retention in care
- Improve overall quality of HIV-related care
- Improve availability of HIV care
- Improve integration of HIV services with sexually transmitted disease, tuberculosis, dental, and other health services
- Improve case management for PLWH with high need
- Increase rates of insurance/benefits coverage for PLWH and people on PrEP
- Increase and improve HIV prevention and support services for people who use drugs



- Increase general HIV education and awareness and reduce stigma around HIV, sexual orientation, and gender identity
- Improve usability of collected data
- Enhance collaborations and community involvement
- Further leverage existing resources to better meet the needs of people at risk for and living with HIV in California

We will measure our progress towards these goals by monitoring twelve objectives to be achieved by December 2021.

**The objectives include:**

- Increase the estimated percentage of Californians living with HIV who know their serostatus to at least 95 percent
- Reduce the number of new HIV diagnoses in California by at least 50 percent, to fewer than 2,500 per year
- Increase the number of Californians at high risk for HIV infection who are on PrEP to 60,000
- Decrease the percentage of persons with new HIV diagnoses in California that are diagnosed with Stage 3 (AIDS) within twelve months of diagnosis (i.e., late diagnosis) to less than 17 percent
- Increase the percentage of sexually active PLWH in care who are tested at least once in a year for gonorrhea, syphilis, and chlamydia to at least 75 percent
- Increase the percentage of newly diagnosed persons in California linked to HIV medical care within one month of their HIV diagnosis to at least 85 percent
- Increase the percentage of Californians newly diagnosed with HIV who are virally suppressed within six months of diagnosis to at least 75 percent
- Increase the percentage of Californians with diagnosed HIV infection who are virally suppressed to at least 80 percent
- Increase the percentage of Californians with diagnosed HIV infection who are in HIV medical care (at least one visit per year) to at least 90 percent
- Increase the percentage of California AIDS Drug Assistance Program clients with public or private health insurance to at least 85 percent
- Reduce the percentage of Californians with diagnosed HIV infection who are homeless to less than 5 percent
- Reduce the age-adjusted death rate among Californians with diagnosed HIV infection to less than 650 per 100,000 persons per year

The Integrated Plan is meant to give a voice to all Californians at risk for and living with HIV, and to implement strategies that recognize the interplay between biological, behavioral, psychosocial, and structural factors that affect the health and well-being of those most profoundly affected by the epidemic. In California, gay, bisexual, and other men who have sex with men represent the majority of those living with HIV, as well as those newly infected with the virus. Persons who inject drugs, transgender women, and other high-risk heterosexuals, including sex workers and persons with HIV-positive sex partners, represent smaller but significant HIV-infected populations. To ensure that communities disproportionately affected by HIV are addressed in the Integrated Plan, the Integrated Plan describes the relationship between social and health inequities and defines specific sub-objectives to be achieved to address health disparities.

The Office of AIDS will release data annually summarizing statewide and local health jurisdiction progress on each objective in the Integrated Plan, supporting ongoing monitoring of progress toward achieving the goals.

This Integrated Plan demonstrates the State of California's commitment to collaboration, efficiency, and innovation to achieve a more coordinated response to HIV. It does this while clearly establishing the blueprint for achieving HIV prevention, care, and treatment goals. It is our intent that many entities throughout California will continue to work together, taking responsibility for our respective roles in Getting to Zero. With this guiding principle, we set forth this Integrated Plan to guide our combined work from 2017 to 2021.

For more information, please see the entire Integrated Plan at [http://www.cdph.ca.gov/programs/AIDS/documents/IP\\_2016\\_Final.pdf](http://www.cdph.ca.gov/programs/AIDS/documents/IP_2016_Final.pdf).

## AUTHORED BY

Gerald Garth | *Black AIDS Institute*

“Among U.S. gay men, half of Blacks and 1 in 4 Latinos projected to contract HIV in their lifetime.”

“About 7 in 10 new HIV diagnoses among Hispanics/Latinos occur in gay and bisexual men.”

“Blacks are the racial/ethnic group most affected by HIV in the United States. Gay and bisexual men account for more than half of estimated new HIV diagnoses among Blacks.”

When Black and Latino men are bombarded with messages that (like the above statements, which are from the CDC) speak to the demise of their very existence, health outcomes will suffer—and the cycle continues.

When speaking of “at-risk” communities, one might ask why Black and Latino men are more often at risk. Context is key. Here are a few reasons Black and Latino lives are at higher risk of contracting HIV:

**Negative perception of self-worth**—Facing layers of disparities and social inequities, Blacks and Latinos may develop negative self-perception.

Statistics and data often give a limited representation and do not account for the human and lived experience. While research speaks to some disparities and inequities within Black and Latino communities, providers and researchers must look at the layers and intersections that these men face.

**Marginalized portrayals of self**—From television and film to the nightly news, Black and brown men are bombarded with negative and limited social portrayals of themselves in media. Also, when looking at gay men of color in media, particularly Black and Latino gay men, the representation is even more limited. Many Black and Latino gay and bisexual men lose a sense of identity, or have never identified with these limited representations, which can lead them to feel disconnected and disenfranchised.

**Religious views and beliefs**—Faith plays a major part Black and Latino communities. What’s more, the strong faith ties and experiences of Black and Latino men who have sex with men (MSM) reconciling faith and sexuality are different from those of other groups. These men often face rejection, excommunication, and other forms of abuse, because of their sexual orientation. Issues like homophobia, miseducation, and undereducation surrounding sexual expression, sexual orientation, and HIV may add other layers of oppression that directly and indirectly impact the health of these men.

**Perceptions of manhood**—Fetishization of men of color coupled with perception of masculinity as a primary contextual factor influences partner selection, risk assessment, and condom decision-making, which means how others feel about Black and brown people impact how Black and brown people feel about themselves.

Four primary themes emerged from one study, HIV Risk and Perceptions of Masculinity among Young Black MSM: 1) greater preference for partners perceived as masculine; 2) discomfort with allowing men perceived as feminine to be the insertive partner in anal intercourse; 3) a power dynamic such that partners perceived as more masculine made condom-use decisions within the dyad; and 4) use of potential partners’ perceived masculinity to assess HIV risk.

Simply put, perceived masculinity may play a significant role in HIV risk for young Black and Latino men who have sex with men and may be an important concept to consider in prevention strategies directed towards these populations.

## WHERE DO WE GO FROM HERE?

Strategies should reflect the unique challenges faced by Black and Latino gay and bisexual men. For example:

- **Leadership development and empowerment within impacted communities**—Community-based leadership builds advocacy, self-efficacy, and relationships that are essential to tackling HIV in Black and Latino communities.
- **Working with critical stakeholders**—The collaboration of organizations that serve Black and Latino communities is critical to addressing HIV. Working with law enforcement, policymakers, and other providers builds network and broadens the reach of messaging.
- **Create spaces**—Create spaces to have rich dialogue to celebrate victories, discuss setbacks, and create solutions. Having continued conversation around experiences, attitudes, and beliefs is vital to community health. By providing these opportunities, men can be more invested in their own wellness and are given a platform to shift and inform decisions that impact their communities.
- **Spread the word**—Ensure that Black and Latino MSM have access to accurate and appropriate information. Providers should ensure that data around HIV treatment, prevention tools, surveillance, policies, and studies that speak to and affect individuals and communities are culturally sound, available, and assessable.

### References:

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3281559/>

<https://wagner.nyu.edu/files/leadership/BlackAIDSInstitute.pdf>

# TRANSFORMING CALIFORNIA: IMPROVING THE LIVES OF TGNC PEOPLE

## AUTHORED BY

**Shedrick Davis** | *Lambda Legal*

Founded in 1973, Lambda Legal is the oldest and largest national legal organization whose mission is to achieve full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people, and those living with HIV through impact litigation, education, and public policy work. In 1990 Lambda Legal established its Western Regional Office based in Los Angeles.

Transgender and gender-non-conforming people suffer persistent inequalities in aspects of life that intersect with all of Lambda Legal's issue area priorities. Transgender people experience rampant workplace discrimination, may be met with challenges to their parental relationships, lack sufficient access to quality healthcare free from discrimination, and face difficulties in obtaining appropriate name and gender designations on their identity documents. Lambda Legal expands and defends protections for transgender people under federal, state, and local laws and other policies.

As in other areas, California is near the forefront in terms of dignity and respect accorded its transgender residents. However, opportunities for improved laws and regulations remain. Additionally, enforcement and cultural competency are not evenly evidenced throughout the state and both must be expanded to provide full rights and protections to transgender people living in the state. Transgender students currently are in the national spotlight and are under attack in other states. The success of school districts in California in providing incident-free access to facilities based upon students' gender identity must continue to be modeled.

### CURRENT STATUS OF ACCESS TO SCHOOL FACILITIES FOR TRANSGENDER STUDENTS NATIONALLY

In May of 2016, the U.S. Departments of Justice and Education, under the Obama Administration, issued guidance to public school districts across the country clarifying that Title IX, a federal law banning sex discrimination in education programs and activities, protects students who are transgender. The guidance issued by the Obama Administration didn't make new law; it simply spelled out how federal law already protects transgender students from discrimination, bullying, and harassment in school.

The Obama Administration guidance was accompanied by a 25-page document detailing good policies and practices successfully implemented to support transgender students in schools, colleges, and universities across the country. It was a powerful and affirming statement recognizing the existence and dignity of young transgender people and the imperative that schools provide safe, respectful, and nurturing learning environments for all students. This guidance served as an important tool for transgender students and their families to advocate for themselves.

On February 22, 2017, the U.S. Departments of Justice and Education, under Trump, withdrew the Obama guidance. The withdrawal of the guidance has created unnecessary confusion and sends a message that it's okay to discriminate against transgender students.

The removal of the Obama guidance does not change federal law—a school cannot legally exclude, separate, deny benefits to, or otherwise treat transgender students differently than their non-transgender peers. Put simply, schools must treat transgender students consistent with their gender identity. What the Obama Administration guidance did was explain to schools their legal responsibilities to comply with existing law and protect transgender students. Just because the explanation was removed doesn't change the underlying law that protects transgender students from discrimination, bullying, and harassment.

Title IX of the Education Amendments Act of 1972 prohibits discrimination on the basis of sex.

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

A number of courts have already ruled that denying transgender people access to the restrooms that best match who they are violates federal law. Additionally, transgender students are protected by the Equal Protection Clause of the U.S. Constitution.

Lambda Legal currently represents students at Pine-Richland High School in Pennsylvania after the school changed its policy and refused to let transgender students use the bathroom that best matches who they are. Victory was achieved at the District Court against the school district in February of 2017. Lambda Legal and our sister legal advocacy organizations are currently pursuing several cases at the federal appellate level.

California must continue to model laws and regulations that protect the access of transgender students to facilities consistent with their gender identity. As in other areas, enforcement of existing laws and regulations and improvement of cultural competency will be paramount in making real educational opportunities for trans and gender-non-conforming students in our schools.



## AUTHORED BY

**Jo Michael** | *Equality California*

**Shawn Meerkamper** | *Transgender Law Center*

**Ben Hudson** | *Gender Health Center*

Transgender and gender non-conforming people face discrimination and violence in many aspects of their lives, including the systemic bias that perpetuates marginalization. For transgender and gender non-conforming people who are also people of color, undocumented, living with HIV, or members of other vulnerable communities, this experience is multiplied. According to the 2015 U.S. Transgender Survey, the unemployment rate among transgender people of color (20%) is four times higher than the overall U.S. unemployment rate. Nearly one-quarter of undocumented respondents were physically attacked during the year prior to completing the survey. Half of undocumented respondents had experienced homelessness in their lifetime, and 68% faced intimate partner violence.

Nearly one-third (30%) of survey respondents who had a job reported being fired, denied a promotion, or experiencing some other form of mistreatment, including being verbally harassed or even physically or sexually assaulted, in the workplace because of their gender identity or expression. Respondents also had an overall 15% unemployment rate, three times higher than the unemployment rate for the U.S. population at the time of the survey. Nearly one-third (29%) of respondents were living in poverty, compared to 14% of the U.S. population overall.

These statistics are deeply troubling and indicate an immediate need for action.

One of the threshold barriers transgender and gender non-conforming people face is not having accurate identification. Lack of accurate identification documents can make it difficult or impossible for people to secure employment, access the healthcare they need, travel, vote, and use financial institutions including banks and credit cards. More than two-thirds (68%) of respondents to the U.S. Transgender Survey reported that none of their IDs had the name and gender they use, while only 11% of respondents reported that all of their IDs had the name and gender they use. Nearly one-third (32%) of respondents who have shown an ID with a name or gender that did not match their appearance were verbally harassed, denied benefits or service, asked to leave, or assaulted.

Although California has made significant progress in removing barriers to name and gender changes in recent years, transgender Californians still often have difficulty securing documents that match who they are. The court process in place at the time of the 2017 Fair Share for Equality Convening puts significant burdens on the person seeking their name and gender change and can result in a person falling through the cracks if they do not ensure they appear at a hearing on their name and gender change petition, even when that hearing is unnecessary. California previously removed the dangerous and onerous requirement that transgender people publish a notice in a newspaper in their community that included their current legal name and the new legal name they were petitioning the court to use. This previous law put transgender people at risk of harassment, discrimination, and violence, especially if many members of their communities did not know that they were transgender, and its repeal was an important step forward. Now that publication of these notices is no longer required, it has become even clearer that hearings on name and gender changes are unnecessary and serve only to create an additional barrier to accurate identification for transgender people and to burden an already overloaded court system.

For Californians who identify as gender non-conforming or nonbinary, and for some Californians who are intersex, there is no current pathway to identification that accurately reflects who they are. Intersex people are born with reproductive or sexual anatomy that does not seem to fit the typical definitions of female or male. Experts estimate that 2% of the population is intersex, up to 6 million people in the country. Some intersex people identify as nonbinary, transgender, or both, and are currently forced to choose between the two gender markers currently available when neither of

them is accurate. The same is true of nonbinary or gender non-conforming people who are not intersex. People who identify as nonbinary define themselves outside of binary gender roles as both female and male, neither female nor male, or something else. Over one-third of respondents to the U.S. Transgender Survey identify as nonbinary. For these communities, accurate identification is often not possible. This places these individuals at the same risks and behind the same barriers described for transgender people who do not have identification that matches who they are.

One-third of respondents to the U.S. Transgender Survey who saw a health care provider in the past year reported having at least one negative experience related to being transgender, with higher rates for people of color and people with disabilities. This included being refused treatment, verbally harassed, or physically or sexually assaulted, or having to teach the provider about transgender people in order to get appropriate care.

# PROTECTING LGBTQ FAMILIES, SENIORS, & YOUTH

## AUTHORED BY

**Shedrick Davis** | *Lambda Legal*

Founded in 1973, Lambda Legal is the oldest and largest national legal organization whose mission is to achieve full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people, and those living with HIV through impact litigation, education, and public policy work. In 1990 Lambda Legal established its Western Regional Office based in Los Angeles.

From protecting the freedom to marry to defending domestic partnership benefits and securing parent-child relationships, Lambda Legal protects same-sex couples and their families through a broad range of litigation, education, and advocacy strategies.

Lambda Legal defends the rights of LGBT and HIV-positive seniors who face discrimination related to their sexual orientation, gender identity, or HIV status, including discrimination by staff and residents at senior centers; denial of housing; denial of the ability for same-sex couples to share a room in an assisted living facility or nursing home; disrespect of gender identity including while incapacitated or at death; and denial of equal Social Security benefits and survivor benefits as compared to their heterosexual counterparts.

Whether it's in the hallways at school or in out-of-home care settings, lesbian, gay, bisexual, transgender and questioning (LGBTQ) youth are at risk for harassment, bullying and discrimination and are too often neglected and unprotected by the institutions responsible for their care. Through our Youth in Out-Of-Home Care Project and through advocacy on behalf of youth in schools, Lambda Legal works to ensure that all LGBTQ young people can be safe, respected, and free from discrimination and harassment.

California continues to offer some of the broadest legal protections to LGBT families, seniors, and youth in the nation. However, those protections are useless unless broadly known and enforced. In particular, outside of major metropolitan cities populations are often unaware of rights already extended under law. In anticipation of continued challenges to the rights of LGBT people from more hostile states and the administration, it is important for California to take the lead in protecting the most vulnerable through laws and regulations which promote an equal and inclusive society.

There is a tonal shift in the country which does not respect sexual orientation or gender identity. This is matched by a desire by some to use religious beliefs to avoid compliance with, or to repeal, anti-discrimination laws and regulations. California must continue to advance policies and model legislation which challenge these twin threats to equal protection for all.

At the national level and in other states, families, seniors, and youth are encountering some of these actual or proposed challenges:

- Government contractors providing services for out-of-home youth are allowed to discriminate based upon religious beliefs in the provision of services.
- In the first anti-LGBT action of 2017, the governor of South Dakota signed a law, SB 145, allowing taxpayer-funded agencies to refuse to provide any service, including adoption or foster care services, on the basis on the agency's religious or moral convictions.
- Abstinence-only sexual education, excluding discussion of LGBT people, is being promoted.
- Under the guise of "Parental Right to Know," student privacy is violated by mandates that educators out students who participate in LGBTQ affirming clubs and extra-curricular activities and who submit gender non-conforming requests.
- Second parent adoptions will be necessary, despite the reflection of parentage on birth certificates, to ensure parental rights when crossing state lines.

- Adoption and shelter contractors may refuse to provide services to LGBT people based upon religious beliefs.
- Senior and assisted living housing not respecting the rights or LGBT residents or protecting them from being physically harmed by staff and/or other residents.

We are clear about the needs of the LGBT community and the risks in the years ahead: attacks on the meaning of sex discrimination and abuse of religion as an excuse to strip away marriage equality and other hard-won gains, simply to attack the presence of LGBT people in public life. California must continue to lead in pushing back against these national trends and actively pursue enactment and enforcement of protections for its LGBT residents.

## ABOUT THE LGBTQI VIOLENCE PREVENTION NEEDS ASSESSMENT

**Rebecca Rolfe** | *San Francisco LGBT Center*

The San Francisco Human Rights Commission (SF HRC) provides leadership and advocacy in securing, protecting, and promoting human rights for all people. In 2014, SF HRC commissioned an assessment of the violence prevention and safety needs of San Francisco's lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI) communities. The San Francisco LGBT Community Center (the Center) and Learning for Action (LFA) partnered to conduct this needs assessment, supported by a Community Stakeholder Group.

The purpose of the needs assessment is to gather information about experiences with violence among community members, and to inform strategies to prevent and address violence against LGBTQI people in San Francisco. Because it was necessary to focus the scope of the inquiry within the larger topic of violence, the experiences addressed by this study are limited to physical and sexual interpersonal violence and harassment. Approaching the study of violence with an LGBTQI lens often invokes thoughts of hate violence. This report details a broad range of community members' experiences with interpersonal violence, which may include, but go far beyond, incidents motivated by hate.

The needs assessment was designed to address the following research questions, developed by SF HRC:

1. What types of violence affect LGBT<sup>1</sup> people in San Francisco?
2. Where do victims and survivors of violence seek support?
3. How do experiences of violence compare across gender, race/ethnicity, sex, age, income- level, language, and other key demographics?
4. What are existing violence prevention services for LGBT people in San Francisco? To what degree are these services able to meet the needs of LGBT people experiencing violence?
5. How does service utilization compare across LGBT subgroups and demographics?
6. What are examples of effective violence prevention models that address service gaps at the local level? What are best practices across the country?
7. To what degree are "safe spaces" effective as a violence prevention model? Where have they been employed and with what level of success?

To answer these questions, the needs assessment team employed a combination of surveys, interviews, focus groups, and literature review between July and October 2014. Over 400 community members completed the "LGBTQI Community Safety Survey," twenty-six surveys were completed in Spanish, and the rest in English. Fourteen in-depth interviews were conducted with community members representing particularly underserved segments of the LGBTQI population—people who speak primarily Spanish, youth, and transgender individuals.

### EXECUTIVE SUMMARY

Findings from the needs assessment address four areas:

- Perceptions of community safety and connectedness among San Francisco LGBTQI community members
- Experiences of violence among San Francisco LGBTQI community members
- Services for survivors of violence in San Francisco LGBTQI communities
- Violence prevention for San Francisco LGBTQI communities

<sup>1</sup> SF HRC's original research questions used the term "LGBT." The project leads and Community Stakeholder Group intentionally broadened the inquiry, and term, to include queer and intersex-identified community members. The term "LGBTQI" is used throughout this report to refer to the full focal population for this study.

The study culminates in preliminary recommendations for preventing violence against LGBTQI communities in San Francisco. This executive summary includes key findings in each area of inquiry as well as the overall conclusions drawn from the findings; readers interested in additional information can find greater detail in the full report.

## OVERALL CONCLUSIONS

- San Francisco's LGBTQI population has experienced high rates of violence. Despite these findings, many LGBTQI-focused organizations lack funding for violence prevention activities, and violence prevention initiatives rarely include an LGBTQI lens that goes beyond hate violence. Building the capacity of CBOs, public agencies and services, and law enforcement to operate as a culturally competent, coordinated, and trauma-informed system will improve services and experiences for all.
- Violence patterns and disparities within the LGBTQI population suggest that the root causes underlying experiences with violence include racism, sexism, homophobia, transphobia, and other forms of discrimination. A coordinated community approach to tackling racism, sexism, homophobia, and transphobia should be prioritized as a violence prevention strategy.
- The perception of San Francisco as a progressive, LGBTQI-friendly environment is not enough to keep our communities safe. In fact, this perception can itself be a barrier to the system's willingness to identify deficiencies and prioritize system transformation to address discrimination. Support services are overtaxed, and violence continues to be a prevalent issue facing LGBTQI community members.
- The San Francisco real estate crisis affects LGBTQI safety in many ways. Lack of affordable rents make both community members and the community based organizations who serve them more vulnerable to displacement. In addition, homelessness disproportionately affects LGBTQI communities.
- There is a clear need to define and prioritize community-based responses to violence in the LGBTQI community. Improving police response to violence against LGBTQI community members through training and increased accountability is important but only part of the solution. The call emerging from these data is a need to build stronger alternatives, providing community-based programs with resources to support their work in preventing and responding to violence.

## KEY FINDINGS

### Perceptions of Community Safety and Connectedness

To understand more about the context within which LGBTQI community members live and make decisions about their lives, the survey explored how safe, and how limited by safety concerns, respondents feel in the different aspects of their daily lives.

- Transgender community members—particularly transgender people of color—are more likely than cisgender community members to feel unsafe in most settings—up to 7 times more likely in some settings—and to feel limited by safety concerns about where to live, work, socialize, and get healthcare and other services.
- The lack of affordable housing in San Francisco exacerbates safety concerns for many community members, prompting many to remain in housing or neighborhoods where they don't feel safe.
- Over one-third (36%) of LGBTQI community members don't believe that police will help them if needed. Transgender community members, people of color, and those with lower incomes or who have experienced homelessness are least likely to believe that police will come to their aid.
- 60% of transgender Latinas feel unsafe walking around during the day—a time when only 12% of LGBTQI respondents overall do.

**The stakes can feel very high for reporting or ruffling any feathers because of the housing crisis here; obviously no one wants to lose their housing.**

*LGBTQI Service Provider*

### Experiences of Violence

All three types of violence explored by the community safety survey—physical violence, sexual violence, and harassment—



are all-too-common experiences among LGBTQI respondents.

- High proportions of LGBTQI community members have experienced physical violence (68%), sexual violence (48%), and harassment (81%); more than one-third has experienced all three. Even higher proportions of transgender community members, especially transgender people of color, are violence survivors.
- Factors increasing an LGBTQI person's risk for interpersonal violence include: being transgender; being a person of color; having a disability; earning a lower income; having ever been homeless; having lived in foster care; and having ever been incarcerated. Intersections of these identities and characteristics compound the risk of violence.
- Transgender survivors and LGBTQI people of color are more likely to have experienced physical violence multiple times, in the past year, and before the age of 16.
- Transgender survivors of physical violence and those who experienced physical violence before the age of 16 are more likely than others to have been hurt by a family member.
- A substantial proportion of LGBTQI respondents did not report the violence they experienced to anyone: 44% did not report physical violence, 47% did not report sexual violence, and 62% did not report harassment.

**Transgender respondents are statistically more likely than cisgender respondents to have experienced physical violence (79% vs. 66%), sexual violence (65% vs. 41%\*\*\*), and harassment (88% vs. 78%).**

*\*  $p < .05$ , \*\*  $p < .01$ , \*\*\*  $p < .001$*

**I didn't think the police would believe me because I was gay. I worried they would laugh at me or be abusive somehow.**

*Community Survey Respondent*

## Services for Survivors of Violence

Following experiences of violence, survivors seek many different types of support. The needs assessment explores the supports and services sought by LGBTQI survivors in San Francisco, differences in service utilization by diverse segments of San Francisco's LGBTQI population, and how well existing services meet the needs of LGBTQI community members.

- LGBTQI survivors of violence are more likely to reach out to friends, family and informal support networks than to utilize formalized services.
- Support services for survivors aren't always well equipped to address intersectionality of needs and identities.
- Lack of awareness of available services is the greatest barrier for most service types to help survivors cope with their experiences of violence and trauma.

**I am a mixed race gender nonconforming person. I feel that people in my own friend/chosen family circles are more likely to be able to support me than outside providers or resources. It's tough to find professionals or external sources set up to help people like me.**

*Community Survey Respondent*

## Violence Prevention for San Francisco LGBTQI Communities

How do we reach the end goal of a violence-free community? Literature suggests that effective violence prevention happens not through any single strategy, but through the coordinated implementation of numerous strategies that work together.<sup>2</sup> Violence prevention strategies indicated by service providers, community members, and the literature are discussed within the "Spectrum of Prevention" framework developed by the National Sexual Violence Resource Center. The framework includes the following six levels of violence prevention<sup>3</sup>: (1) Strengthening individual knowledge and skills; (2) Promoting community education; (3) Educating providers; (4) Fostering coalitions and networks; (5) Changing organizational practices; and (6) Influencing policies and legislation. Service providers in San Francisco discussed violence prevention strategies at each of these levels, as well as strategies supporting three additional violence prevention factors: (1) Facilitating access to resources; (2) Promoting community dialogue and peer support; and (3) Responding to violence.

<sup>2</sup> NSVRC, Sexual Violence and the Spectrum of Prevention; Whitlock, K. (2012). Reconsidering Hate: Policy and politics at the intersection, a Political Research Associates Discussion Paper. Political Research Associates: Somerville, MA

<sup>3</sup> Adapted from NSVRC, Sexual Violence and the Spectrum of Prevention

- The landscape of violence prevention services available LGBTQI community members is difficult to define for several reasons:
  - There is no consistent definition of what constitutes “violence prevention services” among stakeholders;
  - Community organizations serving LGBTQI communities often do not receive funding for violence prevention work; and
  - There is currently no task force or coordinated effort to support collaboration between agencies (public and community based) providing violence prevention services to the LGBTQI community. Without this collaboration, the bigger picture of violence prevention is unclear, and any single provider or agency can’t know how LGBTQI violence prevention is being addressed, and by whom.
- Violence prevention strategies are most effective when they involve the direct participation of members of the communities they aim to serve.
- Because so many members of the LGBTQI community have experienced violence, it is important that violence prevention strategies be implemented in a way that is trauma-informed, recognizing the impact of violence and trauma on survivors.

**Violence prevention is beginning to shape ones awareness of what is violence, and undoing normalizing violence as a part of their lives.**

*Community Survey Respondent*

## UNSTABLE, UNCERTAIN TIMES

**Richard Ayoub** | *Project Angel Food*

According to the latest study by Feeding America, 1.5 million people are food-insecure in Los Angeles County—the largest estimated population of food-insecure people in the United States. Los Angeles County also has the largest estimated population of food-insecure children—nearly 600,000 children, 1 in 4, live at risk of hunger. This epidemic drives the 13,000 chronically homeless population in Los Angeles, which continues to have the highest rate of homelessness in the nation.

In the 2016 national study by the Williams Institute, more than 1 in 4 LGBT adults (27%)—approximately 2.2 million people—experienced a time in the last year when they did not have enough money for the food that they or their families needed. Food insecurity is concentrated among specific racial and ethnic minorities (42% among African-Americans, 33% among Hispanics, and 32% among American Indians and Alaskan Natives), women (31%), unmarried individuals (30%), and those raising children (33%).

On top of this, this year we are faced with enormous uncertainty and potentially harmful setbacks in health care and funding for human, basic needs services. The Affordable Care Act has been a critical resource for people living with HIV and pre-existing conditions—for example, allowing individuals living with HIV to receive the care and treatment they need to stay healthy, suppress the virus, and live near normal life expectancies, while reducing treatment costs down the line. However, political expediency is threatening the lives of 20 million newly insured and 53 million people with pre-existing conditions. With no clear replacement to ensure the smooth transition from the Affordable Care Act, our health and well-being are in jeopardy. Not only are there worries about healthcare, but our people, who are battling life-threatening illness and are the beneficiaries of Obamacare, have the added threat of food insecurity.

### PROJECT ANGEL FOOD AT A GLANCE

Since its inception in 1989, Project Angel Food has cooked 10 million free meals for more than 19,000 Los Angeles County residents throughout the entire 4,000-square-mile region—from South and East Los Angeles and Long Beach to the San Fernando and San Gabriel Valleys and the rural towns of the Antelope Valley. Each year, our delivery fleet travels at least 100,000 miles, distributing our food across thirty-five major geographical routes.

In 2016 we enrolled 2,078 unduplicated clients in our service, 163 more clients than the previous year. Our chefs and kitchen staff were assisted by 3,100 volunteers, who donated a total of 34,078 hours preparing (more than double the hours compared to the prior year) and packaging 564,655 meals. Our drivers, trained to recognize signs of abuse and neglect, delivered 7-days-worth of meals directly to client households during the same 4-hour window each week. We've also increased the number of families and children and youth in the client's household who receive free food in these deliveries—from 99 families with 201 children and youth to 116 families with 215 children and youth.

Our clients represent the diversity of Los Angeles County. 44% were female, 55% male, 1% transgender. 79% were people of color (29% were African American, 6% Asian, 21% Caucasian, 39% Latino, 1% Native American, and 4% Multiracial). More than half belonged to the aging population (3% were ages 36 and under, 42% were 36 to 59, and 54% were 60+). Top illnesses included 27% who lived with cancer, 24% with HIV/AIDS, 15% with kidney failure/ESRD, 15% with chronic heart failure, and the remaining 19% with COPD—emphysema, CVA—stroke, severe diabetes, Alzheimer's, and other critical illnesses. More than half live alone, the severity of their condition isolating them from traditional support networks. Our dispatchers are often the only people our clients interact with that week.

The majority of our clients are homebound and unable to stand in lines at food banks. They lack the strength to shop and cook for themselves, which places them at greater risk for malnourishment, and may result in the onset of secondary infections or rapidly deteriorating health, making recovery nearly impossible. They will require nutritional oversight and

medically tailored meals for their recovery—services unavailable at most for-profit home-delivered meals programs or organizations with nominal fees like Meals on Wheels.

As part of our lifesaving work, we provide one-on-one nutritional counseling to our clients. For many, the nutrition intake is the first time our clients have ever been asked about their diet and eating. Under the care of our registered dietitians, and in consultation with the client's primary healthcare case manager, each client receives a specialized designed menu that is unique to their diagnosis and aligned with their personal dietary restrictions and preferences. In collaboration with the client's case manager, our registered dietitians use lab tests to prescribe clients to one of our thirty-nine meal plan options. This will start with an initial assessment at the time of their enrollment, followed by routine check-ins to monitor progress and revise medically tailored meal plans every three to four months (sooner if the client is showing little to no signs of progress).

We also help combat homelessness. 96% of our clients are earning annual incomes less than 200% of the federal poverty level. Many had been recently discharged from hospitals or were returning from emergency room visits, burdened by medical expenses. Their sole source of revenue is monthly payments from the Supplemental Security Income Program to cover all their costs—including rent. Our food saves our clients from distress and displacement and provides lifeline support to manage their life, heal, and recover.

Food insecurity among families has expanded our services to include children's breakfast meals in our delivery. What began as a service to feed the entire family on Christmas 2014, has been extended to serve children breakfast regularly—during a recent grant cycle, we delivered 23,125 meals to 67 children and youth. As the health of the head of the household is interlinked with the health of the entire family, we understand that serving children will improve the family's well-being. We plan to continue serving breakfast and keep our tradition of distributing holiday toys, a program that also began in 2014—to raise our client families' spirits and contribute to their food security and wellness.

## FUNDING AT RISK

As of the time of the 2017 Fair Share for Equality Convening, Emergency Food and Shelter Program (EFSP) Funding administered by FEMA was being cut by 18% and we feared that there could be deeper cuts as it had just been moved to be administered by HUD.

Senator Mike McGuire was working on a budget item that would allocate \$4 million for a pilot program of medically-tailored nutrition inside of healthcare systems for our most vulnerable populations. We are looking to simultaneously address disparities in healthcare access and mortality with diabetes, breast cancer, and heart disease within the African American and Latino urban communities. Senator McGuire is drafting a letter of support. We are hoping other Senators and Assemblymembers will join in this budget effort.

To demonstrate the impact of the work we do, our sister organization, Project Open Hand, collaborated with UCSF Global Health Sciences and Centers for Vulnerable Populations to conduct a study on their clients. The survey data was published last week in the Journal of Urban Health. Below are some highlights:

Because of medically-tailored nutrition, clients experienced:

- 50% increase in medication adherence
- 63% reduction in hospitalizations
- 58% reduction in emergency room visits

## LGBTQ-HEADED FAMILIES

Renata Moreira and Polly Pagenhart | *Our Family Coalition*

California is home to at least 100,000 same-sex couples, and one in six (16%) of these couples are raising children under the age of 18.<sup>1</sup> Nationwide, in the 2015 U.S. Transgender Survey, an even higher percentage of respondents (18%) reported they were parents.<sup>2</sup> Two-thirds of children currently living with same-sex couples were likely born in previous different-sex relationships, but the number of “intentional” LGBT families, formed by LGBT couples or single parents either via adoption, foster care, alternative conception, or surrogacy, is growing.<sup>3</sup>

These families come from every ethnic and racial community, as well as every socioeconomic stratum. However, LGBTQ families are more likely than their non-LGBTQ counterparts to experience poverty and food insecurity.<sup>4</sup> **In fact, 1 in 5 children of LGBTQ parents live in poverty**, and are also more likely than their counterparts to be without health insurance coverage. These disparities are even more pronounced among LGBTQ people of color. Discrimination against LGBT workers negatively affects their health and the economic stability of their families. It is not alarming to say that we will be facing a domestic humanitarian crisis if we continue to see reductions of federal and state resources to support families. More than 1 in 4 LGBT adults (27%) in the country report not having enough money for food in the past year, and **46% of LGB adults aged 18-44 who are raising children received food stamps in the past year alone.**

LGBTQ Californians experience the same stark regional differences in economic and social well-being as do their non-LGBTQ counterparts. Los Angeles County and the Bay Area stand apart from the South and Central Valley and the North and Mountain regions of the state: urban LGBTQ Californians on average experience far less poverty and far more educational attainment and social acceptance on average than do rural LGBTQ Californians, highlighting these LGBTQ families’ increased need for resources and support.<sup>5</sup>

LGBTQ families statewide are affected not only by policy issues impacting LGBTQ people generally, but also by those touching all families, including those around adoption and foster care, alternative conception and surrogacy, as well as affordable health care access, paid family leave, and workplace protections. Where our economic and legal vulnerabilities go, so go those of our children, multiplying those impacts through an inheritance of either security or disparity.

Finally, parents and caregivers who are immigrant and/or trans identified, generally, and trans women of color in particular, face unique challenges, ranging from increased isolation from family, to increased vulnerability to violence, to increased targeting by attempts at discriminatory legislation.

In spite of the family recognitions conferred by marriage equality, ongoing areas of concern for LGBTQ-headed families in California include disproportionate *social isolation*, unwelcoming *school climate*, barriers to *healthcare access*, and *economic vulnerability*. The current social and political climate intensifies concerns in each of these areas, particularly for the most vulnerable LGBTQ families. Remedies for each of these challenges are within reach, but must be given sufficient priority in the agendas of both LGBTQ and family support organizations.

1 The Williams Institute, UCLA School of Law (2016). Same-sex Couple and LGBT Demographic Data Interactive. Other studies nationally place these percentages at 48% of LGBTQ women and 20% of LGBTQ men: The Williams Institute, UCLA School of Law (2013), LGBT Parenting in the United States.

2 The National Center for Transgender Equality (2016). 2015 U.S. Transgender Survey.

3 Gary Gates, Woodrow Wilson School of Public and International Affairs at Princeton University and the Brookings Institute, *The Future of Children* (2015). Marriage and Family: LGBT Individuals and Same-Sex Couples.

4 M.V. Lee Badgett, Laura E. Durso, & Alyssa Schneebaum, The Williams Institute, UCLA School of Law (2013). *New Patterns of Poverty in the Lesbian, Gay, and Bisexual Community*.

5 The Williams Institute, UCLA School of Law (2015). *The LGBT Divide in California*.

## ECONOMIC VULNERABILITY

Despite the prevailing stereotype of California gay-headed families as affluent, homogenous, and well-integrated, recent data demonstrate that poverty rates and economic vulnerability among LGBT-headed families are disproportionately high, particularly among LGBTQ families of color and rural LGBTQ families.

- 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.
- African Americans in same sex relationships have a poverty rate three times the rate of their white counterparts in same-sex marriages, significantly higher than that of African Americans in heterosexual married relationships.
- Lesbian couples are more likely to receive food stamps and public assistance than women in heterosexual marriages.
- 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.<sup>6</sup>

## HEALTHCARE ACCESS

Many healthcare environments and medical providers are unwelcoming to LGBTQ-parented families or are simply not trained to provide assistance tailored to their unique needs. Health coverage disparities and unequal access to health insurance because of slow implementation of federal mandates or lack of recognition of LGBTQ-parented families also add to this disparity in access.

- Low-income LGBT parents and caregivers and their children face multiple barriers to services: 9% of married different-sex couples raising children live in poverty, whereas twice this number of LGBTQ couples raising children do.<sup>7</sup>
- Non-citizen individuals in same-sex couples are three times more likely to be uninsured than citizens, and are also more likely to have an income below the poverty level,<sup>8</sup> and children of same-sex foreign-born LGBTQ parents face additional challenges, since they continue to be invisible under current immigration law and in most immigrant communities across the state.
- A quarter of respondents to the 2015 U.S. Transgender Survey reported a problem in the last year with their insurance due to their being transgender. Lack of access to adequate insurance coverage, mistreatment by health providers, and health providers' discomfort or inexperience with treating transgender people create additional barriers for trans parents' access to proper health treatment.<sup>9</sup>

## SOCIAL ISOLATION

Explicit support and community for LGBT parents and caregivers is rare yet necessary.

- Prevailing presumptions in both heterosexual and LGBTQ communities are that parenthood and family are essentially heterosexual and cisgender.
- Virtually all books, television programs, and movies to which children are exposed validate only heterosexual love, romance, marriage, families, and parenting, rendering LGBT-parented families nearly invisible, and kids growing up in such families unrecognized.
- LGBTQ parents and caregivers consistently name the need to break isolation and build community as the primary

6 U. S. Census Bureau, American Fact Finder. (2010a). DP202. Selected social characteristics in the United States: 2010 American Community Survey 1-Year estimates [Data file].

7 Movement Advancement Project, et al. (2011). All Children Matter: How Legal and Social Inequalities Hurt LGBT Families.

8 The Williams Institute, UCLA School of Law (2015). The LGBT Divide in California.

9 S.E. James, et al., National Center for Transgender Equality (2015). U.S. Transgender Survey Report.

motivators for participation in LGBTQ family organization events.<sup>10</sup>

## SCHOOL CLIMATE

Great strides have been made in the passage and implementation of the FAIR Education Act, but LGBTQ people and families remain largely invisible in classrooms, and much remains to be done to support LGBTQ-headed families.

- Misunderstanding remains widespread that to talk about LGBTQ people and families is equivalent to talking about adult sexuality. The developmental inappropriateness of discussion about sexuality at the pre- and elementary school level in turn functions to suppress all reference to LGBTQ family diversity as well as anti-LGBTQ bias at a time when such messages are both effective and appropriate.<sup>11</sup>
- Children of LGBTQ parents experience the damaging impacts of homophobia in school or after-school programs and are targeted for harassment at a higher rate than their peers.<sup>12</sup>

## RECOMMENDATIONS

Policy work which takes into account the most vulnerable LGBTQ families in California will benefit not just all LGBTQ Californians, or all families in the state, but all Californians. Below are but a half dozen recommendations which, if implemented, would go a long way toward easing the burden of discrimination for tens of thousands of LGBTQ Californians.

- Increase support for targeted family programming at the two dozen regional LGBTQ community centers across the state.
- Increase support for LGBTQ family cultural competency trainings for family resource centers and at family service agencies statewide, with a focus on Central and Southern farm regions as well as far Northern and mountain regions of the state.
- Increase access to online LGBTQ family support resources, to enable both working and geographically isolated LGBTQ families to access necessary information and community.
- Provide staff development trainings at schools across the state, addressing family diversity, gender roles, and difference-based bullying.
- Ensure that classroom curricula and educational materials, such as books and posters, include information about the lives and accomplishments of LGBTQ figures, both historical and contemporary, famous and ordinary.
- Ensure that school districts and family support agencies update forms to gender neutral language regarding parental roles (i.e., “parent/ guardian” rather than “mother/father”).

<sup>10</sup> Our Family Coalition (2013, 2015). Bay Area LGBTQ Family Community Needs Survey.

<sup>11</sup> Louise Derman-Sparks & Julie Olsen Edwards (2010). Anti-Bias Education for Young Children and Ourselves.

<sup>12</sup> California Safe Schools Coalition (2005). Research Brief: School Safety for Students with LGBT Parents.



# MEETING THE CHALLENGES UNDER A TRUMP ADMINISTRATION

## AUTHORED BY

**Valerie Ploumpis** | *Equality California*

On Day 12 of Donald Trump's Administration, it was abundantly clear that we were not experiencing a traditional transition from one administration to the other.

Normally, once the president has announced his Cabinet nominees, the center of focus shifts to Congress. Senate confirmation hearings and one-on-one meetings with the potential nominees are scheduled in order to explore the substantive qualifications and expertise of each person's fitness to lead the departments to which she or he has been named. This was not the case with the Trump Cabinet nominees.

In the category of the entirely unfit, there is "Mr. Oops," former Texas governor Rick Perry who didn't seem to realize that the Department of Energy was focused not on oil and gas, but instead on management of the nation's nuclear arsenal and national security. Ben Carson, a surgeon, himself said that he felt "unqualified" to lead the agency that Trump chose him to head—the Department of Housing and Urban Development. Betsy DeVos, a billionaire whose family's fortunes have funded the anti-LGBTQ Family Research Council for years, was seemingly unaware that Federal laws, not state authority, apply to the education of disabled students.

An alarming number of other Trump nominees were chosen precisely because they've long advocated killing the agencies they've been appointed to lead. Scott Pruitt, named to lead the Environmental Protection Agency (EPA), has spent much of his entire career suing the EPA in an attempt to weaken environmental regulations on Oklahoma's extractive industries written to protect water, air, and soil. Another nominee in this category is Tom Price, who was named to head the Department of Health and Human Services. Dr. Price has spent years in the House of Representatives fighting to repeal the Affordable Care Act and defund Planned Parenthood, which provides health care to hundreds of thousands of LGBTQ people across the country annually. A third example is Jeff Sessions, nominee for Attorney General, who has been named to lead the Department of Justice. Sessions is a grotesque choice to follow Loretta Lynch and Eric Holder who worked tirelessly to protect and expand civil rights and social justice. Sessions has fought and voted against women's reproductive rights, voting rights for minority voters, hate crimes bills, and employment non-discrimination throughout his entire career.

In January and February, in addition to considering a new president's nominations, Congress usually begins to focus on the big picture of setting broad priorities for the country's budget, infrastructure, commerce, transportation, taxes, and so on. But the center of gravity has not shifted to Congress because Trump dominates every news cycle and sucks up most of the oxygen with his incessant tweets about the size of his inaugural crowd, whether Schwarzenegger had more viewers on 'The Apprentice' than he did, and chiding some companies (Boeing and Toyota) while lauding others (LL Bean and Carrier). This is highly inappropriate behavior—normally the president of the United States exercises an abundance of caution not to single out U.S. companies in order to avoid the appearance of picking winners and losers. But Trump seems to be entirely unconcerned about rising and falling stock prices of the companies he targets.

Our foreign allies are also whiplashed. Mexico's Pena Nieto, the UK's Teresa May, Japan's Shinzo Abe, and Australia's Turnbull have all warily engaged with President Trump—only to be savaged in the next news cycle.

Journalists too find themselves on unstable ground. The president and his press secretary have attacked established media like CNN with charges of propagating 'fake news,' and seem to delight in calling out individual journalists by name, refusing to recognize their questions at press conferences, and even banning them from the press pool.

Even the country's national security apparatus is disoriented. President Trump has publicly derided the CIA for past intelligence mistakes and clearly blindsided the Department of Homeland Security with the Muslim ban. DHS Secretary

James Kelly said that his department had been consulted prior to the announcement last week but it is obvious that U.S. customs officials and law enforcement were completely unprepared to carry out the executive order.

Civil society, meanwhile, reels as we try to respond in real time to dozens of key nominations stacked on top of one another with no time to research and vet qualifications, erratic tweets, ill-planned executive orders, innumerable rumors of still other executive orders, and the like.

This climate is not normal and it is not healthy for our democracy.

Equality California is determined to weather this new environment. With our decision to open an office in Washington, D.C., we have set forth an ambitious work plan to navigate the Trump administration:

Our first priority is to establish strong working relations with the other national progressive organizations with an end-goal of developing strategy and working together with common purpose. The key organizations in the LGBTQ sphere include (in no particular order) Lambda Legal, the National Center for Lesbian Rights, the Human Rights Campaign, the LGBTQ Task Force, the National Center for Transgender Equality, the Transgender Law Center, and others. We have also reached out to non-LGBTQ organizations in the sphere. Again in no particular order, we intend to work closely with Planned Parenthood, the ACLU, AIDS and HIV groups, MALDEF, the NAACP and others.

At the same time, in California, we intend to educate our 800,000 members and our PAC about safeguarding LGBTQ protections and to mobilize them in real time to respond to a wide spectrum of threats, including threats to the Affordable Care Act, immigrants and LGBTQ refugees, people of color, trans and gender nonconforming people, criminal justice, and many others.

Thirdly, Equality California hopes to become a real resource to other statewide LGBTQ organizations who do not have representation in Washington, D.C. We are eager to share some of the innovative ideas and strategies coming out of California and to help other LGBTQ state organizations by identifying the best practices for beating back attacks on the LGBTQ community.

Finally, given that the White House, the Senate, and the House are all in Republican hands—at least for the next two years—Equality California intends to work with both sides of the aisle in Congress. It is clear that many establishment and moderate Republicans feel increasingly uneasy with the pace of change, the issuance of unvetted executive orders, the erratic interactions with foreign leaders, the size and multitude of public demonstrations, and demands from their constituents about the need to have a solid replacement plan in place if the ACA is repealed.

We are ready.

## REGARDING THEN-NOMINEE FOR THE U.S. SUPREME COURT NEIL GORSUCH AND COPING WITH A TRUMP ADMINISTRATION:

**Kate Kendell** | *National Center for Lesbian Rights*

Transcribed Remarks

Giving primacy to religious belief and, in the public square, allowing that belief to defeat the whole network of nondiscrimination protections that we've relied on in civil society is enormously troubling.

The other thread of [Neil Gorsuch's] writing that we find very troubling is not from opinions that he has written but essays that he has written, mainly when he was a student at Columbia. In these essays, he specifically denounces the idea of progressives—and he uses 'liberal/progressives'—using the court as the mechanism for redressing grievances or wrongs. In fact, the language he actually used was accusing progressives and liberals of an over-weening addiction to the courtroom. Uh hello, that is why courts exist—for people to redress grievances, address wrongs, and correct injustice. That is why courts exist. Essentially he seems to be suggesting that he is fine with corporate interests using courts but that progressives shouldn't be able to use courts.

So you think about how far we've come—*Romer v. Evans*, *Lawrence v. Texas*, *Windsor*, *Obergefell*... [Gorsuch's] essential view seems to be that all of those cases were an illegitimate deployment of judicial resources to redress wrongs suffered by the LGBT community and by same sex couples. So there is much to be worried about.

In addition to just what we know from his record, the hyperbolic lauding of Justice Scalia was also very troubling. Clearly Scalia is a model [for Gorsuch] and, I think, actually a somewhat more progressive model than even Gorsuch himself. As you map out justices on the court—this was done by, I think, *The Nation* magazine as an illustration—[*The Nation* magazine] put Gorsuch to the more conservative [end of the] spectrum, farther than Scalia, and we all know how Scalia approached LGBT rights, comparing [LGBT people and being LGBT] to pedophiles, to bestiality, to murderers.

So there is much to fear in [Gorsuch's] nomination, and I think we have to pull out all the stops and say: not only were we robbed, the Obama administration [was] robbed, of a seat that should have been on the court—Merrick Garland should be a Justice on the Supreme Court right now, and there should not be a vacancy. To not only steal that seat but then replace it with an individual who would ardently roll back protections for the LGBT community and others—we just have to say, full stop: "it's not happening," and do anything we can to make sure that Democrats stand firm.

Now I know lots of people are also saying he's a shoe-in and that he's going to be confirmed, but I'm just saying...no. This is where, you know... Resist. Resist. Resist.

Require our elected officials to do the same thing.

Then I'll just finish with a couple of other things. I know there has been a lot of talk this week about a potential executive order. It initially got floated as an executive order that would rescind prior Obama and Clinton executive orders providing that there be non-discrimination against LGBT people in federal contracting or for federal contractors and protections for federal workers who are LGBT-identified.

In some ways, I feel like this is [a cycle that] the administration seems to be very good at: throwing something out there [so that] we all react in this hugely hysterical, justifiably so, way. Then [the administration is] like, 'well no, we're not going to do that.' That's now the latest statement we have from the Trump Administration: we're not going to rescind those executive orders; that's not what we're going to do.

Tomorrow we'll see—tomorrow is the prayer breakfast, which would be a perfect scenario and venue in which to announce an executive order that makes more muscular the ability of individuals to use religion as a weapon to defeat non-discrimination protections. I think...it's VERY likely we could see an executive order like that.

So I will just say, in this room, you know... No effin way. We will sue immediately, as soon as we can, as soon as we have the right plaintiffs lined up—sue against an executive order like that. But of course, that's my first point—if Gorsuch is confirmed to the court that is a solid vote to defend such an executive order.

And then the final thing I'll say: all of that...is obviously very distressing news, and it's just been one [thing]...after another, since the inauguration.

This is intentional. This is designed to make us feel helpless. And to make us feel dispirited. And to make us feel that we can't fight back.

And what I have been very gratified to see is that people all over the country are essentially saying: not on my watch; you are not getting away with this—I am going to fight back.

I'm telling you that that is going to have an effect. It is already having an effect.

So don't let them win by just wearing you down. Do whatever you need to do to restore yourself...whether it's a bottle of wine or poker with your friends or seeing a ridiculous movie or whatever you stream. Do that.

Then tomorrow morning you get up, and you're in the streets again. You're screaming, and you're loud. You make all your friends do the same thing. You send letters to Congress, and you make phone calls to Congress. You do it, and you support organizations like Equality California doing this important work.

Then you restore yourself, and then you do it again the very next day.

We're going to have to do that at a level we've never ever had to before, but that is what is going to be required to meet that level of threat... Look, [Trump] has still already done incalculable damage to civil society and democratic institutions, but if we do that every single day we might be able to stanch the worst.

Then at whatever moment this nightmare ends, we can say we saved a little bit of the Republic because we never stopped fighting back.

## AUTHORED BY

**Sue Dunlap** | *Planned Parenthood Los Angeles*

### PROVIDING SERVICES FOR LOW INCOME PEOPLE

- Planned Parenthood serves predominantly low-income patients (75% of all Planned Parenthood L.A. patients live below the federal poverty level). Most of our patients do not have private health insurance, and rely instead on Medicaid to access health care (87% of patient visits in CA are funded by state/federal sources). Medicaid covers cancer screenings, birth control, STD testing/treatment, and wellness exams.
- LGBTQ people are less likely than non-LGBTQ people to have insurance and to have a personal doctor.<sup>1</sup>

### PROVIDING NONJUDGMENTAL, CULTURALLY COMPETENT CARE TO LGBTQ AND TRANS MEN AND WOMEN

- Trans women and men face unique barriers to accessing health care and can experience discrimination when seeking care: Trans people are postponing medical care when sick or injured due to discrimination (28%) or inability to afford it (48%).
- Refusal of care: 19% of respondents in one study reported being refused care due to their transgender or gender non-conforming status, with even higher numbers among people of color in the survey.
- Harassment and violence in medical settings: 28% experienced harassment in medical settings and 2% were victims of violence in doctor's offices.
- 36% of non-LB women are thriving physically, compared with only 24% LB women.<sup>2</sup>
- Lack of provider knowledge: 50% of the sample reported having to teach their medical providers about transgender care.<sup>3</sup>
- Many of Planned Parenthood's patients seek care with us when they are feeling scared, ashamed, or embarrassed. They are often anxious to talk to someone who will not judge their choices or behaviors and whom they can count on for unbiased, sound medical care. Our staff are trusted to be compassionate and non-judgmental, and our health centers are thought of as safe spaces for all. Planned Parenthood is well-positioned to provide culturally competent care to trans women and men who may avoid other providers because of discrimination or lack of knowledgeable, approachable, and accessible providers.
- 26 Planned Parenthood health centers provide hormone services. Planned Parenthood Mar Monte—the largest affiliate nationwide—offers transgender (male-to-female and female-to-male) hormone services in three California health centers.
- Planned Parenthood L.A.'s school-based education programs specifically focus on gender stereotypes and norms and explore the pressures stemming from these norms that young women and men often feel—whether from their families, friends, or the media.
- Planned Parenthood L.A.'s Promotoras Comunitarias program has a specific workshop designed to reduce stigma of LGBTQ women and men in the Latina community.

### PROVIDING STD AND HIV TESTING AND PREVENTION

- While most Planned Parenthood patients are women, about 10% of our patients are men. They come to us for services like vasectomies and testicular cancer screenings, and many come for HIV and other STD tests and treatment.
- Gay, bisexual, and other men who have sex with men made up an estimated 2% of the population but 55% of people

<sup>1</sup> <http://www.gallup.com/poll/175445/lgbt-likely-non-lgbt-uninsured.aspx>

<sup>2</sup> <http://www.gallup.com/poll/175418/lgbt-americans-report-lower.aspx>

<sup>3</sup> [http://www.thetaskforce.org/static\\_html/downloads/resources\\_and\\_tools/ntds\\_report\\_on\\_health.pdf](http://www.thetaskforce.org/static_html/downloads/resources_and_tools/ntds_report_on_health.pdf)

living with HIV in the United States in 2013.

- A 2016 analysis estimated that 15% of gay and bisexual men are living with HIV infection (11% diagnosed); nearly 1 in 7 gay and bisexual men living with HIV are unaware they have it.<sup>4</sup>
- While breakthrough drugs can help prevent HIV infection, 1/3 of primary care providers have never heard of PrEP or PEP.<sup>5</sup>
- Every year, across the country, Planned Parenthood provides: 650,000 HIV tests and 3.5 million STI tests, with 171,000 STIs diagnosed.
- Many Planned Parenthood health centers across the country offer PrEP/PEP to our patients (including in Los Angeles), and we work closely with partner organizations to educate our communities about this option. Much of the PrEP/PEP awareness campaigns to-date have focused on men; because Planned Parenthood does see primarily women patients, we are uniquely positioned to reach a new audience with this information.
- We partner with L.A. County to make sure people who test positive for STDs are notified and get the proper care they need.
- To reduce barriers to care, we provide “partner treatments” to patients who test positive for certain STDs, with the understanding that their sexual partner/s are also likely infected.
- HIV prevention is part of Planned Parenthood’s education programs around the country. Here in L.A., our Promotoras have a play that they perform, in Spanish, to reduce stigma around HIV and to encourage testing.

<sup>4</sup> <https://www.cdc.gov/hiv/group/msm/>

<sup>5</sup> <https://www.cdc.gov/media/releases/2015/t1124-hivprep.html>



# THE LGBTQ EXPERIENCE AND THE CRIMINAL JUSTICE SYSTEM

## AUTHORED BY

**Naomi Goldberg** | *The Movement Advancement Project*

The criminal justice system in the United States is broken. Police departments around the country are grappling with continued incidents of profiling and excessive force. Jails and prisons are overflowing and are disproportionately filled with people of color, low-income people, and people struggling with mental illness—many of whom pose little safety threat. Meanwhile, people who were formerly incarcerated face incredible challenges simply trying to make a living and rebuild their lives.

Among the many populations who pay an especially high price for the failures of the U.S. criminal justice system are lesbian, gay, bisexual, and transgender (LGBT) people, including LGBT people of color and low-income LGBT people.

### ENTERING THE SYSTEM: THREE FACTORS LEAD TO INCREASED CRIMINALIZATION OF LGBT PEOPLE

Discrimination and stigma in society, workplaces, families and communities force many LGBT people into untenable situations. LGBT young people are often pushed out of homes and schools because of family rejection, harsh and discriminatory school discipline policies, and other factors—leaving these youths to fend for themselves on the streets. In addition, LGBT adults may be unable to make ends meet because of discrimination in many areas of life. For example, discrimination can make it more difficult to earn a living, find safe shelter and long-term housing, access affordable health care, and meet other basic necessities. As a result, LGBT people are at increased risk of becoming homeless and/or relying on survival economies, which in turn leaves LGBT people vulnerable to encounters with law enforcement and, ultimately, criminalization. For example, one in five (20%) of transgender people in men's prisons in California had been homeless just prior to their incarceration<sup>1</sup> In a study of white and Latino/a LGBT young people in California, more than four in 10 (42%) of those experiencing homelessness or living in custodial care (e.g., on the streets or in foster care or juvenile detention facilities) reported family rejection as the reason for leaving home.<sup>2</sup>

Discriminatory enforcement of laws criminalizes LGBT people's lives. Discriminatory criminalization of LGBT people happens in numerous ways. HIV criminalization laws, for example, rely on outdated science and are enforced based on stigma. The result is that people living with HIV are in constant fear of being prosecuted and jailed. In a study from prosecutions under California's HIV criminalization statutes, 99% of individuals charged were ultimately convicted, and nearly all served time in prison or jail.<sup>3</sup> In addition, state indecency laws are enforced based on stereotypes and disproportionately target LGBT people engaged in consensual sex. Last but not least, drug law enforcement disproportionately targets people of color and low-income people, including LGBT people.

Harmful policing strategies and tactics push LGBT people into the criminal justice system. How police enforce the law results in certain communities becoming targets. Police may launch a crackdown on "undesirable" behavior, which results in an unfair spike in arrests of LGBT people. In a survey of LGBTQ youth in New Orleans, 87% of youth of color had been approached by the police.<sup>4</sup> Officers also may use force or abuse their power during interactions with LGBT people and people of color, in particular, resulting in sexual and physical abuse, misconduct, neglect, and even death. Recent years have seen increased attention to the toll of harmful policing strategies on communities of color, low-income people, and LGBT people, many of whom are also people of color and/or low-income.

<sup>1</sup> Lori Sexton, Valerie Jenness, and Jennifer Sumner, "Where the Margins Meet: A Demographic Assessment of Transgender Inmates in Men's Prisons," University of California, Irvine, June 10, 2009, <http://ucicorrections.seweb.uci.edu/files/2013/06/A-Demographic-Assessment-of-Transgender-Inmates-in-Mens-Prisons.pdf>.

<sup>2</sup> Caitlin Ryan and Rafael Diaz, "Family Responses as a Source of Risk & Resiliency for LGBT Youth," paper presented at the Child Welfare League of America Preconference Institute, Washington, DC, February 2005.

<sup>3</sup> Amira Hasenbush, Ayako Miyashita, and Bianca D.M. Wilson, "HIV Criminalization in California: Penal Implications for People Living with HIV/AIDS," (The Williams Institute, December 2015), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/HIV-Criminalization-California-December-2015.pdf>

<sup>4</sup> BreakOUT! and the National Council on Crime & Delinquency, "We Deserve Better: A Report on Policing in New Orleans By and For Queer and Trans Youth of Color," 2014, <http://www.youthbreakout.org/sites/g/files/g189161f/201410/WE%20DESERVE%20BETTER%20REPORT.pdf>.

## IN THE SYSTEM: LGBT PEOPLE ARE MORE FREQUENTLY INCARCERATED AND TREATED HARSHLY

Discrimination in legal proceedings. When the criminal justice system operates as it should, people are charged, tried, and sentenced without bias. But too frequently, LGBT people are unfairly tried. Their sexual orientation and gender identity are often used against them by prosecutors, judges, and even defense attorneys. In a survey of LGBTQ youth engaged in survival sex in New York City, 44% reported their experience with court personnel as negative, including being called by incorrect pronouns or hearing negative comments about their gender identity or sexual orientation.<sup>5</sup> LGBT people often do not receive adequate counsel or representation—and they can face substantial discrimination from juries. As a result, LGBT people are overrepresented in juvenile justice facilities, adult correctional facilities, and immigration detention facilities. In a 2008 survey of youth in detention in several sites in California, 40% of LGBTQ youth had been held in juvenile detention for running away compared to 13% of straight youth.<sup>6</sup>

Unfair and inhumane treatment in jails, prisons, and other confinement facilities. LGBT people are frequently placed in solitary confinement, and transgender people are regularly placed in facilities that do not conform to their gender identity; a 2015 report found that 28% of LGB people in prison had been placed in solitary confinement during the past year compared to just 18% of heterosexual people in prison.<sup>7</sup> According to a study of California Department of Corrections facilities, over three-quarters (77%) of transgender women in men's prisons identified as women and lived their lives as women outside of prison.<sup>8</sup> LGBT people who are placed in confinement facilities disproportionately encounter harsh and unsafe treatment by staff and fellow inmates, insufficient access to comprehensive, competent health care and supportive services, and other challenges. Several studies find incredibly high rates of sexual assault. For example, a survey of transgender women in men's prisons in California found that 14% reported being sexual assaulted by a correctional staff member.<sup>9</sup>

## LIFE AFTER CONVICTION: LGBT PEOPLE FACE ADDED CHALLENGES TO REBUILDING THEIR LIVES

Lack of support for LGBT people in probation, parole, and re-entry programs. LGBT people often face unique needs for support in finding housing and jobs and accessing essential services. They experience discrimination at high rates and frequently lack family support, and transgender people in particular may need additional assistance finding appropriate health care. Rarely do probation, parole, and re-entry programs take into consideration the discrimination that LGBT people experience in many areas of life, including employment, housing, and public accommodations.

Having a criminal record harms LGBT people's ability to support themselves and be a part of their families and communities. The challenges for individuals with criminal records are substantial in the United States and touch every aspect of one's life. In many ways, these individuals continue to be punished for their crimes long after they have completed their sentences. For people, such as LGBT people and people of color, who already struggle with pervasive stigma and discrimination, a criminal record compounds daily discrimination to create substantial barriers to rebuilding one's life and avoiding future interactions with the criminal justice system. For LGBT immigrants, regardless of immigration status, having a criminal record can easily lead to deportation.

## FIXING A BROKEN SYSTEM

Efforts to reform the criminal justice system must address the experiences of LGBT people, particularly LGBT people of color. First, we must reduce the number of LGBT people who come into contact with law enforcement through increased community and social supports for LGBT people; reforming laws and enforcement priorities; and revisiting the strategies and tactics used by police and law enforcement. Second, we must improve access to justice for LGBT people and

5 Meredith Dank et al., "Locked In: Interactions with the Criminal Justice and Child Welfare Systems for LGBTQ Youth, YMSM, and YWSW Who Engage in Survival Sex," (Urban Institute, September 2015), <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000424-LockedIn-Interactions-with-the-Criminal-Justice-and-Child-Welfare-Systems-for-LGBTQ-YouthYMSM-and-YWSW-Who-Engage-in-Survival-Sex.pdf>.

6 Legal Services for Children, National Center for Lesbian Rights, and National Juvenile Defender Center, "The Equity Project," September 2008, <http://www.jdaihelpdesk.org/intersiteconf2008/LGBT%20The%20Equity%20Project.pdf>.

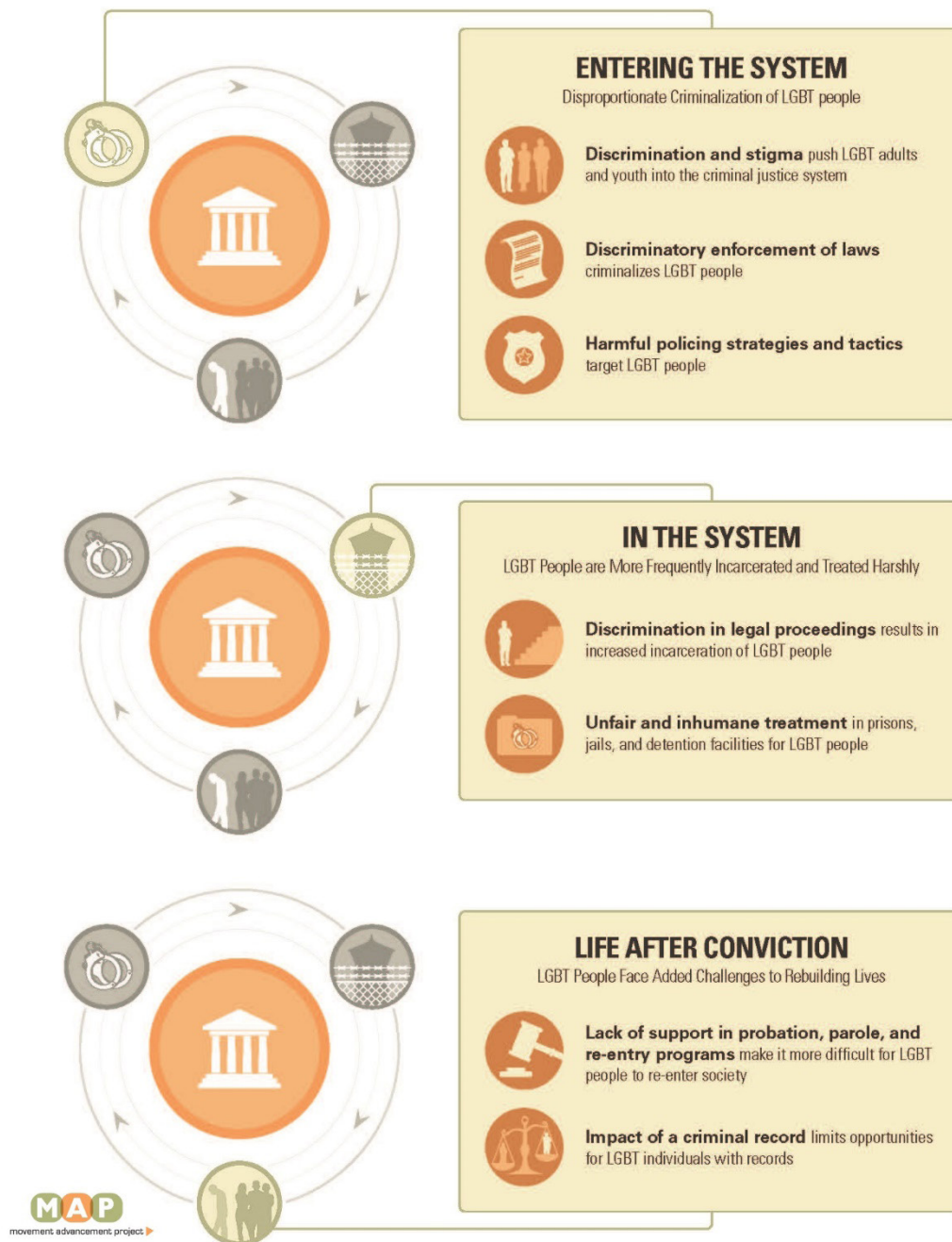
7 Allen J. Beck, "Use Of Restrictive Housing In U.S. Prisons And Jails, 2011–12," (Bureau of Justice Statistics, October 23, 2015), <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=5433>.

8 Sexton, Jenness, and Sumner, "Where the Margins Meet."

9 Beck, "Sexual Victimization in Prisons and Jails Reported by Inmates, 2011–12 – Supplemental Tables."

eliminate abusive and inhumane conditions of confinement. And third, we must create an environment in which LGBT people with criminal records can rebuild their lives and be positive influencers of change in their communities.

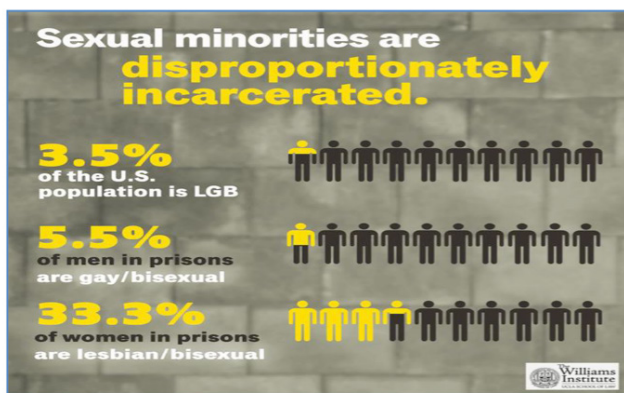
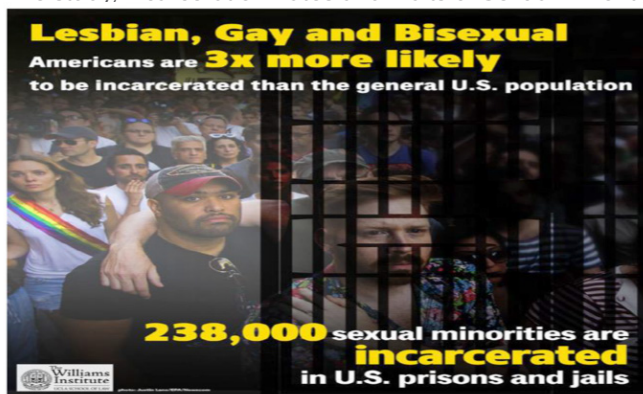
## UNJUST: HOW THE BROKEN CRIMINAL JUSTICE SYSTEM FAILS LGBT PEOPLE



## SEXUAL MINORITIES ARE DISPROPORTIONATELY INCARCERATED IN THE UNITED STATES

Ilan Meyer | *The Williams Institute*

Researchers at the Williams Institute found that sexual minorities are incarcerated at disproportionately high rates, and once incarcerated they are more likely to experience mistreatment, harsh punishment, and sexual victimization. Approximately 238,000 sexual minorities are incarcerated in the United States. The nationwide incarceration rate of sexual minorities was previously unknown. Researchers drew their data from the National Inmate Survey, 2011–2012, a probability sample of inmates in US prisons and jails mandated by the prison rape elimination act of 2003. The study, *Incarceration Rates and Traits of Sexual Minorities in the United States: National Inmate Survey, 2011–2012*, is



the first to consider incarcerated sexual minority men and women separately.

Findings include:

- Sexual minorities, defined as people who self-identify as lesbian, gay, or bisexual (LGB) and people who do not identify as LGB but reported a same-sex sexual experience, were disproportionately incarcerated: 9.3 percent of men in prison, 6.2 percent of men in jail, 42.1 percent of women in prison, and 35.7 percent of women in jail were sexual minorities.
- Although lesbians, gay men, and bisexual people make up about 3.5 percent of the U.S. general population, 5.5% of men in prisons are gay or bisexual, and 33.3% of women in prison are lesbian or bisexual.
- Among the approximately 238,000 sexual minorities held in prisons and jails, approximately 94,900 are gay and bisexual men, 69,600 are MSM (men who have sex with men but do not identify as gay/bisexual), 56,400 are lesbian and bisexual women, and 17,000 are WSW (women who have sex with women but do not identify as lesbian or bisexual).



- This corresponds to an incarceration rate of 1,882 per 100,000 LGB people, or 2,368 per 100,000 gay or bisexual men and 1,399 per 100,000 lesbians or bisexual women. By comparison, the general incarceration rate is 612 per 100,000 U.S. adults over age 18.
- Compared with straight inmates, sexual minorities were more likely to have been sexually victimized as children, to have been sexually victimized while incarcerated, to have experienced solitary confinement and other sanctions, and to report current psychological distress.

Williams Institute researchers also focused on youth in detention to find that sexual minority youth are incarcerated at disproportionately high rates. Once sexual minority youth are incarcerated, they are more likely than their peers to be held for long periods of time and experience sexual victimization.



*In Disproportionality and Disparities Among Sexual Minority Youth in Custody*, researchers Bianca D.M. Wilson, Ph.D., Ilan H. Meyer, Ph.D., Andrew R. Flores, Ph.D., and Jody L. Herman, Ph.D. consider the extent to which sexual minority youth are disproportionately incarcerated in the U.S. juvenile justice detention system and whether sexual minority youth are incarcerated for longer periods than heterosexual youth. The study also considers the prevalence of sexual victimization while in custody for sexual minority youth compared to their heterosexual peers of the same gender. Sexual minority youth include those that identify as lesbian, gay, or bisexual, as well as those that identified as mostly straight but had some attraction to the same sex.

Key findings include:

- Almost 60% of all incarcerated girls are sexual minorities.
- Sexual minority youth are 2-3 times more likely to be held in custody for more than a year compared to heterosexual youth.
- Gay and bisexual boys were nearly 11 times more likely than straight boys to report having experienced sexual violence by peers.



Findings were based on the 2012 National Survey of Youth in Custody-2 (NSYC-2) which was comprised of anonymous surveys of youth in a nationally representative sample of juvenile correctional facilities that included an indicator of sexual orientation.

**FOR MORE INFORMATION**

Meyer, I.H., Flores, A.R., Stemple, L., Romero, A.P., Wilson, B.D.M., & Herman, J.L. (2017). Incarceration rates and traits of sexual minorities in the United States: National Inmate Survey, 2011-2012. *American Journal of Public Health*, Vol 107, No. 2. pp 234-240. <http://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2016.303576>

Wilson, B.D.M., Jordan, S.P., Meyer, I.H., Flores, A.R., Stemple, L., and Herman, J.L. (2017). Disproportionality and disparities among sexual minority youth in custody. *Journal of Youth and Adolescence*. pp 1-15. doi:10.1007/s10964-017-0632-5. [https://www.researchgate.net/publication/312477019\\_Disproportionality\\_and\\_Disparities\\_among\\_Sexual\\_Minority\\_Youth\\_in\\_Custody](https://www.researchgate.net/publication/312477019_Disproportionality_and_Disparities_among_Sexual_Minority_Youth_in_Custody)



# THE IMMIGRATION LANDSCAPE AND HOW WE CAN SHAPE IT

## AUTHORED BY

**Shiu-Ming Cheer and Angelo Mathay** | *National Immigration Law Center*

**Ronald Coleman** | *California Immigrant Policy Center*

### I. FEDERAL IMMIGRATION POLICY AND POLITICAL CLIMATE

With President Donald Trump having served only a little over two weeks in office, his immigration-related executive orders had already dramatically altered the immigration policy landscape, as undocumented and documented immigrants faced new regressive measures, making them vulnerable to mass deportations. Immigrants are now, more than ever, living in fear and anxiety in part due to the recent executive orders that further marginalize and criminalize immigrant communities.

On January 25, 2017, two immigration-related executive orders were signed by President Trump. The executive order on “Border Security and Immigration Enforcement Improvements,” which calls for the “immediate construction of a physical wall on the southern border,” provides for detention of “individuals apprehended on suspicion of violating Federal or State law, including Federal immigration law, pending further proceedings regarding those violations,” and calls to expedite determinations of apprehended individuals’ claims of eligibility to remain in the United States.<sup>1</sup>

The other executive order signed on the same day, “Enhancing Public Safety in the Interior of the United States,” creates new enforcement priorities from November 20, 2014, with a vastly expanded list of individuals who will now be considered priorities; authorizes the hiring of 10,000 additional Immigration and Customs Enforcement (ICE) agents, which would triple its current estimated number of 5,000 agents; and states that “sanctuary jurisdictions” would not be eligible to receive Federal grants, except as necessary for law enforcement purposes.<sup>2</sup>

On January 27, 2017, President Trump issued another immigration-related executive order, “Protecting the Nation from Terrorist Attacks by Foreign Nationals,” which suspends the entire U.S. Refugee Admissions Program for at least 120 days; indefinitely bans Syrian refugees from resettling in the U.S.; bans individuals from seven Muslim-majority countries—Yemen, Libya, Somalia, Sudan, Iran, Iraq, and Syria—from entering the U.S. for at least 90 days; and authorizes the Secretaries of State or Homeland Security to add additional countries to this list.<sup>3</sup> Immediately after the executive order banning refugees and other individuals from certain countries entering the United States was signed, civil rights organizations—National Immigration Law Center, ACLU, International Refugee Assistance Project at the Urban Justice Center, Worker and Immigrant Rights Advocacy Clinic (WIRAC) at Yale Law School, and Kilpatrick Townsend & Stockton LLP—filed a lawsuit against the Trump Administration on behalf of two Iraqi men who were detained at John F. Kennedy airport in New York City requesting that the two men be released and to stop detaining any individual solely on the basis of the executive order.<sup>4</sup> A federal district court judge issued an emergency, temporary, nationwide stay of the removal from the U.S. of anyone subject to the EO who had been detained in airports across the U.S.<sup>5</sup>

On Saturday, January 28, 2017, another federal judge in Boston ordered that individuals from the seven countries who were detained at Boston’s Logan Airport to be released from detention there.<sup>6</sup> A third federal court in Texas ordered that

1 White House, Executive Order: Border Security and Immigration Enforcement Improvements, <https://www.whitehouse.gov/the-press-office/2017/01/25/executive-order-border-security-and-immigration-enforcement-improvements>.

2 White House, Executive Order: Enhancing Public Safety in the Interior of the United States, <https://www.whitehouse.gov/the-press-office/2017/01/25/presidential-executive-order-enhancing-public-safety-interior-united>.

3 White House, Executive Order: Protecting the Nation from Foreign Terrorist Entry into the United States, <https://www.whitehouse.gov/the-press-office/2017/01/27/executive-order-protecting-nation-foreign-terrorist-entry-united-states>.

4 National Immigration Law Center et. al., Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief, <https://www.nilc.org/wp-content/uploads/2017/01/1-complaint.pdf>.

5 National Immigration Law Center et. al., Decision and Order, <https://www.nilc.org/wp-content/uploads/2017/01/OrderGrantingStay1.28.17.pdf>.

6 National Immigration Law Center, Frequently Asked Questions: President Trump’s Executive Order Targeting Refugees and Muslims, file:///C:/Users/mathay/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/Z7SEA6ZG/refugee-muslim-ban-FAQ-2016-02-02.pdf.

legal permanent residents detained in the Dulles Airport be granted access to attorneys in secondary screening. On Monday, January 30, 2017, Washington State filed a federal lawsuit against Trump, challenging parts of the EO. Several other lawsuits, including one by the Council on American-Islamic Relations filed in a federal district court in Virginia, challenged the entire executive order.

Since President Trump signed the executive order banning refugees and other individuals from certain countries entering the United States, numerous lawsuits have been filed to challenge its legality,<sup>7</sup> and more are planned.

## II. CALIFORNIA BILLS TO SUPPORT

While the federal government has jurisdiction over immigration law, states have begun to play a more active role in implementing laws and policies to protect immigrant communities. In California, the legislature is considering several pieces of legislation to defend against the anticipated harmful impacts of President Trump's recent executive orders.

Assembly Bill 3, Preventing Avoidable Deportations with Effective Assistance of Counsel Act, introduced by Assemblyman Rob Bonta, would provide state funding to establish Regional Centers and Statewide Resource Centers. These centers would provide public defenders with additional immigration law experience through trainings, mentoring, and technical support.<sup>8</sup> The goal of this bill is to provide public defenders with adequate technical support to represent their clients that face immigration consequences and avoid unnecessary deportations.<sup>9</sup>

Senate Bill 31, California Religious Freedom Act, introduced by Senator Ricardo Lara, prohibits a state or local agency from providing or disclosing to federal agencies personally identifying information regarding a person's religious affiliation when the information is sought for compiling a database of individuals based on religious affiliation, national origin, or ethnicity.<sup>10</sup> The bill also prohibits state and local law enforcement from collecting information about an individual's religious beliefs or affiliations except under certain circumstances.<sup>11</sup> This bill does not prevent any state or local agency from compiling comprehensive, non-personally identifying information about religious beliefs or affiliations, national origin, or ethnicity or from exchanging it with other local, state, or federal agencies.<sup>12</sup>

Senate Bill 54, The California Values Act, introduced by Senator Kevin De León, would provide critical protections to ensure that state and local resources are not utilized to target and deport undocumented immigrants.<sup>13</sup> The bill would prevent state and local enforcement agency resources from being used to investigate, detain, detect, report, or arrest individuals for immigration enforcement purposes.<sup>14</sup> Further, the bill would require state agencies to review their confidentiality policies and identify measures that need to be taken to ensure that information collected from individuals is limited.<sup>15</sup> The bill also requires schools, health facilities, and courthouses to establish policies that limit immigration enforcement on their premises.<sup>16</sup>

<sup>7</sup> Civil Rights Challenges to President Trump's Executive Orders on Immigration (University of Michigan Law School, Civil Rights Litigation Clearinghouse), [www.clearinghouse.net/featuredCase.php?id=40](http://www.clearinghouse.net/featuredCase.php?id=40).

<sup>8</sup> AB 3 (Bonta) – Stronger Public Defenders Act, file:///C:/Users/mathay/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/Z7SEA6ZG/PD%20Fund-ing%20(AB%203%20-%20Bonta)%20Fact%20Sheet%20(002).pdf.

<sup>9</sup> Id.

<sup>10</sup> Senator Ricardo Lara, Legislative Fact Sheet: Senate Bill 31 – Fight4CAReligiousFreedom, file:///C:/Users/mathay/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/Z7SEA6ZG/SB%2031%20Fact%20Sheet.pdf.

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Senator Kevin De León, SB 54 (De León) The California Values Act, file:///C:/Users/mathay/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/Z7SEA6ZG/SB%2054%20(De%20Leon)%20CA%20Values%20Act%20factsheet%20(002).pdf.

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> Id.

### III. LOCAL EFFORTS AND RECOMMENDATIONS

Given the rhetoric and recent immigration-related executive orders announced by President Trump, there is a need for localities to ensure that immigrant communities are protected. As such, we recommend that localities and local law enforcement agencies disentangle themselves from federal immigration enforcement.

- Local law enforcement agencies should not facilitate immigration enforcement and should not use local resources to investigate, detain, detect, report, or arrest persons for immigration enforcement purposes.
- Local agencies should not share data with federal authorities for the purposes of compiling a federal registry based on religious belief, practice, affiliation, national origin, or ethnicity.
- We also recommend that you support the local efforts combatting President Trump's policies by providing legal representation for immigrants in deportation proceedings. Other localities should follow these examples and contribute funding to replicate these efforts.
- In Los Angeles, a collaboration between city, county, and philanthropic partners have led to a \$10-million fund to provide legal assistance for immigrants facing deportation.<sup>17</sup>
- Other efforts are occurring in counties like Santa Clara, where they are planning to expand funding to help local immigrants obtain representation to fight potential deportation proceedings.<sup>18</sup>

Another way in which states and localities have responded to the anti-immigrant rhetoric over the past few years is through the creation of state and municipal offices of new Americans or immigrant affairs. We encourage you to fund and support these offices so that they may continue to serve as a resource to immigrant communities.

- In California, while there is no state office of new Americans, Governor Brown appointed an Immigrant Integration Director in 2016 to plan and coordinate immigrant services and policies and develop a report on all federal and state immigration-related laws, regulations, policies, and programs.<sup>19</sup>
- In 2013, Los Angeles Mayor Eric Garcetti re-established the Mayor's Office of Immigrant Affairs (MOIA). The goal of the office is to develop programs and initiatives that are tailored to support a city-wide immigrant integration effort.<sup>20</sup>
- There are similar municipal offices of immigrant affairs in San Francisco<sup>21</sup> and San Jose.<sup>22</sup>

<sup>17</sup> Dakota Smith and Cindy Carcamo, Responding to Trump, L.A. Proposes \$10-million Legal Defense Fund for Immigrants Facing Deportation, LA Times, <http://www.latimes.com/local/lanow/la-me-ln-lafund-20161219-story.html>.

<sup>18</sup> Eric Kurhl, Trump and Immigrants: Santa Clara County Looks to Bolster Legal Aid, The Mercury News, <http://www.mercurynews.com/2016/11/26/trump-and-immigrants-santa-clara-county-looks-to-bolster-legal-aid/>.

<sup>19</sup> The Pew Charitable Trusts, State Immigration Policy Offices: 3 Takeaways, <http://www.pewtrusts.org/en/research-and-analysis/analysis/2015/09/17/state-immigration-policy-offices-3-takeaways>.

<sup>20</sup> Los Angeles, Mayor's Office of Immigrant Affairs, <https://www.lamayor.org/Immigrants>.

<sup>21</sup> San Francisco, Office of Civic Engagement and Immigrant Affairs, <http://sfgov.org/oceia/>.

<sup>22</sup> San Jose, Immigrant Affairs, <http://www.sanjoseca.gov/index.aspx?NID=4615>.

## WHAT IS HAPPENING?

**Sara Feldman** | *Immigrant Legal Resource*

- An all-out attack on immigrant communities on every front, spanning countries of origin, avenues of entry, and immigration status.
- Executive orders have already been signed affecting interior enforcement, border enforcement, and the admission of non-citizens from seven majority Muslim countries.
- We understand that there are draft orders in the works affecting immigrants' use of public benefits and DACA.
- Redefining as criminals: folks who have been charged but not convicted of a crime, those who've overstayed visas, those who've illegally re-entered, those who pose "national security threats", and those who've been convicted of low-level crimes.
- Bottom line: Early moves signal a dragnet approach to pick up and deport as many people as possible.

### **BORDER ENFORCEMENT EXECUTIVE ORDER – JANUARY 25, 2017**

- Reprogram additional funds for wall construction
  - Will need to go to Congress for more funds
- Expansion of detention for humanitarian seekers at the border
  - Expansion of detention
  - Ending ATDs
  - Ending release on recognizance

### **INTERIOR ENFORCEMENT EXECUTIVE ORDER – JANUARY 25, 2017**

- Enforcement priorities
  - Direct DHS to rescind previous priorities
  - New priorities
    - Convicted of any criminal offense (misdemeanor/felonies)
    - Charged with any criminal offense
    - Committed acts that constitute a chargeable criminal offense
    - Engaged in fraud in regards to any government agency
    - Final order of removal
    - Otherwise poses a risk to public safety or national security
- Expansion of 287(g)
- +10,000 ICE officers
- Termination of Priority Enforcement Program
- Return of Secure Communities
- Sanctuary Cities
- Requires jurisdictions comply with 8 USC 1373
  - Investigate federal funding and how to revoke

## MUSLIM TRAVEL BAN EXECUTIVE ORDER - JANUARY 27, 2017

- Blocks refugees from entering the U.S. for 120 days so officials can review the admissions process
- Bans the entry of all Syrians indefinitely
- Puts a 90-day hold on visas granted to people from certain countries, later determined to be Iran, Iraq, Libya, Somalia, Sudan, Syria, or Yemen
- Caps the number of refugees allowed into the country at 50,000
- Said people could still be admitted on a case by case basis if the person is “a religious minority in his country of nationality facing religious persecution”

## LEAKED MEMOS

- One would end DACA but allow work permits to be valid until expiration
- One addresses access to social services and public benefits

## WHAT IS BEING DONE TO FIGHT BACK?

- Litigation challenges
- Working to change policies at the state and local level
- Training advocates so they can be prepared to offer legal defense
- Educating immigrants on how to exercise their rights
- Working to increase naturalization of LPRs—only full protection against deportation

## WHAT CAN OTHER ORGANIZATIONS AND SECTORS DO?

- Many different communities are under attack; be ready to stand up for each other and present a united front
- Create spaces for coordinating across issue areas and movements to ensure responses are aligned
- Promote inclusive narratives that bring sectors together and acknowledge the intersection of the issues & groups we work to protect
- Be conduits for information and referrals to legal services providers to immigrants in your world
- Please let us know if you have ideas for resources we can produce together, ways we can partner with you: [sfeldman@ilrc.org](mailto:sfeldman@ilrc.org)
- Bottom line: Anti-immigrant forces will try to divide us, so we have to be prepared to stand together.

## SPECIAL CONSIDERATIONS FOR LGBTQ IMMIGRANTS

### WHAT DO LGBTQ IMMIGRANTS IN PARTICULAR NEED TO KNOW?

LGBTQ immigrants enjoy the same rights under immigration law as all other non-citizens. However, there are some areas where LGBTQ immigrants might face unique challenges. Here are some steps folks can take to stay safe:

- Those with a same sex-partner or spouse who is a U.S. citizen or legal permanent resident might be able to get immigration status. They should see an immigration attorney.
- Victims of crime or those who fear returning to their home country may have an avenue for immigration relief. They should see an attorney.
- Detention conditions can be worse for LGBTQ immigrants. There are orgs that advocate for the rights of LGBTQ immigrants in detention.
- Everyone should create a family preparedness plan in case of detention or deportation. We have a template.
- Everyone has basic constitutional rights regardless of immigration status. Those who are not U.S. citizens should know what to do when confronted by immigration officers.

## Immigration Status Through a Same-Sex Spouse

Currently, same-sex marriage is legal in every state in the country. U.S. citizens and legal permanent residents (green card holders) can petition for their foreign-born, same-sex spouses to get immigration status like a visa or a green card, and some visa holders can get a visa for their same-sex spouses as well.

President Trump has stated that he opposes same-sex marriage and would appoint judges who would overturn the current law that recognizes marriage equality. If same-sex marriage ceased to be legal at the federal level, this could cause problems for any pending or future immigration applications that are based on same-sex marriage.

It's important to emphasize that though it is possible that marriage equality could be eliminated, it is unlikely and would not happen overnight. Because same-sex marriage was recognized by a U.S. Supreme Court decision, the President could not change the law himself. It is difficult to overturn a U.S. Supreme Court decision, and a case to dismantle marriage equality would have to make its way through the court system, which would take years.

## Visas for Victims of Crime, Trafficking, and Domestic Violence

### How to Best Prepare

If you have a same-sex partner or spouse who is a U.S. citizen, green card holder, or visa holder,

- get an immigration screening by a qualified legal services provider to understand all of your potential immigration options and risks;
- be careful to avoid fraud by *notarios*, or unqualified legal service providers (links to Resources below);
- and know your rights in case you, your spouse, or your partner ever come in contact with immigration authorities.

Immigration law includes some special options for immigrant victims of crime. U visas are available for victims of certain crimes, T visas are available for victims of human trafficking, including sex trafficking and forced labor, and the Violence Against Women Act (VAWA) provides protections for victims of domestic violence. These options provide protection from deportation, the ability to work legally, and an option to apply for a green card. They are in the federal law, which means that the Trump Presidential Administration cannot eliminate them quickly; it would take a new law by Congress to change them.

While there is much fear in the community, if you have been a victim of harm or serious crime, you have the right to protection from the police and can help in the investigation or prosecution of the crime. Please seek the help of a qualified legal service provider as there may be an immigration benefit available to you.

## Asylum for Those Who Fear Returning to Their Home Country

Protections for those fleeing their home countries due to persecution (abuse, threats, or other serious harm) are rooted in federal law and international treaties. Given this, it will be difficult for the Trump Presidential Administration to change this area of the law. People with refugee and asylum status are eligible to apply for a green card in the United States and eventually U.S. citizenship. Asylum claims based on sexual orientation and gender identity from countries where LGBTQ individuals are targeted for abuse or lack legal protections have been successful.

Those who have fled persecution or fear being persecuted if they return to their home country but have not yet applied for protection should consult with a qualified legal service provider. Asylum applications should be submitted within one year of arriving in the United States, although there are some exceptions to that requirement. Even if you decide together with a legal representative to not apply for asylum, if you are ever detained by immigration authorities or required to appear before an immigration judge, you should express any fear you have of returning to your country of origin.

It's imperative that those affected by this category seek qualified legal help at the earliest opportunity.

## Immigration Detention

Immigrants who are in removal proceedings (facing deportation from the country) can be placed into immigration detention centers, which are publicly- or privately-run facilities (similar to prisons) across the United States. Anyone detained by the immigration authorities should ask to be released on bond and ask to have a hearing before an immigration judge.

LGBTQ immigrants, and transgender immigrants in particular, are at greater risk of harassment and abuse in immigration detention and are frequently not housed in the section of their preferred gender identity. Under the Trump Presidential Administration, it is possible that these bad conditions would continue or worsen. See Resources below for a list of organizations advocating for the rights of transgender and LGBTQ immigrants in detention.

### How to Best Prepare

If you or a loved one are not a U.S. citizen (even if you are a legal permanent resident), take the time now to create a preparedness plan for your family in case one of you is detained and/or deported. This plan should include ensuring important government and health documents are accessible by another family member, emergency contacts are shared with those you trust, and instructions for care and an affidavit designating a care giver for any children you have are documented. Always have on hand the contact information of a legal service provider in case of emergency.

In case of contact with immigration authorities, do not answer any questions or provide personal information. If immigration authorities come to your home, keep your door closed and do not open it at all unless the authorities can show you a warrant with your name on it that is signed by a judge. They almost never have a warrant like that. If you are detained, do not sign anything you don't understand. Ask to speak with a lawyer and for a hearing before an immigration judge. Be sure to keep materials explaining your rights, like ILRC's red cards, easily accessible to read aloud or to pass to immigration authorities or police if immigration authorities were to attempt to enter your home or approach you on the street.

## RESOURCES:

National immigration legal services directory: <https://www.immigrationadvocates.org/nonprofit/legaldirectory/>

Know Your Rights information: <https://www.ilrc.org/know-your-rights-and-what-immigrant-families-should-do-now> (for families - in English, Spanish, and Chinese)

Know Your Rights card: <https://www.ilrc.org/red-cards>

Family preparedness plan: <https://www.ilrc.org/family-preparedness-plan>

Q&A for victims' advocates: <https://www.ilrc.org/post-election-qa-advocates-and-attorneys-serving-immigrant-survivors-gender-based-violence> (share this with your attorney)

Resources for immigrants with DACA: [https://www.ilrc.org/sites/default/files/resources/post-election\\_talking\\_points.pdf](https://www.ilrc.org/sites/default/files/resources/post-election_talking_points.pdf)

Resources for schools: <https://www.ilrc.org/post-election-resource-schools>

How to avoid fraud: flyer in English & Spanish – <https://www.ilrc.org/anti-fraud-flyers> Video: <https://www.ilrc.org/choosing-immigration-representative-how-avoid-fraud>

Transgender Law Center – <http://transgenderlawcenter.org/>

TransLatin@ Coalition – <https://www.translatinacoalition.org/>

Community Initiatives for Visiting Immigrants in Confinement (CIVIC) – <http://www.endisolation.org>

Immigration Equality – <https://www.immigrationequality.org>

Southerners on New Ground – <http://southernersonnewground.org>

Queer Undocumented Immigrant Project (QUIP) – <http://unitedwedream.org/about/projects/quip/>

National Center for Lesbian Rights – <http://www.nclrights.org/>



# Fair SHARE FOR EQUALITY



**EQUALITY CALIFORNIA** WOULD LIKE TO THANK THE FOLLOWING PRESENTING SPONSORS AND OUR CO-SPONSORS.



**Brownstein Hyatt  
Farber Schreck**

