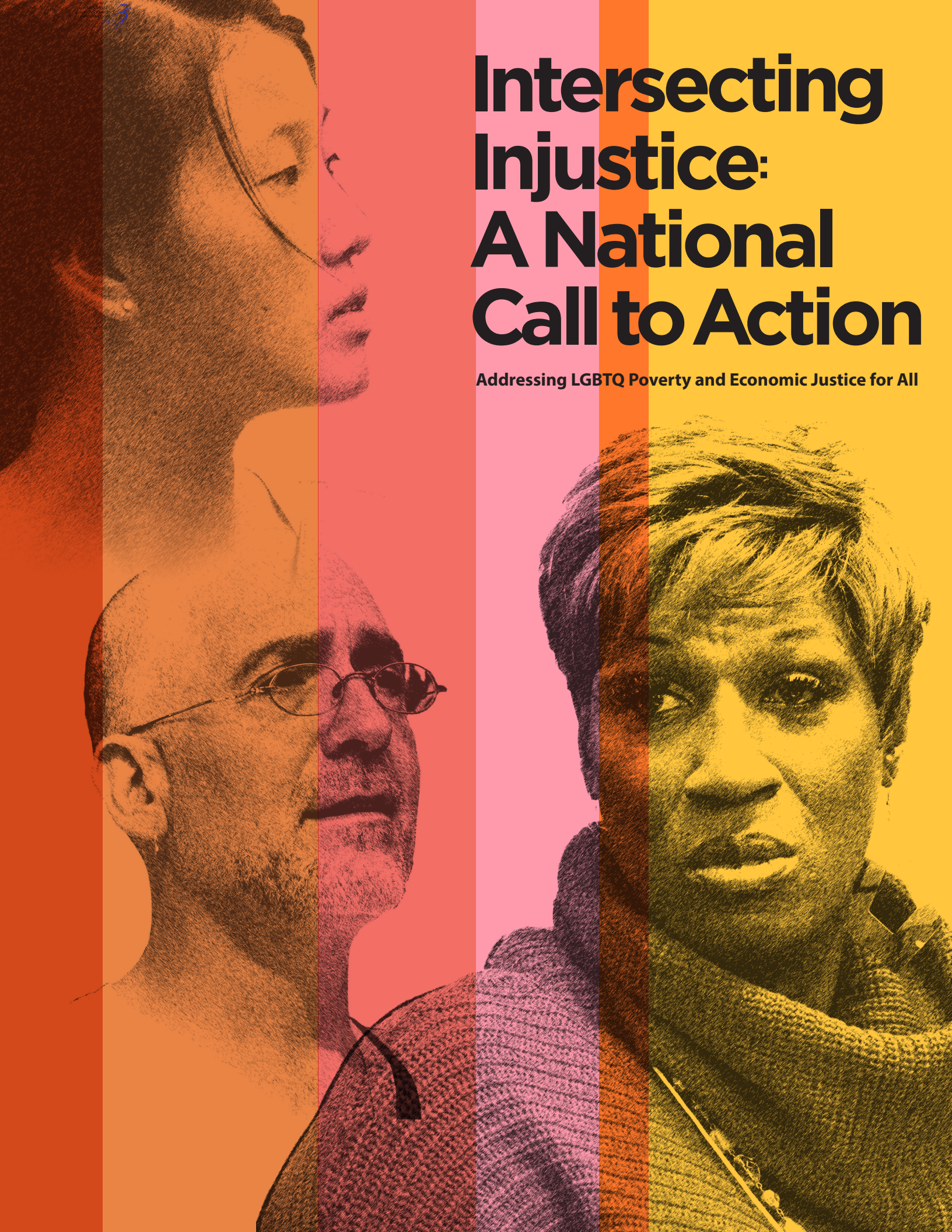
Intersecting Injustice: A National Call to Action

Addressing LGBTQ Poverty and Economic Justice for All



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Preface

The LGBTQ Poverty Collaborative Project has been years in the making. What began as a convening in Washington, DC, in 2013 with several national LGBTQ organizations turned into local convenings and focus groups in cities across the country with community members and advocates; collaboration and input with organizations and individuals nationwide; and, ultimately, the report that you are reading today.

Initially, this report was imagined as an opportunity to make the case to a friendly federal administration that LGBTQ economic justice must be prioritized and centered in any efforts to end poverty or fight for LGBTQ equality and justice. And then the 2016 presidential election happened.

As a result, this report was refocused and re-imagined as a response to our current historical moment, in which the federal government is controlled by a deeply hostile administration that is actively seeking to dismantle programs and policies that took years to build—programs and policies that have tangibly benefitted LGBTQ communities, communities of color, low-income communities, and those who exist at the intersection of these communities. This is also a moment, however, where a new energy has emerged to critically reconsider how policies and programs aimed at addressing poverty and LGBTQ justice have not fully addressed the structural inequality that has led us to this current historical moment. State, local, and national advocates are primed to resist and fight back—by reimagining what justice really looks like, in a variety of intersecting contexts—and we hope this document, and ongoing efforts to build upon it, can assist in those efforts.

With this report, we aim to provide supportive federal, state, and local government officials and community advocates across the country with concrete programmatic and policy suggestions to meaningfully address LGBTQ poverty and economic justice. We also aim to make the case clearly, with data and collective stories, that LGBTQ people are more likely than their peers to live in poverty—and, as a result, that LGBTQ poverty must be recognized and addressed as the crisis it is.

Although LGBTQ poverty and economic justice has historically been ignored and pushed to the sidelines by government officials and even many of our own community leaders and organizations, we know that LGBTQ people across the country are living in poverty at disproportionately high rates, and that the policy and programmatic interventions that have been attempted thus far have not done enough.

In this report, you will find detailed data on experiences, sample policies, and programs that we hope will help highlight the need for this shift in focus and prioritization toward working to combat LGBTQ poverty. For example, research has shown that transgender people are four times as likely to have a household income under $10,000 and twice as likely to be unemployed as cisgender (non-transgender) people in the United States.[1] Existing data reveal that while LGBTQ people tend to have received more education, on average, than the general population, they make less money than their non-LGBTQ counterparts.[2] Indicators of economic disparities including food insecurity, housing instability, low-wage earning potential and capacity, and unemployment or under-employment are all heightened for LGBTQ communities.[3] Where identities and injustices intersect, on the basis of race, age, ability, immigration status, gender identity, and sexual orientation, the vulnerabilities and disparities are even more stark—with LGBTQ people of color being most consistently vulnerable to disparate treatment and outcomes across the board.

Mirroring broader patterns of poverty in the United States, LGBTQ people of color— particularly transgender and gender nonconforming people of color—experience the highest rates of poverty, discrimination, and violence.[4] Black same-sex couples are significantly more likely to

live in poverty than other Black married couples and are roughly three times more likely to live in poverty than white same-sex couples.[5] In the area of food insecurity, thirty-seven percent of Black LGBTQ individuals experienced a time in the last year when they did not have enough money to feed themselves or their family. While transgender people overall are more than twice as likely as the general U.S. population to be living in poverty, trans people of color are three times as likely as the general U.S. population to be living in poverty—and the unemployment rate among trans people of color is four times higher than the average U.S. unemployment rate.[6] Similarly, rates of violence and criminalization—while higher for LGBTQ communities overall than non-LGBTQ communities—is particularly high for LGBTQ communities of color, specifically trans communities of color.[7]

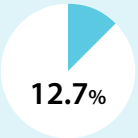
More than one in four LGBTQ individuals—approximately 2.4 million people—experienced a period over the last year when they did not have enough money to feed themselves or their family, as compared to eighteen percent of non-LGBTQ individuals.[8] Forty-three percent of LGB adults aged eighteen to forty-four who are raising children live in poverty, and approximately 650,000 LGBTQ people participate in the Supplemental Nutrition Assistance Program (SNAP). A survey of people experiencing homelessness in San Francisco revealed that twenty-nine percent (at all age levels) identified themselves as gay, lesbian, bisexual, or transgender and it has been estimated that as many as forty percent of homeless young people identify as LGBTQ.[9]

LGBTQ people experience vulnerability all across the lifespan, from childhood to older age. Research has revealed that one in five children being raised by same-sex couples are living below the poverty level.[10] This is particularly true in households where both partners are people of color. LGBTQ young people—who are often kicked out of their homes as a result of family rejection, or must leave in order to survive—are especially vulnerable to economic disparities, by being forced into homelessness or placed into foster care at very high rates.[11] On the other end of the age spectrum, LGBTQ elders are more likely than their non-LGBTQ peers to rely on non-biological peer family support and caretaking as they age—leaving them generally more vulnerable to poverty, housing instability, and a number of negative health outcomes.[12]

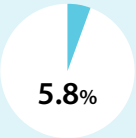
Although no report could present a complete picture of LGBTQ poverty, and we acknowledge that this report has several limitations, we are attempting to raise and uplift these issues so that organizations working on behalf of LGBTQ communities actively prioritize the needs of those of us who are living in poverty, and that poverty and economic justice organizations incorporate and center the needs of LGBTQ communities in their work as well. We view this as a living, growing document, and one that is far from complete. We hope, however, that the information provided within this report can help inform, educate, and empower policy makers to act now and act boldly. We also hope, perhaps most importantly, that this report inspires government, nonprofit and private actors to directly fund and support the vital work that LGBTQ people living in poverty are themselves engaged in, on behalf of their communities across the country.

BASIC U.S. POVERTY STATISTICS[13]

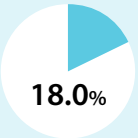
POVERTY



Overall Poverty Rate
(40.6 million people)
Percentage of people living below the poverty line—in 2016, this was $24,340 for a family of four

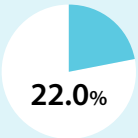


Half the Poverty Level
(18.5 million people)
Percentage of people living below half the poverty line—in 2016, this was $12,170 for a family of four

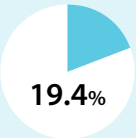


Child Poverty Rate
(13.3 million people)
Percentage of children under age 18 living below the poverty line in 2016

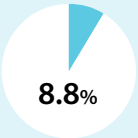
Women's Poverty Rate
(22.9 million people)
Percentage of women and girls living below the poverty line in 2016



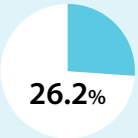
African American Poverty Rate
(9.2 million people)
Percentage of African Americans who fell below the poverty line in 2016



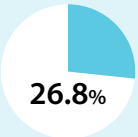
Hispanic Poverty Rate
(11.1 million people)
Percentage of Hispanics living below the poverty line in 2016



White Poverty Rate
(17.3 million people)
Percentage of non-Hispanic white people living below the poverty line in 2016



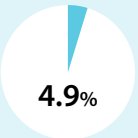
Native American Poverty Rate
(700,000 people)
Percentage of Native Americans living below the poverty line in 2016



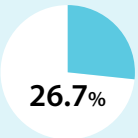
People with Disabilities Poverty Rate
(4.1 million people)
Percentage of people with disabilities ages 18 to 64 living below the poverty line in 2016

These statistics come from Talk Poverty, a project of the Center for American Progress.
CAP is an independent, nonpartisan policy institute.
For updated information, see https://talkpoverty.org/poverty/

CREATING GOOD JOBS



Unemployment Rate[14]
Percentage of all workers who were unemployed in 2016

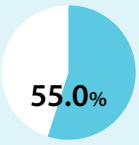


Unemployment Insurance Coverage[15]
Percentage of unemployed workers who received unemployment insurance in 2016

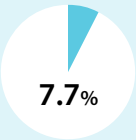
Continued ➤

PROMOTING FAMILY ECONOMIC SECURITY

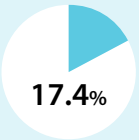
Overall Poverty Rate[16]
(40.6 million people)
Percentage of people living below the poverty line—in 2016, this was $24,340 for a family of four



Affordable and Available Housing[17]
Number of apartments or other units that were affordable and available for every 100 renter households with very low incomes in 2015. Very low-income households are those with incomes at or below 50% of the area median income



Savings and Assets[18]
Percentage of households that used high-cost, high-risk forms of credit to make ends meet during 2015. This includes payday loans, automobile title loans, refund anticipation loans, rent-to-own, and pawning



Lack of Health Insurance Coverage[19]
Percentage of people under age 65 and below 138% of the poverty line who did not have health insurance at any time in 2016

MEASURING POVERTY[20]

There's no single agreed method on defining and measuring poverty. Here In the United States, the Official Poverty Measure has been **used for more than fifty years. It has its roots in the U.S. Department of Agriculture food consumption survey** that set out **a subsistence diet and budget. The Official Poverty Measure builds off this, taking the cost of a subsistence diet and multiplying it by three with the rationale being that the provision of food uses about one-third of the income of people living in poverty.**

In 2016, a family of four making less than $24,250 was considered below the poverty line.

However, the Official Poverty Measure ignores the effect of differences in the cost of living, depending on where people are residing and working. Hence, the U.S. Census Bureau and the Bureau of Labor Statistics developed the Supplemental Poverty Measure, which differs from the Official Poverty Measure in four key respects:

- **It accounts for regional cost of living differences;**
- **It includes the value of non-cash assistance to the poor, such as Supplemental Nutrition Assistance Program (SNAP, formerly known as food stamps) and Section 8 housing vouchers;**
- **It calculates expenses incurred by the working poor, such as transportation and child care as well as out-of-pocket medical costs; and**
- **It is a relative measure of poverty, based on the thirty-third percentile of national expenditures on necessity items versus an absolute measure of poverty.**

NOTES

[1] Sandy E. James et al., *The Report of the 2015 U.S. Transgender Survey* (Washington, DC: National Center for Transgender Equality, 2016), http://www.ustranssurvey.org/reports.

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Foreword

Vanita Gupta

Intersecting Injustice arrives at a moment when hard-won gains toward legal equality for LGBTQ people are under aggressive counter-attack. Social safety net programs that provide a threadbare lifeline to millions of vulnerable people in the United States are facing harsh budget constraints and—even worse—an ideological attack on their very existence. It is a challenging time to call for attention to the reality of devastating poverty within LGBTQ communities.

But I believe that the current political moment gives us an opportunity to directly engage people in the United States on how we are falling short of the promises of living our values of equality and opportunity.

Securing these promises for everyone in this country has long been the work of The Leadership Conference on Civil and Human Rights, and it is work that is deeply personal to me. I am the daughter of immigrants who were drawn here by the promise of opportunity. My husband's family fled violence in Vietnam and found refuge here. The promise of equality encouraged my sister to come out as a lesbian, and I try to do everything in my power to justify her faith that in this country she will continue to be able to live and love as she chooses, freely and without fear.

Many people who have not experienced poverty do not understand the ways in which it limits people's choices and leaves them vulnerable. Early in my career as a civil rights attorney, I fought for the freedom of dozens of people from a single Texas town—mostly African Americans and a few white and Latino people whose partners were African American, almost all of whom were living in or near poverty—who were convicted by predominantly white juries and sentenced to decades in prison based on the testimony of a single shoddy undercover agent. A local newspaper reported on the "sting" in 1999 under the headline "Tulia Streets Cleared of Garbage."

The injustice was devastating. Dozens of lives were destroyed and a community was torn apart based on the word of an officer who had been investigated for misconduct and racial bias. It took lawyers and activists years to secure pardons and a measure of justice for our clients. It was a case of racism and official misconduct, but it was also a study in how quickly lives can spiral out of control for people with little income.

Years later, when I was at the U.S. Department of Justice, I worked to bring attention to the unjustifiable and frequently unconstitutional treatment of poor people. I was proud to lead the department's Civil Rights Division during the administration of President Barack Obama; we worked hard to move the nation closer to its ideals—a long-term project that individuals and groups have been engaged in throughout this country's history. Today, tragically and unfortunately, the Justice Department is led by Jeff Sessions, who is trying to reverse progress toward LGBTQ equality and resurrect policies that effectively criminalize poverty. And while these grave circumstances are in no way easy to deal with, I am proud that The Leadership Conference is mobilizing to take action against these challenges.

One possible response to the political assaults now facing LGBTQ communities would be a defensive retrenchment focused on holding on to recent gains. But this report points toward another possible response. We can expand our awareness of the ways that people in our communities were being marginalized even before the latest political setbacks, and we can seek ways forward that are grounded in a commitment to solidarity with those who live in intersections of identity that place them at heightened risk, including LGBTQ people who are women, people of color, transgender, and/or elders. We know that no community is monolithic, and that we should strive to recognize this fact not just in theory but also in practice so

that everyone has multiple ways in which their personal identity can present opportunities for organizing and fighting back.

Intersecting Injustice documents the extent to which the portrayal of LGBTQ people in popular culture and in the public imagination—and even the understanding of LGBTQ people within civil and human rights movements—is distorted and incomplete. This report offers a fuller understanding of the complexities of U.S. culture by centering the voices of people who live in poverty and those who work directly with them. Importantly, this report provides alternatives to despair by highlighting promising practices and specific policy proposals around which communities can organize.

At the Justice Department, and now at The Leadership Conference, I have been motivated by the simple truth that all people deserve to be treated with dignity and respect. Everyone deserves the opportunity to thrive—to learn, earn a living, prosper, love deeply and freely, and live in a safe and decent place.

The Leadership Conference believes that all those who share this vision have a responsibility to do their part to try to create an America that truly is as good as its ideals. We must stand up against the irresponsibility of those who would use economic distress as a tool to pit whole communities against each other.

The work of The Leadership Conference for more than half a century has demonstrated over and over again that it is possible to build strong coalitions that advance justice and decency. We are seeing the progress that we have made slow down or, worse yet, be reversed with the tenure of Jeff Sessions and others in the current presidential administration. But in the long run, they will not be able to undo our progress, because as Rev. Dr. Martin Luther King Jr. reminded us, the moral arc of the universe is long, but it bends toward justice.

Making that kind of progress requires persistent action that draws on deep reservoirs of hope and resilience, the kind of resilience demonstrated by the hundreds of people who lent their voices to *Intersecting Injustice*. The Leadership Conference and I welcome this contribution to our larger movement's shared knowledge and strength and celebrate the resource that is this terrific report.

Executive Summary

The Vision

It's been nearly fifty years since the Stonewall uprising, a series of demonstrations in New York City led by the most marginalized members of LGBTQ communities—among them a number of fierce transgender people of color, young people experiencing homelessness, gender nonconforming women, and men engaged in sex work. The uprising grew out of our community's frustration at being forced into dark corners and erased from mainstream society. In the decades since, many advocates have stood on the shoulders of those who rose up at Stonewall, building community and fighting for the needs of people living at the intersections of multiple marginalized identities.

At the same time, other LGBTQ advocates have cultivated an image of our community that is wealthy, white, male, and monogamously partnered. This intentional cultivation was in some part a response to conservative attacks on our community that painted us as anti-family, but in equal parts it was a call to our community to assimilate into the cultural norms defined by our detractors and a perpetuation of racism and class bias.

The reality of our community belies this carefully curated image. U.S. LGBTQ communities have seen some remarkable gains in the half century since Stonewall, yet for the most marginalized in our community, much has remained the same. LGBTQ people—especially LGBTQ people of color and transgender and gender nonconforming people—are more likely to be living at or near the poverty level. We have more need for social safety net programs, like Medicaid, Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), Social Security Disability Insurance (SSDI), and employment and housing programs, yet we face pervasive discrimination when attempting to access such programs. We lack explicit and broad nondiscrimination protections at the federal level, and even where those protections exist, people living at the intersections of multiple marginalized identities continue to be shut out from the services and supports we need.

In order to meaningfully meet the needs of our community, it is vital to prioritize racial and economic justice. This report is meant to help coordinate that prioritization across the LGBTQ movement. By collating the stated priorities of activists, advocates, service providers, and LGBTQ people living in poverty across the United States, we've provided a roadmap for those looking to deepen their understanding of how to advocate effectively for LGBTQ economic justice.

The Process

As a small network of advocates, most of whom are focused on advocacy at the federal level, we knew we wanted to center the voices and needs of LGBTQ people who are living in poverty and people who are directly providing services to low-income LGBTQ people. Here's how we did that:

- We hosted eight convenings in cities across the country where there is both high economic inequality and a high proportion of LGBTQ people. At each convening, we invited local activists, advocates, and service providers to join us, and asked them to bring along the local leaders they thought would want to share their expertise—whether that expertise derived from lived experience or from their work.
- We spoke to focus groups of people in rural areas who are LGBTQ and living in poverty or working with LGBTQ people living in poverty, to hear how experiences differ in rural areas.
- In all, we spoke to over two hundred people; more than thirty of them have continued to be involved in the writing, editing, and review process for this report.
- Input from the convenings and focus groups was incredibly varied and nuanced, but several themes developed that were echoed at nearly every session. We used those themes to organize the sections of this report. We did our best to include all of the information that we received at the convenings and focus

groups in the report, then filled in details both by researching and by following up with participants for additional information.
- Once a draft was written, we shared it with all participants who were interested in providing feedback, then integrated feedback wherever possible.
- This report is the final product of this process, but we recognize that even with more than three hundred contributors, there are significant gaps in our information. We hope that this document will be part of a living movement that continues to adjust its priorities over time in response to changed experiences in our community.

The Values

Throughout the convenings and focus groups, the report drafting process, and the review process, we kept the following values in mind:
- Centering the experience and needs of people who are most impacted by poverty, including people of color, people with disabilities, immigrant communities, youth and elders, people in rural communities, transgender and gender nonconforming people, families, currently and formerly incarcerated people, people living with HIV/AIDS, people engaged in the sex trade, and people experiencing homelessness.
- Recognizing the difference that geography plays in the experience of living in poverty (e.g., urban vs. suburban vs. rural, cold weather vs. warm weather, and progressive vs. conservative local and state governments).
- Elevating the resilience of marginalized communities.
- Remembering that we can't wait: Our process will be imperfect, but we must move forward because people who are living in poverty cannot wait for us to create the perfect agenda.

Using This "Call to Action"

The guide is separated into nine chapters, using the themes that were lifted up by participants during the convenings and focus groups. The chapters, explained in more detail below, are:
- Jobs and Working Conditions
- Social Services and Benefits
- Housing and Homelessness
- Schools and Education
- Health and Wellness
- Hunger and Food Security
- The Criminalization of Poverty
- Financial Inclusion and Exclusion
- Federal Economic Policy

In each of these chapters you'll find an overview of the issue area, explaining how LGBTQ people are disproportionately impacted and differently impacted; promising practices and programs identified by participants in the convenings and focus groups; stories of people who have a lived experience related to the issue area; and concrete policy recommendations to help guide advocacy at federal, state, and local levels.

Each chapter is meant to be useful as a standalone document, but effective economic justice advocacy can't be accomplished in silos. From a practical perspective, if a person living in poverty experiences food security but can't access housing or work, economic justice has not been achieved.

We urge you to explore the full report and to especially consider issue areas that you haven't begun to include in your advocacy.

In solidarity,
The LGBTQ Poverty Collaborative

Overview of Chapters and Recommendations

Introduction

Trans, gender nonconforming, and nonbinary Black and Brown people are disproportionately impacted by high rates of homelessness, trauma, criminalization, under-employment and incarceration, which is inextricably linked to chronic poverty and reinforced by state-sanctioned violence.

Structural systems of oppression reinforced by state-sanctioned violence create insurmountable financial conditions and violent realities for Black and Brown trans people, who are often disowned from family and community and disproportionately impacted by higher rates of homelessness, poverty, and underemployment. These conditions force many to engage in life-threatening activities in order to survive. Most times these life-threatening activities place Black trans women under heightened levels of police contact that criminalizes their mere existence.

Cisgender queer folk bask in the sunlight of complicity as benefactors, gatekeepers, and enforcers of state-sanctioned violence. If cisgender queer folk are truly invested in collective liberation, dialogs, policies, and actions that serve to address poverty must go beyond intersectionality to a space of a linear perspective that examines all the intersections of violence our communities face happening at the same time and in real time.

We must work from a place where we aim to develop sustainable solutions for ending poverty that also dismantle white supremacy, capitalism, patriarchy, settler colonialism, neoliberalism, transphobia, and fatphobia, all while acknowledging who has access and how that access must be leveraged to create opportunities for Black and Brown trans bodies to thrive.

We must also acknowledge the ways race, class, gender, ability/disability, and other factors impact how poverty shows up in our lives and in the lives of our community members.

Recommendations from this section include:

- Meaningful conversations about poverty must be rooted in sustainable solutions and must occur in tandem to conversations about dismantling state-sanctioned violence, white supremacy, capitalism, neocolonialism, anti-Blackness, transphobia, and more, and be led by those most disproportionately impacted.
- The voices, experiences, and leadership of poor people are not here to be commodified, exploited, or tokenized. Poor people must be paid for their labor.
- Those in our community with access and resources must understand what that looks like, recognize how that power works, and toil everyday to leverage spaces that affirm, celebrate, and encourage meaningful engagement that builds sustainable socioeconomic growth and development in Black and Brown trans communities.
- We cannot solve poverty without also addressing white supremacy, housing insecurity, hunger, trauma, violence, discrimination, neocolonialism, transphobia, anti-Blackness, classism, and more. These issues work in tandem to reinforce each other, therefore we must work collectively to dismantle them all. Those who benefit from them must be on the front line tearing them down.
- Trust that Black and Brown trans people know exactly what they need to thrive. Believe Black and Brown trans folk when they tell you their experience. Listen, learn, and follow the leadership of Black and Brown trans people.

Jobs and Working Conditions

Discrimination affects every aspect of employment for LGBTQ people, including barriers to getting hired and asserting employee rights. This is especially true for transgender people, immigrants, and people with criminal records. When applying for a job, documentation and background check requirements automatically bar many LGBTQ people from getting a fair shot at the job application process. In addition, employer discrimination against LGBTQ people prevents many from being hired. Even when LGBTQ people are hired, between fifteen and forty-three percent of LGBTQ workers report experiencing discrimination while on the job, with even higher numbers among transgender workers.

For a variety of reasons, including fear of harassment, getting fired, or being reported for

lacking documentation, LGBTQ people often cannot assert their rights as workers, which can create dangerous and toxic work environments. Without the ability to access worker rights and protections, LGBTQ workers are vulnerable to harassment, threats, and assault from employers and other employees, since many feel unsafe using existing reporting mechanisms.

Recommendations in this section include:

- Advance nondiscrimination protections for LGBTQ people in all levels of government and defeat anti-equality measures.
- Invest in LGBTQ communities to ensure that LGBTQ people have access to jobs and create one-stop career centers that prioritize helping LGBTQ people get hired.
- Develop and implement policies that foster inclusive, discrimination-free workplaces.

Social Services and Benefits

As a result of systemic discrimination and inequity, LGBTQ people—especially those who are people of color, transgender, and/or gender nonconforming—are more likely to need access to public benefits such as social security benefits, disability benefits, SNAP benefits, and public housing. Ironically, application and eligibility requirements, coupled with discriminatorily applied discretion on the part of enrollment officers, means that these benefits are out of reach for some of the people who need them most.

Transgender and gender nonconforming people, immigrants, and people experiencing homelessness or housing instability may have difficulty accessing identity documents, making access to all public benefits more difficult. Eligibility requirements sometimes categorically exclude people with criminal records, especially people who have a history of drug or sex offenses. Furthermore, narrow definitions of family in eligibility policies for public benefits can also exclude members of an LGBTQ person's family from eligibility for public benefits.

In order to improve access to public benefits for LGBTQ people and their families, federal and state governments must adopt inclusive nondiscrimination policies that center the needs of low-income LGBTQ people and LGBTQ people of color. These policies must encompass public accommodations, shelter services, health, employment, and housing, and must mandate cultural humility training for service providers and public benefits enrollment staff. In addition, in order to be most effective all nondiscrimination protections must—at a minimum—be inclusive of race, disability, language access, sexual orientation, and gender identity and expression, and must ensure the protection of nonbinary and gender nonconforming people. All public benefits programs must also be fully funded, with adequate budgets for mandatory competency training.

Recommendations in this section include:

- Legal nondiscrimination protections must center and prioritize the needs of LGBTQ people living in poverty and LGBTQ communities of color.
- Government legislatures and agencies should create free, easy, and equal access to important identity documents for those who face barriers in accessing them—including transgender people, people with criminal records, immigrants, and those who are or who have been homeless.
- Social and legal services providers must be LGBTQ-inclusive, and center the accessibility of their services to low-income LGBTQ communities.
- LGBTQ communities face unique barriers in accessing public benefits and those barriers should be addressed and removed.

Housing and Homelessness

LGBTQ people, especially those who are people of color, transgender, and/or gender nonconforming, are disproportionately likely to experience homelessness and housing instability—as much as forty percent of young people without stable housing may identify as LGBTQ or gender nonconforming. Exiting housing instability may be particularly difficult for LGBTQ people, who lack nondiscrimination protections in housing in many states. Accessing programs is even more challenging for people with criminal records and people with disabilities.

The U.S. Department of Housing and Urban Development (HUD) does include nondiscrimination protections inclusive of sexual orientation and gender identity in its housing

and homelessness programs. However, even where housing protections do exist, homelessness programs and public housing programs—such as housing choice vouchers and the Housing Opportunities for Persons with AIDS program—are critically underfunded and lack sufficient units to meet the needs of the community.

Housing and homelessness programs that center the needs of LGBTQ people and others who live at the intersections of multiple marginalized identities have been more successful in shifting outcomes. For example, community investments in "housing first" programs, cooperative housing ownership, and community land trusts have resulted in improved access to housing and have started to reverse decades of segregation.

Recommendations in this section include:

- Federal and state governments should adopt comprehensive homeless bill of rights measures that include protections against discrimination based on housing status, disability, sexual orientation, and gender identity or expression.
- The presidential administration and local governments should allocate more funds to housing programs, as research finds that stable housing is crucial to a person's access to employment, health services, and other types of support.
- HUD should continue and improve on pilot programs that focus on wraparound services and strengthen the Continuum of Care Program.
- HUD should prioritize providing homelessness assistance funds to communities that employ alternative tactics to the criminalization and policing of homelessness.

Schools and Education

Schools represent a place where many young people spend most of their upbringing, making it an especially influential and critical space for a young person's development. Yet schools are a hostile environment for many young LGBTQ people, especially those living in rural areas and in low-income neighborhoods. Young LGBTQ people experience higher levels of bullying and harassment in schools than their non-LGBTQ peers. This is particularly damaging for young LGBTQ people who are bullied at home or are experiencing homelessness, who often rely on schools as a place of reprieve and safety.

Understandably, young LGBTQ people often fight back against injustices or do not come to school because of the hostile environment, which make them vulnerable to interaction with police and the criminal legal system. Since LGBTQ people disproportionately experience homelessness and truancy is illegal many states, young LGBTQ people are more likely to interact with the criminal legal system.

Recommendations in this section include:

- Eliminate barriers to educational programs based on criminal record, access to documentation, and economic status.
- Address the school-to-prison pipeline by eradicating school-based policing, zero-tolerance school disciplinary policies, and other "push-out" policies that result in an increased risk of involvement in the criminal legal system.
- Increase collaboration and coordination between schools and mental, social, and health service providers in communities, in order to address all aspects of young people's health and well-being.
- Decouple school funding from real estate taxes and impose a school funding system that is equitable in every jurisdiction.

Health and Wellness

There are profound health differences between people living in poverty and those who are not. Poverty is a social determinant of health often associated with an increased risk of a variety of health issues, including cardiovascular disease, diabetes, cancer, mental health and behavioral health conditions, and other chronic conditions. These health disparities are intensified for people living in poverty who are transgender and/or people of color because the disparities are rooted in additional stigma and discrimination. For these reasons, it is vital to adopt a holistic approach to care, improve access to care services, and lower the cost of health insurance.

LGBTQ people living in poverty disproportionately face barriers in accessing health care, including stigma, discrimination, lack of money, harassment, and mistreatment. These issues are exacerbated for people who are incarcerated and people

who live in rural areas, who are further limited in accessing affordable and culturally competent health-care services.

Recommendations in this section include:

- Advocate for a more holistic approach to care that considers all social determinates of health, including socioeconomic status, physical environment, and social support networks.
- Increase access to affordable medication, community programs, housing opportunities, and culturally competent medical services for people living with HIV/AIDS.
- Address barriers in accessing health care by increasing the number of free mobile clinics and testing centers, increasing insurance coverage for unemployed and underemployed people, and clarifying confusing insurance policies.

Hunger and Food Security

The Universal Declaration of Human Rights includes the right to food that is accessible both physically and economically. The right to accessible food is not achieved in the United States, where more than twenty-three million people live in low-income areas that are considered "food deserts," or places without access to affordable, quality, nutritious foods. This often leads to health disparities associated with poor nutrition. Since LGBTQ people of color report experiencing poverty at higher rates than do non-LGBTQ people, they are also disproportionately impacted by the issue of hunger and food insecurity.

The issue of hunger and food insecurity is affected not only by poverty levels but also by environmental racism and structural barriers to public assistance. People of color often live in neighborhoods and areas with environmental issues, including lack of access to clean water, exposure to dangerous pollutants and toxins, and inadequate infrastructure. Since developers do not generally revitalize or invest in these neighborhoods, food deserts are widespread and common in areas affected by environmental racism. There are also physical, structural barriers in accessing healthy food and clean water for people who live in food deserts. Although some food-related assistance programs exist, many LGBTQ people do not access them for a variety of reasons, including a lack of education surrounding eligibility, concern about immigration status, and low levels of LGBTQ cultural competency among government employees.

Recommendations in this section include:

- Implement community garden cooperative initiatives, "gleaning" programs, and food delivery initiatives as ways to reduce structural barriers in accessing healthy food and water.
- Improve, expand, and maintain important food-assistance programs such as SNAP, TANF, and Women, Infants, and Children (WIC) benefits.
- Increase LGBTQ people's access to food-related assistance programs by addressing eligibility, immigration, and cultural competency concerns.

The Criminalization of Poverty

LGBTQ people and people living with HIV/AIDS, especially LGBTQ people of color, are disproportionately impacted by laws and policies that criminalize people for activities resulting from or associated with poverty and addiction, such as the criminalization of homelessness, the criminalization of underground economies, and the so-called war on drugs. Laws and policies that reduce poverty and make housing, health care, and drug treatment more available reduce criminalization in these populations.

LGBTQ people face significant discrimination by law enforcement and other actors in the criminal legal system on the basis of their sexual orientation, gender identity, and/or gender expression. This discrimination increases exponentially for LGBTQ people who hold other marginalized identities, such as LGBTQ people of color and immigrants. Low-income LGBTQ people and LGBTQ people experiencing homelessness or housing instability are particularly at risk for arrest, both because poverty itself is criminalized—through laws that prohibit sleeping, sitting, loitering, lying down, begging, sharing food, and camping in public—and because people who spend more of their time outside are more likely to have interactions with law enforcement and are therefore more likely to be criminalized for behaviors such as drug use and sex work.

Once involved with the criminal legal system or the immigration detention system, LGBTQ people may have significant difficulty paying the

costs associated with these systems, including the fees and fines associated with arrest, such as cash bail, legal expenses, and community supervision fees.

LGBTQ people who have been released from incarceration often have distinct needs, such as access to identity documents with an updated gender marker. At the same time, collateral consequences of criminal legal system involvement such as criminal background checks in employment and housing may exacerbate existing difficulties accessing jobs and housing, especially in states that lack nondiscrimination protections inclusive of sexual orientation, gender identity, and gender expression.

Recommendations in this section include:

- Eliminate or reduce fees and fines associated with arrest, conviction, incarceration, and community supervision, including cash bail.
- Federal, state, and local governments should prohibit discrimination in policing and meaningfully hold officers who violate those laws accountable.
- Federal, state, and local governments should decriminalize life-sustaining activities, such as sleeping or sitting in public, and should be prohibited from arresting people who are currently homeless.
- States and localities should decriminalize sex work and drug use.
- Stop the detention of LGBTQ people and people unable to pay bond.
- Develop pre-arrest alternatives to incarceration and divert people to community-based services.
- The U.S. Department of Justice and state and local departments of corrections should pilot LGBTQ-specific reentry programs and require LGBTQ competency training for community corrections officers.
- End all bans on access to SNAP, welfare, and other social safety net benefits for people with criminal convictions.

Financial Inclusion and Exclusion

For many, the ability to build wealth is contingent upon access to banking and credit—the ability to borrow funds that can be paid back over time in order to make large purchases, from the purchase of a refrigerator or car to the purchase of a home or business. Unfortunately, discrimination on the basis of sexual orientation and gender identity in banking and credit remains legal in many states.

Access to banking and credit is particularly complicated for many LGBTQ people because of an increased incidence of homelessness and housing instability, an inability to afford the initial and continuing costs of banking (e.g., service fees and account minimums), and a lack of physical access to banks for those who live in low-income neighborhoods. Furthermore, transgender people and immigrants often have a particularly difficult time accessing the identity documents required to secure banking services.

LGBTQ people have compensated for these structural inequities in ways that both ameliorate and exacerbate income inequality. Like other low-income people, many unbanked LGBTQ people rely on payday loans and other high-interest short-term loans to make ends meet. At the same time, LGBTQ people have invested in creating LGBTQ-competent resources such as Financial Empowerment Centers that ensure that they can make choices about their finances that are informed by the best available information.

Many participants in the convenings and focus groups stressed the parallel needs to increase access to banking services and protections within the banking system—including consumer protections through the Consumer Finance Protection Bureau—while also building alternative structures outside of existing pathways to wealth, such as increasing the number of worker cooperatives and employee-owned businesses, investing in LGBTQ-specific venture capital, and refocusing financial reforms on community rather than individual wealth. All of these interventions would be more effective if more data existed on the experiences of LGBTQ people in existing and emerging financial systems.

Recommendations in this section include:

- Expand federal and state nondiscrimination laws and policies to include sexual orientation and gender identity/expression protections in banking and credit.
- Expand access to Financial Empowerment

Centers so that all consumers have the information they need to make the best choices they can about their financial lives.

- Increase support for LGBTQ-owned businesses and worker cooperatives.
- Include LGBTQ people in data collection and research efforts related to financial empowerment and economic inequity.

Federal Economic Policy

This report closes with a policy guide that is framed by an examination of federal economic policy and its role in cementing wealth disparities in the United States. Focusing specifically on the history of U.S. economic policy, we explore how the federal government raises and spends its funds through taxes. At one point, corporate taxes for the wealthiest were at ninety-four percent, but after President Ronald Reagan's administration, the tax rate on the wealthiest plunged to twenty-eight percent. These cuts allowed those in power to divide and conquer the country: By drastically reducing the amount of funds available for federal spending, the country's wealthiest residents started and perpetuated the rhetoric that taxes on the middle class were mostly benefiting those living in poverty. Since then, the wealthiest residents continue to enjoy a tax rate ranging from just thirty to forty percent while the federal government "struggles" to fund social welfare programs.

Because of this history, a majority of people in the United States believe that poverty is caused by individual failures. In reality, poverty is perpetuated by systemic oppression that is deeply embedded in current U.S. federal economic policy. In an effort to chip away at the structures of inequity, advocates have turned to the tax code to help alleviate some of the financial difficulties faced by poor and low-income people. A number of tax credits and deductions, including the Earned Income Tax Credit, have helped lift millions of people above the poverty line every year.

Recommendations in this section include:

- Federal agencies should provide increased access, public education, and funding to these tax credits and deductions.

Introduction

Lourdes Ashley Hunter

"Every breath a trans person of color takes is an act of revolution" —LOURDES ASHLEY HUNTER

Lourdes Ashley Hunter leading the Islan Nettles Rally in New York City, 2014

In this introduction, I will expound upon how poverty among Black and Brown trans folk is inextricably linked to state-sanctioned violence. I will also share the ways cisgender queer folk bask in the sunlight of complicity as benefactors, gatekeepers, and enforcers of state-sanctioned violence, and highlight the critical importance of leveraging access and resources in order to create opportunities for Black and Brown bodies disproportionately impacted by state-sanctioned violence as a means to shift the narratives of poverty in our lives.

Framework

I am a Black, trans, nonbinary person of Indigenous heritage. I am disabled, fat, and dark-skinned. I was born into poverty on the east side of Detroit, Michigan, in 1976. I have been disproportionately impacted by state-sanctioned violence and have experienced chronic poverty and housing insecurity my entire life. I am forty-one years old. By some estimates, the average life expectancy of Black trans women is less than thirty-five years old. Some say that I am living on borrowed time. I live in a society that has proven time and time again that my life is disposable.

I am a researcher, community organizer, and scholar. I have earned a BA in Social Theory, Structure, and Change with concentrations in Race, Class, and Gender Studies from SUNY Empire State College, where my research focus was how psychological abuse and the lack of familial and social support impact the socioeconomic growth and development of trans and gender nonconforming people of color. I earned a Master of Public Administration from Rutgers University, where my research focus was how social justice movements led for and by trans and gender nonconforming people of color can shift from a traditional nonprofit framework to an analysis and praxis that addresses systemic oppression as well as supporting leadership development while centering healing and cooperative economics. I am currently a doctoral

Lourdes Ashley Hunter delivering a speech at the White House at the LGBTQ Leaders of Color Summit, 2015

student at Georgetown University studying philosophy, policy, and economics. My current research focuses on the political and socioeconomic impacts of state-sanctioned violence in poor, trans communities of color and the ways we navigate and dismantle oppressive systems while building sustainable change.

For too long Black trans women have not been in a position to write thought pieces, have opportunities to expand scholarly research, discover new ways to build community and skill sets, or be celebrated for exploring meaningful ways to change and challenge the world. It is critical for people like me to see vibrant, dynamic, colorful reflections of ourselves affirmed, uplifted, and celebrated in all areas, especially in art, culture, social justice, politics, and academia. For over twenty-five years I have worked as a transformative thought leader and change agent for grassroots initiatives that affirm, uplift, and celebrate the lived experiences, narratives, and leadership of communities disproportionately impacted by state-sanctioned violence. I have led and participated in the successful development and implementation of culturally competent best practices at government agencies such as the New York City Department of Homeless Services, the New York City Human Resources Administration, and the New York Police Department. My keen leadership in spearheading collaborative efforts with high-level agencies including the Office of the United Nations High Commissioner for Human Rights, the White House Anti-Violence Task Force, the White House Office of Public Engagement, the White House Office of National AIDS Policy, the U.S. Department of Justice, and the Federal Bureau of Prisons has set the tone for courageous conversations elevating nuance and context that centers communities disproportionately impacted by state-sanctioned violence.

I am a healer and curator and currently serve as Executive Director of the Trans Women of Color Collective, a grassroots global initiative led by transgender and nonbinary people of color working to create and curate spaces where communities most disproportionately impacted by state-sanctioned violence can explore the root causes, heal from trauma, see affirming reflections of ourselves, and be the authors of our own stories and narratives through art, culture, and social justice. None of this great work has been through a paid job earning a living wage. This work is a labor of survival. Despite my level of education and experience I have never been gainfully employed with a thriving wage. Far too often Black and Brown folk, disabled folk, nonbinary folk, undocumented folk, and fat folk have had to risk their own lives just to save their own lives.

If cisgender LGBTQ folk are truly invested in collective liberation, dialogues about poverty must go beyond intersectionality to a space of a linear perspective. When I say linear perspective, I am referencing a space that examines all of the intersections of violence our communities face happening at the same time and in real time. I am speaking of a place where we work to develop sustainable solutions for ending poverty that also dismantle white supremacy, capitalism, patriarchy, settler colonialism, neoliberalism, transphobia, and fatphobia, all while acknowledging who has access and how that access can be leveraged. We must also acknowledge the ways race, class, gender, ability/disability, and other factors impact how poverty shows up in our lives and in the lives of our community members. We cannot have fruitful conversations, dialogues, or actions about ending poverty until we abandon the notion that collective liberation will happen through incremental progress, top-down economics, or respectability politics, or that it will be led by those with access, who

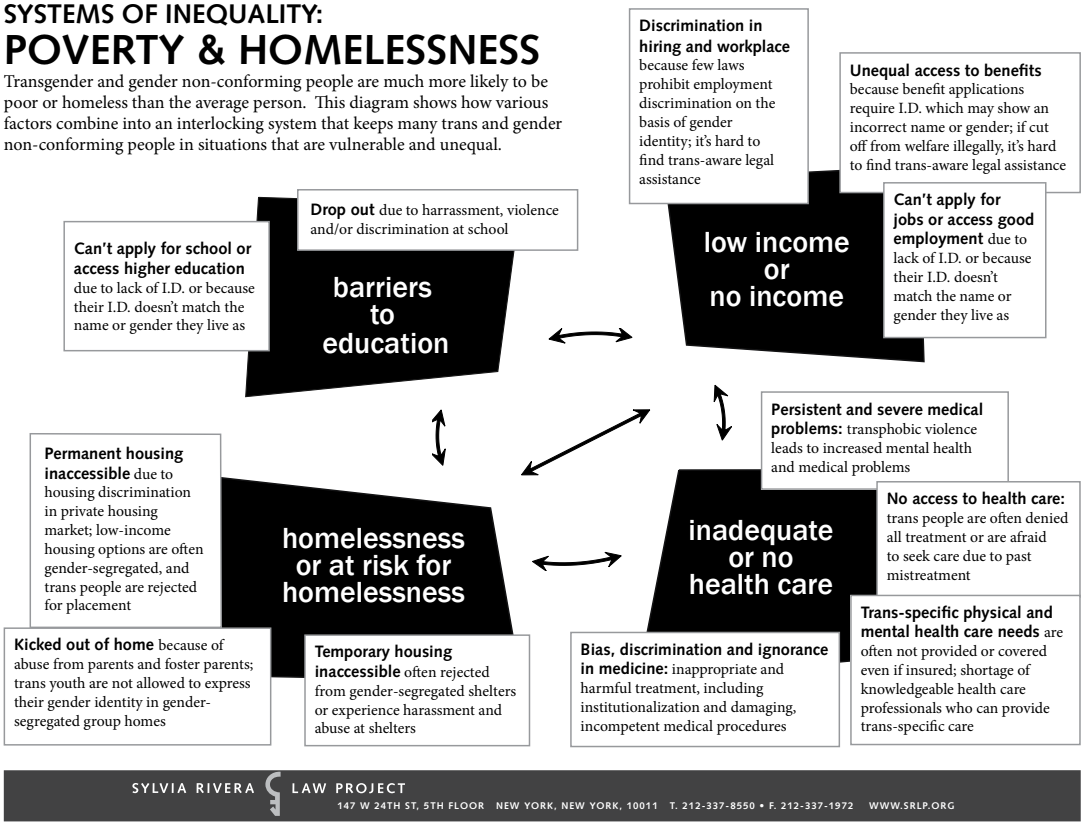
are white and/or cisgender. We must center those who are disproportionately impacted by state-sanctioned violence in social justice, political, and economic movements. We must center their voices, their healing, their leadership, their ideas, and their liberation.

Homelessness and Poverty

I currently live in Washington, DC, where the highest percentage per capita (almost three percent, or 14,550 people) of trans people in the United States live.[1] Trans people of color—more specifically Black trans people—struggle to obtain socioeconomic stability. According to the 2015 report *Access Denied: Washington D.C. Trans Needs Assessment*, the average income for fifty-seven percent of trans women of color is less than $10,000 per year.[2] In our nation's capital, Black trans people have an unemployment rate of fifty-five percent, and seventy-four percent of Black trans women have experienced housing instability.[3] The diagram below, from the Sylvia Rivera Law Project, illustrates the cycle of poverty that systems of inequality create for trans people.

Social Constructions of Gender

Social constructions of gender reinforce state-sanctioned violence, which contributes immensely to the ways poverty manifests in the lives of Black and Brown trans people. Social constructions of gender shape and dictate how society says people must perform and act out gender roles and norms. Even before babies are born, their entire lives are coordinated according to their physical anatomy. From blankets and bonnets to strollers and booties, all are selected blue for boy or pink for girl. From the color the child's room is painted to the toys that will be selected for the child to play with, all fall in line with the sex that baby was assigned at birth. That child will also be conditioned to perform within the roles and norms assigned to that gender. Humans are rewarded for performing successfully in their assigned roles and chastised, teased, punished, abused, and murdered when their performance is identified as "other"



"Flow Chart: Disproportionate Poverty," copyright © Sylvia Rivera Law Project, https://srlp.org/resources/flow-chart-disproportionate-poverty.

or is seen as being outside those assigned norms. Robert Anderson echoes this analysis in his article "Way Out West: A Comment Surveying Idaho State's Legal Protection of Transgender and Gender Non-Conforming Individuals":

> It is common knowledge to anyone born in the United State that the moment a child is born, even before a child is even given a name, the state assigns a sex (either female or male) and gender (either girl or boy) to the new baby; then this distinction is memorialized in a legal birth certificate. While the state codification of the American binary construction of sex and gender does not affect the vast majority of Americans, for a minority of United States' citizens, this legal status does not reflect their true sexual or gender identity. This often leaves them outside of the law, as the law will only recognize their assigned birth sex; or their identity may not be covered within the scope of the law, as the law often only identifies gender and sex as binary.[4]

Historically, those who do not conform to socially constructed norms of gender are seen as "other" and treated as outcasts. Transgender people who identify and express their gender differently from that which they were assigned at birth and/or conditioned to perform fall within this realm of social outcasts.

Since the age of six, I have taken agency and autonomy in the celebration and affirmation of my gender identity and expression. Far too often transgender children are not affirmed in their identities and it impacts every aspect of our lives. So many of my contemporaries have been rejected by family and society, discarded and murdered in the streets simply for existing in their truth. I have read about countless trans teens who struggled to take agency over their lives and decided that it was not worth living. Blake Brockington, a Black trans teen, was only nineteen in 2015 when he decided that his life was no longer worth living. Many of us are violently attacked simply for living authentically in our truth. I am deeply committed to curating reflections of who I am as I continue to create spaces for people like me to thrive, because society has done everything imaginable to convince me that Black trans people are disposable.

Social constructions of gender are reinforced in every aspect of all our lives. Social classifications of gender have been legally reinforced by structural systems of oppression and state-sanctioned violence that significantly impact the socioeconomic growth and development of trans and gender nonconforming people of color. According to *It's War in Here: A Report on the Treatment of Transgender and Intersex People in New York State Men's Prisons,* which was released in 2007:

> As a group, transgender and gender non-conforming people are disproportionately poor, homeless, criminalized, and imprisoned. Discrimination against transgender people in housing, employment, healthcare, education, public benefits, and social services is pervasive, pushing transgender people to the margins of the formal economy. With few other options, many low-income and poor transgender people engage in criminalized means of making a living, such as sex work. Transgender people also encounter pervasive violence and physical brutality at the hands of family members, community members, and police because of entrenched social stigma and prejudice.[5]

As indicated by Robert Belovics and James Kirk in a 2008 article: "Today, transgender individuals are employed in every industry and profession throughout the world. As a community, however, transgender people face enormous amounts of employment discrimination, leading to high rates of unemployment and underemployment."[6] To understand how familial and social acceptance is interconnected with socioeconomic growth and development it is vital to examine how discriminatory practices by social systems work to oppress and disenfranchise transgender individuals of color.

Structural systems of oppression reinforced by state-sanctioned violence create insurmountable financial conditions and violent realities for Black and Brown trans people, who are often disowned from family and community and disproportionately impacted by higher rates of homelessness, poverty, and underemployment,

forcing many to engage in life-threatening activities in order to survive. Most times these life-threatening activities place Black trans women in heightened levels of police contact that criminalizes our mere existence. According to a 2009 report from Amnesty International:

> Transgender people, particularly low-income transgender people of color, experience some of the most egregious cases of police brutality reported to AI [Amnesty International]. AI's findings suggest that police tend to target individuals who do not conform to gender stereotypes that govern "appropriate" masculine and feminine behaviors. Race plays an important factor in determining the likelihood of an LGBT person being targeted for police abuse, indicating that such abuses likely stem from racism as well as homophobia and transphobia. . . . AI has also received reports of cruel, inhuman and degrading treatment of LGBT individuals during arrest, searches and detention in police precinct holding cells. AI heard reports of officers searching transgender and gender variant individuals in order to determine their "true" gender. AI has documented allegations of misconduct and abuse of LGBT individuals in holding cells and detention centers, including the inappropriate placement of LGBT individuals in situations which compromise their safety. In particular, transgender individuals are often placed in holding cells according to their genitally determined sex, rather than their gender identity or expression, placing them at greater risk of verbal, physical and sexual abuse at the hands of other detainees.[7]

Employment Barriers

I vividly remember the experiences of being forced to engage in street-based sex work when I graduated from high school in 1994. I was simply trying to pay for the overnight stays at drug- and crime-infested hotels on Woodward Avenue or 8 Mile Road in Detroit. I was just trying to buy food and stay safe. I deferred my dreams of pursuing educational and career goals so that I could survive just one more night. There were absolutely no opportunities for Black and Brown trans women to enter the workforce in Detroit or anywhere. There was no support, guidance, funding, or interest from local or national LGBTQ community organizations directed toward the survival of Black and Brown folk. Many LGBTQ organizations continue to engage in "gatekeeping" that adversely impacts trans communities of color. This discriminatory practice rooted in anti-Blackness and transphobia contributes to heightened contact with police that reinforces the criminalization and chronic poverty of Black and Brown folk struggling to survive.

When I moved to New York City in 2002 I was assigned to live at several Department of Homeless Services men's shelters, despite identifying as transgender. For twenty-one months I experienced sexual assault, discrimination, and harassment from the staff, security personnel, and other residents. There were many times when I was raped in the shower and, when I reported this violence to the shelter staff, they blamed me and then informed my abuser. So many Black and Brown folk avoid shelters because they are places of extreme violence. But I had no choice. Sometimes I slept on the train or in Union Square. I began to use the restroom at a McDonald's to wash every morning, just to avoid the violence I faced. These treacherous conditions placed me in situations that not only contributed to the chronic poverty and trauma I was experiencing, but also reinforced the violence sanctioned by the state that I was enduring.

The lack of state and federal workplace protections for transgender people contributes to the disproportionate impact of poverty on the lives of Black and Brown trans folk. In "Transgressions of Inequality: The Struggle Finding Legal Protections against Wrongful Employment Termination on the Basis of the Transgender Identity" Anton Marino asks:

> What happens, however, when the way we construe our inborn identity is in direct conflict with the way others perceive our identity? To members of the transgender community, this conflict is inescapable, and the law has provided little protective recourse for such conflicts as they arise within the workplace—resulting in a gravely uncertain situation for transgender employees.[8]

Transgender Community Policy Briefing curated by Lourdes Ashley Hunter at the White House, 2016

Transgender people face many challenges when accessing culturally competent workplaces and face termination just for living in our truths.

> As recently as 2009, the United States District Court for the District of Indiana declined to grant Title VII protections to a transgender claimant wrongfully terminated from her employment because she refused to conform to a male sex-specific physical presentation while working. Without question, the workplace has maintained its status, since the Seventh Circuit's decision in Ulane, as a battleground on which the fight for transgender equality continues to be overwhelmingly disastrous.[9]

Federal and state workplace protections alone will not shift the narrative of poverty in the lives of Black and Brown folk. The transgender community is seen by mainstream society as a part of the lesbian, gay, and bisexual community but history points to the fact that transgender people are often left out of basic policy advances that support cultural competence and best practices for the entire LGBTQ community. This lack of inclusion shows up in the form of gatekeeping, respectability politics, and trickle-down incremental progression tactics employed by many cisgender queers who have political power and social capital. These tactics are indicative of the lack of trans inclusion in policy advances that have been the platform issues championed by the mainstream gay community, such as the repeal of "Don't Ask, Don't Tell" and the advancement of marriage equality. These tactics also show up in other fields dominanted by nonprofit organizations. Many Black and Brown trans folk have been tokenized, exploited, commodified, and disposed of by many LGBTQ service organizations that are not truly invested in building the capacity, skills, or socioeconomic power of Black and Brown trans communities. Many contribute to the chronic poverty we experience by not paying a living or thriving wage, not investing in professional development, not creating spaces that are affirming and welcoming, and not hiring Black and Brown trans people into leadership roles.

Policing and Criminalization

I have always seen the police and the entire criminal legal system as agents of the state, enforcers of white supremacy, and an enemy to my existence. When trans people are housed in detention centers the impacts of poverty and state-sanctioned violence are exacerbated. While housed in general population in male detention centers, Black and Brown women are more likely to become victims of violence and sexual assault by male inmates.

> Prison officials are required to protect prisoners. …Prison officials who display a "deliberate indifference" to this duty violate the Eighth Amendment prohibition of cruel and unusual punishment. The U.S. Supreme Court adopted a narrow definition of "deliberate indifference" in the case *Farmer v. Brennan,* which involved a male-to-female transsexual who was badly beaten and raped by her male cellmate in a maximum-security prison.[10]

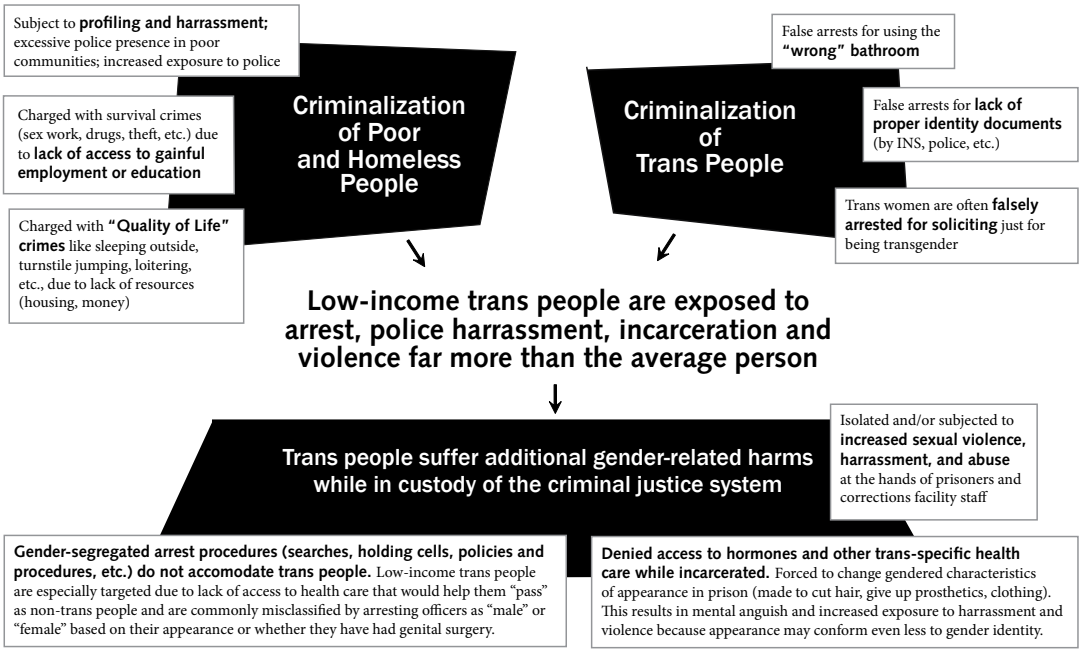
Detention centers and prisons are not safe for any person. When transgender individuals are inappropriately housed in detention centers and prisons it is a deliberate act of violence. In *Farmer v. Brennan,*

> The Court declined to adopt an objective rule that would hold a prison official liable for violence inflicted on a prisoner when the risks are obvious enough that the official "should have known" the prisoner was in danger. Instead, the Court ruled that, to violate the Eighth Amendment, an official must have actual subjective knowledge that the prisoner is at risk of violence and deliberately fail to act on that knowledge.[11]

City jails have a responsibility to inmates and taxpayers to provide adequate safety and housing for all inmates, including transgender inmates held in detention. In New York City, there is legislation that protects transgender individuals from discrimination when accessing city services. Although Local Law No. 3 prohibits discrimination based on gender identity when accessing city services, the policy does not include appropriate housing for transgender individuals in city detention centers.[12] According to *It's War In Here*, "In men's facilities, transgender women, gender non-conforming people, and intersex people are frequent and visible targets for discrimination and violence, and are subject to daily refusals by correctional officers and other prisoners to recognize their gender

SYSTEMS OF INEQUALITY: CRIMINAL JUSTICE

This diagram illustrates how overpolicing and profiling of low-income people and of transgender and gender non-conforming people intersect, producing a far higher risk than average of imprisonment, police harrassment, and violence for low-income trans people.



"Flow Chart: Disproportionate Incarceration," copyright © Sylvia Rivera Law Project, https://srlp.org/resources/flow-chart-disproportionate-incarceration.

identity." Housing trans people in facilities that are not aligned with their gender identity is an act of violence.

The below diagram from the Sylvia Rivera Law Project illuminates how systemic criminalization is inextricably linked to the poverty that trans people face.

Violence in Schools

Trans, gender nonconforming, and nonbinary Black and Brown people are disproportionately impacted by high rates of homelessness, trauma, criminalization, under-employment, and incarceration, which is inextricably linked to chronic poverty reinforced by state-sanctioned violence. The transgender community is growing larger and youth are affirming their gender identity and expression in bold and audacious ways. Many trans youth seek out support, as they are oftentimes misunderstood or abandoned by their families and communities

Transgender youth are bullied and harassed in schools at much greater rates than lesbian and gay youth. Many trans youth report being physically attacked at school because of their perceived gender identity, sexual orientation, or gender expression. Transgender children who are not supported at school and/or at home are more likely to score lower than their counterparts and are at a greater risk of dropping out due to increased pressure to conform. The 2009 report *Harsh Realities: The Experiences of Transgender Youth in Our Nation's Schools* conducted by GLSEN (the leading national advocacy organization for LGBTQ students, founded under the name Gay, Lesbian and Straight Education Network) reported that ninety percent of trans students had heard derogatory remarks, such as "dyke" or "faggot," sometimes, often, or frequently in school in the past year. Ninety percent of trans students also had heard negative remarks about someone's gender expression sometimes, often, or frequently in school in the past year. Less than a fifth of trans students said that school staff intervened most of the time or always when hearing homophobic remarks (sixteen percent) or negative remarks about someone's gender expression (eleven percent). School staff also contributed to the harassment. A third of trans students had heard school staff make homophobic remarks (thirty-two percent), sexist remarks (thirty-nine percent) and negative comments about someone's gender expression (thirty-nine percent) sometimes, often, or frequently in the past year.[13]

Transgender youth who drop out of school have a more difficult time attending college, getting a job, developing a career, and maintaining stable housing. Many trans youth report finding themselves homeless and on the streets due to the lack of familial and social acceptance and are more likely to participate in unsafe and illegal activities for survival, putting them at a greater risk for compromised health, policing, criminalization, profiling, and heightened police contact.[14] Without a job, stable housing, health care, or education, the stage has been set through state-sanctioned violence to reinforce chronic poverty in trans people's lives. It is clear that there is a need to create affirming spaces for Black and Brown trans folk to have the opportunity to access affordable housing, employment, and educational institutions free from discrimination and violence.

Shifting the Narrative

Islan Nettles, a Black trans woman, was twenty-one years old when she was pummeled to death outside of a New York City police station in August 2013. She was simply walking down the street with her friends. Exploring a career in fashion, volunteering at a community center, having just moved into a new apartment, Nettles was living her best life and it was all taken away on that fatal night. Unlike when Michael Brown or Trayvon Martin were murdered, there was no national outcry, there were no riots in the streets or call to action to end violence against Black trans women. Nettles's murder, much like the murder of many trans women of color who have been brutally killed in the past fifteen years in the United States, was at the hands of Black men.

Even though the police pulled a bloodied James Dixon off the body of Islan Nettles, he was not charged with her murder. It was more than two years later, after his rearrest when he was questioned by detectives, that he stated that he murdered Nettles simply because she was transgender. He was never charged with murder or a hate crime and took a plea deal, escaping

Lourdes Ashley Hunter delivering a keynote address at the Black Life Matters Conference, Arizona State University, 2015

a twenty-five-year prison term for manslaughter. Black cisgender men are murdering trans women of color and no one is holding them accountable. The physical violence we face is inextricably linked to the violence we face that is sanctioned by the state and reinforced through cultural norms, social constructions of gender, and transphobia.

I am committed to creating and curating spaces where poor Black and Brown trans folk, non-binary folk, disabled folk, youth, elders, and undocumented folk have opportunities to heal. The Trans Women of Color Collective is a direct response to the state-sanctioned violence we face every day in our communities. Led by and for trans and gender nonconforming people of color, we work in tandem to create, curate, and produce affirming spaces where our community has the opportunity to come together, leverage resources, and be affirmed, loved, and supported by people who look and experience life just as we do. We are answering our own call to action to shift the narrative of state-sanctioned violence and how it impacts all of our lives. We are building our own community centers, shelters, and programming, and delivering vital services, thus creating the change we seek.

At the Trans Women of Color Collective, our work centers healing and restorative justice by elevating the narratives, lived experiences, and leadership of our community members in the trenches and at the forefront of creating healing spaces; building socioeconomic growth, development, and power; and, most importantly, leading with love. As we build economic growth and development for our community, we are enhancing the capacity of future leaders by equipping them with the tools to navigate the systems that are designed to kill them. Investing in the lives of Black trans youth is a revolutionary act. We are showing the world that there is a place where we belong, that our community members have a home, that we are loved by our chosen family, and that our lives have tremendous purpose. We believe that everyone deserves to exist in a world where they are celebrated in their truth.

If we are to shift the narrative of poverty in the lives of those most impacted, here are a few takeaways:

- Conversations about poverty that are meaningful and rooted in solutions must occur in tandem with conversations about state-sanctioned violence, white supremacy, capitalism, neocolonialism, anti-Blackness, transphobia, and more, and must be led by

those most disproportionately impacted.

- Our voices and our experiences are not here to be commodified, exploited, or tokenized. We must be paid for our labor. We are our experience and our lives have tremendous value.
- LGBTQ people with access and resources must understand what that looks like, recognize how that power works, and toil every day to leverage their power to create spaces that affirm, celebrate, and encourage meaningful engagement that builds sustainable socio-economic growth and development in Black and Brown trans communities.
- We cannot solve poverty without also addressing white supremacy, housing insecurity, hunger, trauma, violence, discrimination, neocolonialism, transphobia, anti-Blackness, classism, and more. These issues work in tandem to reinforce each other. We must work collectively to dismantle them all, but those who benefit from them must be on the front line tearing them down.
- Trust that Black and Brown trans people know exactly what they need to thrive. Believe Black and Brown trans folk when they tell you their experience. Listen and learn from Black and Brown trans people. We know who we are.

NOTES

[1] Andrew R. Flores et al., *How Many Adults Identify as Transgender in the United States?* (Los Angeles: The Williams Institute, 2016), http://williamsinstitute.law.ucla.edu/wp-content/uploads/How-Many-Adults-Identify-as-Transgender-in-the-United-States.pdf.

[2] Elijah Adiv Edelman et. al, *Access Denied: Washington, DC Trans Needs Assessment Report* (Washington: DC Trans Coalition, 2015), https://dctranscoalition.files.wordpress.com/2015/11/dctc-access-denied-final.pdf.

[3] Edelman et. al, *Access Denied.*

[4] Robert Anderson, "Way Out West: A Comment Surveying Idaho State's Legal Protection of Transgender and Gender Non-conforming Individuals," *Idaho Law Review* 49, no. 3 (2013): 596–97.

[5] Sylvia Rivera Law Project, "*It's War in Here": A Report on The Treatment of Transgender and Intersex People in New York State Men's Prisons,* 2007, 11–12, https://srlp.org/files/warinhere.pdf.

[6] James Kirk and Robert Belovics, "Understanding and Counseling Transgender Clients," *Journel of Employment Counseling* 45, no. 1 (March 2008): 29, http://doi.org/10.1002/j.2161-1920.2008.tb00042.x.

[7] Amnesty International, *Stonewalled: Police Abuse and Misconduct against Lesbian, Gay, Bisexual and Transgender People in the U.S.,* September 2005, 3–5, https://www.amnesty.org/en/documents/AMR51/122/2005/en/.

[8] Anton Marino, "Transgressions of Inequality: The Struggle Finding Legal Protections against Wrongful Employment Termination on the Basis of the Transgender Identity," *Journal of Gender, Social Policy, & the Law* 21, no. 4 (2013): 866.

[9] Marino, "Transgressions of Inequality," 886.

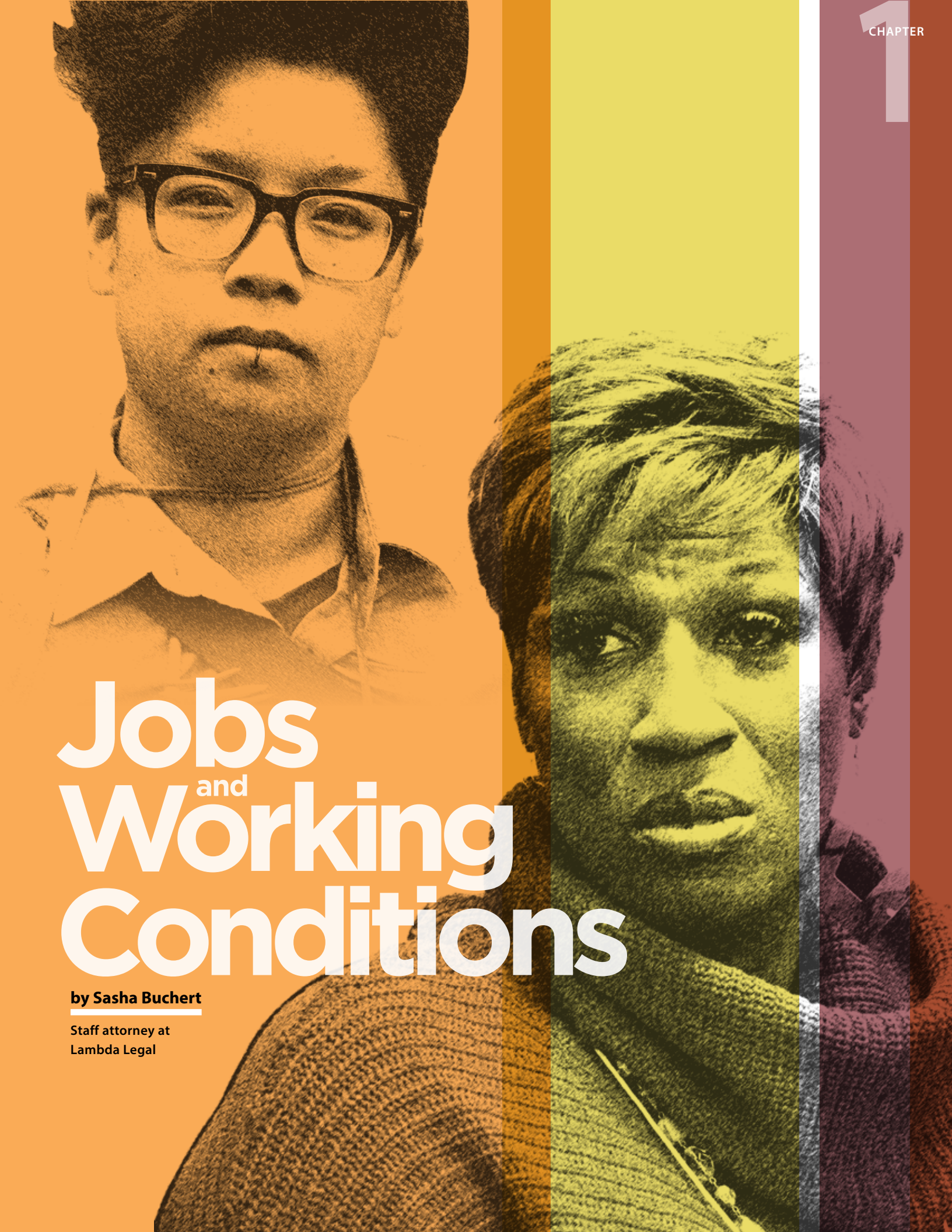
[10] National Center for Lesbian Rights, *Rights of Transgender Prisoners,* June 2006, 2, http://ncflr.convio.net/site/DocServer/RightsofTransgenderPrisoners.pdf?docID=6381.

[11] National Center for Lesbian Rights, *Rights of Transgender Prisoners,* 2.

[12] "Gender Identity/Gender Expression: Legal Enforcement Guidance," NYC Human Rights, accessed December 21, 2017, http://www1.nyc.gov/site/cchr/law/legal-guidances-gender-identity-expression.page.

[13] Emily A. Greytak, Joseph G. Kosciw, and Elizabeth M. Diaz, *Harsh Realities: The Experiences of Transgender Youth in Our Nation's Schools* (New York: GLSEN, 2009), http://www.teni.ie/attachments/c95b5e6b-f0e6-43aa-9038-1e357e3163ea.PDF.

[14] Gretak, Kosciw, and Diaz, *Harsh Realities.*



Jobs and Working Conditions

by Sasha Buchert

Staff attorney at
Lambda Legal

Having—or not having—meaningful employment and safe working conditions has an enormous impact on the quality of people's lives. Getting a job and having adequate working conditions is a central issue for most LGBTQ people. In our convenings and focus groups, local advocates repeatedly expressed how important it is for LGBTQ people to find good jobs and to have safe working conditions. Although finding meaningful employment and adequate working conditions may not—in and of themselves—lift people out of poverty, the absence of meaningful employment makes it much more likely that people will continue to experience poverty and the negative long-term outcomes that flow from it.

One of the most significant barriers keeping many LGBTQ people from finding meaningful employment is the experience of discrimination and harassment in hiring and on the job. Often employers simply refuse to hire a person because of the applicant's actual or perceived sexual orientation and/or gender identity. Even when LGBTQ people are hired, once on the job they often experience discrimination as well. They are often denied equal health-care benefits, reassigned to positions that do not interact with the public, denied promotional opportunities, denied access to restrooms consistent with their gender identity, or experience other forms of discrimination. In addition, LGBTQ workers frequently experience verbal and physical harassment on the job and often fear retaliation for filing complaints or speaking with a supervisor. Although federal protections prohibit discrimination on the basis of sex, explicit protections that prohibit discrimination on the basis of sexual orientation, gender identity, and gender expression are needed in order to provide clarity for employers and employees and deter further discrimination and harassment.

The first part of this chapter discusses the need for explicit and clear nondiscrimination protections. Explicit and robust employment nondiscrimination protections will place employers on notice that discrimination on the basis of sexual orientation and gender identity/expression violates the law, and it will provide a right of action for those who have been harmed.

In addition to ensuring explicit protections, it is crucial to implement and enforce the law so that LGBTQ workers can support themselves and their families without fear of discrimination and harassment.

The second half of the chapter discusses policies that would help remove the barriers that LGBTQ people often experience once they have successfully entered the workforce. Beyond obtaining explicit employment nondiscrimination protections, there are many concrete policy solutions that will help reduce the disparities that LGBTQ workers experience. Pre-employment checks, name and gender requirements, and antiquated ideas about how a worker should appear, speak, and write contribute to a culture that implicitly discriminates against "outsider" groups such as LGBTQ people.

Although the policy recommendations below are primarily focused on federal agency action, many also could be advanced at local and state levels or through executive, legislative, or municipal action.

1.1

Opening Up Opportunities through Nondiscrimination Protections

LGBTQ people face pervasive harassment and discrimination in the workplace. Between fifteen and forty-three percent of LGBTQ workers report having experienced discrimination on the job.[1] For transgender people the numbers are even higher. In the groundbreaking, nationally representative 2015 U.S. Transgender Survey, over thirty percent of respondents who had a job in the past year reported being fired, denied a promotion, or experiencing some form of mistreatment due to their gender identity or expression.[2] Although nondiscrimination protections will not automatically ensure lived equality for LGBTQ people, such policies are an important tool to help reduce these disparities.

In addition to advancing workplace protections, it is crucial that policymakers work to defeat

exclusionary policies. More and more state and federal legislation has recently been introduced that seeks to strip LGBTQ people of their rights. In 2016 alone, more than two hundred bills were introduced in state legislatures across the country that sought to limit or eliminate LGBTQ protections.

Recommendations:

- Advance nondiscrimination protections inclusive of sexual orientation, gender identity, and gender expression on federal, state, and local levels. The Equality Act can serve as a model because it is comprehensive legislation that includes protections against employment discrimination and also prohibits discrimination on the basis of credit, housing, public accommodations, and jury service.
- Defeat anti-equality measures that would eliminate or prevent future protections for LGBTQ people. Proposed legislation that would allow employers to discriminate against LGBTQ people based on religious beliefs or that pre-empts local nondiscrimination protections, for example, must be defeated or such measures will result in long-term negative outcomes in economic security for LGBTQ people.
- Establish a government working group that can identify local, state, and federal agencies and programs that currently do not prohibit discrimination on the basis of sexual orientation and gender identity/expression in their programs or through their grant making.
- Agencies should expand general nondiscrimination enforcement and monitoring programs to cover other agencies and ensure that such programs—which test protections by sending representatives of the protected classification to prospective employers to apply for jobs—include sexual orientation and gender identity/expression.
- The Department of Justice should issue guidance confirming that rules allowing religious organizations to give hiring preference to co-religionists under Title VII do not permit discrimination on other prohibited grounds, regardless of any religious motives for doing so.

1.2

Increasing LGBTQ People's Ability to Get Hired

Job Programs

One significant opportunity for government to help reduce LGBTQ employment disparities is the creation of job programs at one-stop career centers that prioritize the most vulnerable LGBTQ communities and connect workers with jobs that pay a living wage. In addition, the government should invest in LGBTQ communities by providing financial support that subsidizes and offers interest-free loans to promote the development of LGBTQ-owned businesses and cooperatives.

Recommendations:

- The U.S. Department of Labor's Employment and Training Administration should create and fund jobs programs that prioritize hiring LGBTQ people, especially transgender women, youth, elders, and disabled people. Federal, state, and local governments could include these priorities within infrastructure measures.
- The Minority Business Development Agency within the U.S. Department of Commerce should include LGBTQ-owned businesses in its program development, outreach initiatives, and access to capital.
- The Department of Labor should audit and complete a report on the accessibility of and actual complaints made to equal opportunity officers regarding discrimination at one-stop career centers and other entities to ensure that LGBTQ people have full access to the services provided by the public workforce system.
- The Department of Labor should create incentives for work centers to partner directly with local LGBTQ organizations to assist with Job Corps outreach and nondiscrimination training programs and provide LGBTQ cultural competency training for all centers.
- The Department of Labor should identify, promote, and fund best practices for employers that help transgender people enter or reenter the workforce.
- The Department of Labor should continue to conduct periodic LGBTQ trainings to enforce the nondiscrimination provisions of the public

workforce system.[3]

- The Rural Business-Cooperative Service within the U.S. Department of Agriculture (USDA) should prioritize funding and technical assistance for LGBTQ-owned or -operated small businesses.
- The Department of Labor should collect data on how many LGBTQ people enroll with public workforce centers.
- The Small Business Administration should earmark loans to vulnerable LGBTQ communities to support the development of cooperative networks to facilitate trade.
- The Economic Development Administration within the Department of Commerce should prioritize grant funding for applicants that integrate LGBTQ communities into economic development strategy.
- The Department of Justice should work with prosecutors to stop prosecuting sex workers and to decriminalize sex work. Although many people choose to do sex work, LGBTQ people often engage in survival sex work because they are unable to find meaningful employment in other sectors due to the barriers mentioned above.

Pre-employment Checks: Drugs, Credit, and Criminal Background Checks

The impact of drug testing is devastating on people who are fired or not hired because of a positive drug testing result. But a far more damaging consequence is that drug testing serves as a deterrent to any individuals who otherwise might be qualified. Employers commonly report that applicants frequently choose to remove themselves from the applicant process rather than be tested.

Recommendations:

- The Department of Labor should clarify that employers are not legally required to conduct pre-employment drug testing and that drug testing is only required for federal employees in safety-sensitive industries.
- Require employers with more than fifteen employees to adopt a workplace reduction policy.
- Advance policies that decriminalize the use of otherwise-illegal drugs for medicinal purposes.
- "Right to Rest" policies should be advanced to reduce the criminalization of homelessness that often makes it more difficult for people to secure employment.

Name and Gender Requirements on Job Applications

The majority of people aren't fazed by a demand to see ID. They simply rummage through their wallets to find an ID and boldly present it, confident that they will be waived through. For many people in LGBTQ communities, however—especially trans and gender nonconforming people—this demand can stop us in our tracks and create deep anxiety. This fear is justified. Thirty-two percent of respondents to the 2015 U.S. Transgender Survey reported experiencing harassment and violence, and only eleven percent of trans people have been able to update their state-issued ID.[4] Having an incorrect ID is a huge barrier when looking for work—most job applications ask for "name" and "gender" and trans applicants who have been unable to amend their ID are faced with the choice between writing in their old name and gender on the application—placing them at risk of charges of lying or fraud—or avoiding completing the application and losing the opportunity to advance economically. There are a number of policies that federal agencies could take to remove such barriers to employment.

Recommendations:

- Federal, state, and local agencies should remove gender inquiries altogether when hiring for public employment. Agencies that maintain identity records should create policies and procedures that allow federal employees and the public the ability to easily amend their gender marker with a simple affidavit attesting their gender. If gender is not removed altogether, agencies should also include a third gender option in order to legally recognize nonbinary people.
- The U.S. Office of Personnel Management—along with state and local employment agencies—should issue regulations clarifying that the use of a nonlegal name and gender on an application for a federal position should not be considered fraud or cause for disqualification. In the past, employers have required applicants to use their legal name on applications. For individuals who have not obtained

a court-ordered name change, the experience of using their name given at birth can be traumatic. The name on one's birth certificate is not one's "true" name and individuals should have the agency to self-determine their identity. For background purposes, employers can easily identify the identity of an applicant through the U.S. Social Security Administration.

- Agencies should prohibit credit checks and encourage policies that don't allow background checks or, alternatively, only allow them after a job offer has been made.

Barriers to Finding a Job for Workers with a Criminal Record

It is imperative that policies are advanced that reduce the barriers to employment for people with a criminal record. Gender and sexuality nonconformity is frequently criminalized in a way that disproportionately impacts LGBTQ people of color. Whether because they have gone through the school-to-prison pipeline as a result of discriminatory school policies or because of the over-criminalization of "survival crimes" that LGBTQ people are often forced to engage in or because of their disproportionate likelihood of being profiled as sex workers, LGBTQ people are at risk of becoming entangled with the criminal legal system and having a criminal record.

Recommendations:

- The U.S. Equal Employment Opportunity Commission (EEOC) should issue guidance on limiting criminal history inquiries in the hiring process and require that employers "ban the box"—remove the question on an application that asks applicants whether they have a criminal record—for most employment applications or delay such questions until a person has been conditionally offered a position.
- The Department of Justice should ensure that Federal Prison Industries (operating under the trade name UNICOR) prohibits discrimination on the basis of sexual orientation, gender identity/expression, and HIV status in its programming, and that all UNICOR employment training programs integrate LGBTQ people, especially trans and gender nonconforming people, especially as it relates to job readiness.
- The Federal Bureau of Prisons should ensure that all reentry programming is inclusive of the particular needs of LGBTQ incarcerated people, including ensuring access to updated identity documents and safe and affirming job and housing placements and prioritizing contracts with community corrections facilities that have a documented history of or a plan to ensure the safety and success of LGBTQ people.
- The Office of Personnel Management and other government hiring agencies should clarify that nonviolent felonies should never determine suitability for federal employment.
- Federal and state prisons and parole officers should issue "certificates of rehabilitation" that individuals can present to employers during the application process.
- The EEOC should train employers about best practices regarding criminal background verification.

Access to Professional Licenses

More than twenty-five percent of U.S. residents need a license to practice their occupation and many licensing boards have outdated conviction barriers that prevent people from obtaining licenses.[5] This is especially true for LGBTQ workers, who are more likely than the average U.S. resident to interact with law enforcement or to be criminalized.

Recommendations:

- State licensing boards should end the practice of disqualifying people with criminal records. Boards should also end overly broad criminal record inquiries. There is no research that a workplace is less safe if an individual has a prior record.
- State licensing boards should define vague terms such as "good moral character" and "moral turpitude" to help applicants understand whether their past conviction will be disqualifying.

Pathways to Employment for Immigrant Workers

There are multiple steps that agencies, such as the U.S. Department of Homeland Security (DHS), can take to reduce employment insecurity, reform enforcement, and stop criminalizing immigrant communities. LGBTQ immigrant workers especially often live in fear of government or employer retaliation.

Recommendations:

- The EEOC should issue guidance to clarify that federal law prohibits U.S. citizenship requirements on employment applications and should conduct testing and training to implement this education. Although there are forms of immigration status one must have in order to work, formal U.S. citizenship should never be required.
- DHS should define LGBTQ people as a vulnerable population for detention purposes.
- DHS should resolve the status of those "illegally" present in the United States.[6]
- DHS should create policies that facilitate the entry of individuals seeking to enter the United States whose applications have been backlogged.
- DHS should grant affirmative relief with work authorization to individuals who are low priorities for removal or eligible for prosecutorial discretion under existing DHS policies.
- DHS should reform its enforcement and removal system to stop criminalizing immigrant communities and ensure that individuals who are low priorities for removal or eligible for prosecutorial discretion are not removed.
- DHS should end programs that delegate its responsibilities to local law enforcement and place the federal government in charge of implementing enforcement.
- DHS should revise its operating instructions to ensure that enforcement actions do not interfere with worker rights.

"Respectability" Practices

Respectability practices are those practices that expect or force members of a marginalized group to conform with mainstream paradigms of proper behavior and appearance. Many LGBTQ people—especially trans and gender nonconforming people—do not conform with this vision of "normalcy," which subjects them to—at best—employer disapproval and places their economic security at risk.

Recommendations:

- The EEOC should clarify that gender expression–based policies such as dress and hair restrictions are impermissible without a bona fide occupational rationale.
- Policymakers should clarify that individuals must not be counseled, disciplined, or sanctioned for failing to conform to mainstream gender stereotypes.

1.3

Improving Workforce Conditions

Workplace Discrimination and Harassment

Unfortunately, even if LGBTQ workers are able to successfully find employment, they often experience discrimination and harassment in the workplace. Many companies do not have nondiscrimination policies and tolerate discrimination and harassment. Even if a company does have a nondiscrimination policy, LGBTQ workers often fear reporting harassment to their employers because they are worried about potential retaliation by coworkers or by their employer. In addition to advancing explicit protections against discrimination and creating robust enforcement mechanisms, the government could develop myriad policies that would help create and foster an inclusive workplace free from discrimination.

Recommendations:

- he EEOC should promulgate new regulations through a notice and comment process that establish that it is a form of sex discrimination to deny equal health-care benefits, to deny equal access to restrooms or changing facilities, to refer to an individual with an improper name and/or pronoun, or to compromise the personal and medical privacy of workers on the basis of their sexual orientation or gender identity. Such regulations would clarify for employers and employees their duties under the law.
- Mandatory sexual harassment prevention training in the private and public sector should be expanded to include LGBTQ discrimination.
- The Department of Labor's Occupational Safety and Health Administration should require employers to instruct employees that all transgender workers should have access to restrooms that these workers feel to be the most appropriate and safest option.

- Agencies and state administrative bodies should pursue policies that identify restrooms and changing facilities as all-gender restrooms rather than as only single-gender men's and women's restrooms.

Strong Workplace Standards

In addition to advancing policies that directly impact LGBTQ workers, policies should be advanced that impact all workers and have a beneficial impact on LGBTQ workers, such as those that provide a living wage, paid family leave to care for a family member, child care, support for collective bargaining, and environmental protections.

Recommendations:

- The Department of Labor should increase the minimum wage to be a living wage.
- The Department of Labor and state agencies should advocate for policies that create paid family leave benefits for individuals who need to take time off to care for relatives. Such a paid leave act should ensure that people earning close to the minimum wage are paid at least seventy percent of their salary while on leave.
- The U.S. Department of Health and Human Services should advance policies that expand access to Medicaid to reduce financial burdens.
- Policies should be advanced that remove barriers to reproductive care so that families can plan their childbearing.
- Policies should be advanced that provide high-quality, guaranteed, affordable, and accessible child care for everyone.
- Policies should be advanced that support unions and strengthen collective bargaining that will lead to more middle-skill jobs. On average, workers in sates with so-called right-to-work laws have lower wages and fewer benefits.
- The Department of Labor's Occupational and Safety Health Administration should advance protections that protect workers from environmental hazards and should enforce these protections through clear guidance and action.

NOTES

[1] Crosby Burns and Jeff Krehely, "Gay and Transgender People Face High Rates of Workplace Discrimination and Harassment," *Center for American Progress*, June 2, 2011, https://www.americanprogress.org/issues/lgbt/news/2011/06/02/9872/gay-and-transgender-people-face-high-rates-of-workplace-discrimination-and-harassment/.

[2] Sandy E. James et al., *The Report of the 2015 U.S. Transgender Survey* (Washington, DC: National Center for Transgender Equality, 2016), http://www.ustranssurvey.org/reports.

[3] U.S. Department of Labor, Employment & Training Administration, "Training and Employment Guidance Letter No. 37-14," May 29, 2015, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3902.

[4] James et al., *Report of the 2015 U.S. Transgender Survey.*

[5] Michelle Natividad Rodriguez and Beth Avery, *Unlicensed & Untapped: Removing Barriers to State Occupational Licenses for People with Records* (New York: National Employment Law Project, 2016), http://www.nelp.org/publication/unlicensed-untapped-removing-barriers-state-occupational-licenses/.

[6] AFL-CIO, *Resolution 11: The Labor Movement's Principles for Comprehensive Immigration Reform,* September 13, 2009, https://aflcio.org/resolution/labor-movements-principles-comprehensive-immigration-reform.

CHAPTER 2

Social Services and Benefits

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2.1

Legal Nondiscrimination Protections

LGBTQ nondiscrimination protections must be comprehensive, intersectional, and center and prioritize the needs of LGBTQ people living in poverty and LGBTQ people of color. These laws must not only protect LGBTQ communities in the areas of housing, employment, and education, but they must also include protections in places of public accommodation, in order to address the discrimination, harassment, mistreatment, and violence that many LGBTQ people experience in navigating public spaces.

Many of the participants in the convenings and focus groups reported being harassed, discriminated against, and criminalized or policed in public spaces, including at stores, in restaurants, and in public parks or while walking down the street, by strangers, store owners, and the police. Surveys have shown that their experiences are not isolated. A survey of gay and lesbian New York residents found that twenty-seven percent had experienced inappropriate treatment or hostility in places of public accommodation, while six percent reported being denied service outright when eating at a restaurant, entering a store, or staying at a hotel.[2] The 2015 U.S. Transgender Survey found that nearly one-third of respondents had experienced harassment, mistreatment, or discrimination in places of public accommodation because of their gender identity, and nearly one in five respondents avoided using public accommodations out of fear that they would be mistreated.

Nondiscrimination protections should also be inclusive of nonbinary people, who do not identify (exclusively or at all) as men or women, as well as gender nonconforming people, whose gender expression does not conform to external assumptions based on their gender identity (e.g., a butch or masculine-presenting lesbian who identifies as a woman). In order to ensure that these communities are protected, gender identity must be defined expansively in nondiscrimination protections, and gender expression should also always be included as a protected category, in addition to gender identity. Nonbinary people experience significant discrimination in their daily lives, including high rates of poverty, violence, and other forms of discrimination that in some cases are even higher than those of their gender conforming transgender peers. These disparities are particularly pronounced for people of color.

Finally, safe access to sex-segregated public spaces—including, but not limited to, restrooms—is important for all people and for transgender people in particular. If trans people cannot access restrooms, they cannot work or live freely in public spaces. A survey of trans and gender nonconforming people in Washington, DC, found that seventy percent of respondents reported being verbally harassed, denied access to, or physically assaulted in public restrooms.[3] Fifty-four percent reported adverse health effects as a result of trying to avoid using public restrooms. Although several anti-equality activists have recently galvanized opposition to state nondiscrimination bills by claiming that their passage would make bathrooms dangerous for cisgender people, research has continued to show that these claims are entirely unfounded.

Recommendations:

- Ensure the passage of federal, state, and local legislation that comprehensively protects LGBTQ people in accessing jobs, housing, health care, credit, public benefits, and public accommodations.
- In recognition of the many ways that a criminal record can impact an individual's ability to access public benefits, jobs, housing, and other vital services and programs, local and state government should fund efforts to increase "know your rights" trainings regarding expungement. Where there are barriers to expungement in state and local law, particularly for nonviolent felonies and misdemeanors, state and local government should pass legislation that allows individuals to expunge their records. Barriers to professional licensure should also be removed so that a criminal record does not disqualify an applicant from licensure.
- Wherever sex discrimination is already prohibited, administrative agencies should issue

regulations or sub-regulatory guidance that these protections cover sexual orientation and gender identity discrimination. Sexual orientation and gender identity discrimination are species of sex discrimination and, as such, should be prohibited to the extent sex discrimination is prohibited.[4] Numerous federal agencies have already interpreted sex discrimination protections as covering discrimination based on gender identity and gender stereotyping and have enforced them accordingly,[5] and the EEOC has interpreted Title VII's sex discrimination provision to cover sexual orientation discrimination even where a gender stereotype may not be apparent.[6] Federal, state, and local administrative agencies also may have authority to prohibit discrimination on the basis of sexual orientation and gender identity/expression, or to otherwise protect LGBTQ people, in the programs they operate or financially assist.

2.2

Identity Documents

Legislatures and government agencies should create programs that increase free, easy, and equal access to obtaining identity documents—in recognition of the barriers many marginalized communities have faced in gaining access to these documents and their importance in a variety of contexts.

The vast majority of participants in the convenings and focus groups discussed the importance of obtaining gender-affirming identity documents in order to apply for jobs, housing, public benefits programs, health care, and other systems vital to their survival. Having "mismatched" identity documents can expose trans and gender nonconforming people to discrimination and harassment—particularly those who are living in poverty. Nearly one-third (thirty-two percent) of respondents to the 2015 U.S. Transgender Survey who have presented an ID with a name or gender that did not match their gender presentation were verbally harassed, denied benefits or services, asked to leave a public space, or assaulted.[7]

Despite the significant consequences of having mismatched identity documents, many trans people are unable to make necessary updates, both because of discriminatory policies and inability to pay. Only eleven percent of respondents to the 2015 U.S. Transgender Survey reported that all of their IDs and records listed both the name and gender they preferred, and rates were even lower for certain communities, including undocumented individuals (four percent), people aged 18–24 (five percent), and people with no income (six percent). More than two-thirds (sixty-eight percent) reported that none of their IDs or records had both the name and gender they preferred.[8]

These state and federal identity documents impact transgender people's ability to access a driver's license, social security records and benefits, passports, student records, and birth certificates. Over one-third of trans people who have not updated their identity documents were unable to do so because of cost. Approximately twenty-four percent say they don't know how to change their documents and sixty percent report getting no assistance in trying to complete the legal name change. Approximately one-quarter (twenty-seven percent) of those who were granted a legal name change reported that the process cost less than $100, more than half (fifty-five percent) reported it costing $100–$499, and ten percent reported the process costing $500–$2,000.[9]

Nearly one-third (thirty-two percent) of trans individuals who have shown IDs that did not match their presentation have reported negative experiences, such as being harassed, denied services, or attacked. These experiences are even more significant for communities of color as compared to white communities. For example, forty-four percent of Middle Eastern trans people, thirty-nine percent of trans Native Americans, and thirty-three percent of multiracial trans people, as compared to twenty-four percent of white trans people, have experienced negative consequences when presenting mismatched identity documents.[10]

For nonbinary people, changing identity documents can be a particularly complicated process. The vast majority of identity documents do not

provide an "other" or third option for gender identity. As one person noted in the 2015 U.S. Transgender Survey, "As a non-binary person, not being able to change my gender on any of my identification documents is really disheartening, dysphoria inducing, and kind of dehumanizing. I'm not allowed to be me."[11]

Similarly, people who are or who have been homeless need access to identity documents in order to qualify for most public benefits programs, but often do not have access to those documents, as a result of fees and the loss of personal property resulting from instable housing.[12]

Recommendations:

- Local courts, administrative law judges, and clerks should be given guidance on cultural competency training for name and gender marker change procedures involving transgender people—with a particular focus on understanding the legal and social barriers that people who are formerly incarcerated and/or those with noncitizen legal immigration statuses face in updating their name and gender marker on identity documents. Where possible, people should not be required to appear in court in order to obtain a legal name change, and fees and costs associated with a legal name change should be waived for those who are unable to afford them. In addition, requirements to publish notices of name changes in newspapers or other public sources should either be eliminated entirely or should be waived in cases of potential danger or threat to the person seeking a name change.
- Local government should create programs similar to the municipal ID program in New York City that allow people of any immigration status to obtain a legal ID. These identity documents, like New York's, should allow for self-attestation of gender identity and/or include options for nonbinary people. Alternatively, these ID cards should eliminate gender markers entirely.

2.3

LGBTQ-Competent Social and Legal Services Providers

Trans communities, communities of color, and other LGBTQ communities experience significant discrimination, mistreatment, and harassment throughout their lives—and as a result, social and legal service providers must be LGBTQ-inclusive, center the accessibility of low-income LGBTQ people, and follow a trauma-informed model that recognizes the particular needs and vulnerabilities of these communities.

According to the 2016 annual report from the National Coalition of Anti-Violence Programs, LGBTQ people, particularly transgender people of color, experience significant discrimination and violence.[13] According to the 2015 U.S. Transgender Survey, nearly half of respondents were verbally harassed in the past year because of being trans, nearly one in ten respondents were physically attacked in the past year because of being trans, and nearly half of the respondents were sexually assaulted at some point in their lifetime and one in ten were sexually assaulted in the past year. Respondents who had done sex work, those who had experienced homelessness, and people with disabilities were more likely to have been sexually assaulted in their lifetime (seventy-two percent, sixty-five percent, and sixty-one percent, respectively).[14]

More than half (fifty-four percent) of transgender people have experienced some form of intimate partner violence, including acts such as coercive control and physical harm. Nearly one-quarter (twenty-four percent) have experienced severe physical violence by an intimate partner, compared to eighteen percent in the general U.S. population. Six percent of trans people report unequal treatment or service, harassment, or being physically attacked in places of public accommodation in the past year because of being transgender.[15]

Social and legal service providers must also address the needs of LGBTQ people with disabilities by providing accessible services and being accessible by public transit. For example, thirty-nine percent of respondents to the 2015

U.S. Transgender Survey reported having one or more disability, and trans people as a whole are six times more likely to report having serious difficulty concentrating, remembering, or making decisions because of a physical, mental, or emotional condition (thirty percent) than the general U.S. population (five percent).[16] Whether living with a disability or not, two-thirds of trans people report using public transportation services and thirty-four percent have experienced some form of harassment while doing so.[17] Trans people living in poverty are more likely to report harassment while using public transportation.

Language access is also a significant accessibility need and can be a barrier for low-income LGBTQ people needing to access vital social and legal services. A recent New York City report documented the significant barriers that language access creates, both with legal service providers and with court staff.[18]

Given the high rates of drug and alcohol misuse in LGBTQ communities, it is vital that drug and rehabilitation treatment programs are LGBTQ-competent and affirming.[19] According to the 2015 U.S. Transgender Survey, of respondents who visited or used services at a treatment program, fifty-eight percent believed that the staff or employees knew or thought they were transgender, and of those, twenty-two percent reported being denied equal treatment or service, verbally harassed, or physically attacked because of being trans.[20]

Finally, it is vital that domestic violence shelters, programs, and crisis centers undergo cultural competency training and evaluation and create affirming policies for LGBTQ communities. A national report released in 2016 shows that nearly half of LGBTQ survivors of intimate partner violence have been turned away from shelters, and seventy-one percent have been denied services because of their gender identity—specifically because women-only shelters would not accept gay men or transgender women.[21]

General Recommendations:

- Increase funding and government support for LGBTQ-led social service providers, community centers, and public benefit enrollment centers and navigators, particularly programs and initiatives led by LGBTQ people of color.
- Increase funding and access to adequate transportation, so that LGBTQ people living in poverty have access to the programs, services, and public benefits offices and programs that they need in order to access services they are entitled to receive.
- Increase access to civil legal services, including those for both currently and formerly incarcerated people, to ensure that they are able to access a wide range of civil and public benefits and that they are better informed of their legal rights in accessing housing, health care, public accommodations, and employment. This should include funding for legal helplines to make services accessible to those who are not able to take time off of work or travel to legal offices. Legal service providers should also be trained to fully understand the needs of those who work in informal economies, including sex work.
- Increase access to comprehensive case management services that provide wraparound services and application/enrollment into a variety of programs that an applicant may be eligible for, including cash assistance, subsidies, and health care.
- Increase funding for paid trainers who can train both government and nonprofit social services providers in LGBTQ cultural competency, including competency in the needs of LGBTQ people living in poverty. These efforts should prioritize hiring LGBTQ-led groups, particularly those led by people of color and people living in poverty.
- Increase physical accessibility to social services buildings by requiring more comprehensive accessibility plans and procedures as a condition of funding from local, state, and federal government.
- Increase social services for formerly incarcerated people that focus on this population's unique needs, recognizing both the interpersonal and systemic discrimination they may face in applying for public benefits, housing, jobs, health care, and more.
- Funding should be increased for partnerships between grassroots organizers, community-led organizations, and groups engaged in legislative advocacy, with a focus on centering

the experiences of vulnerable communities identified by grassroots and community-led organizations.

- Federal government should remove legal services grant restrictions that prevent legal service providers from working with noncitizen immigrants. Where the federal government chooses not to act, state government should fund and adjust programs to ensure that these communities receive adequate access to civil legal services.
- Increase access to programs that combat social isolation for LGBTQ elders, that are focused on peer support, and that designate funding to community-run and -led groups.
- Federal, state, and local government should ensure that faith-based organizations providing social services to communities living in poverty are not able to use their status as a faith-based organization to engage in discrimination against social service recipients.
- Local and state government should provide resources and funding to organizations and providers located within low-income and poor communities, recognizing that geographic and transportation isolation mean that people living in poverty are less likely to access the services they need.
- Funding should be prioritized for LGBTQ-led community centers and programs that center communities of color and are located in low-income areas, since LGBTQ centers are often located in wealthier areas of cities and, as a result, the communities that most need to be served are less likely to access those programs.
- Government and nongovernment funding should be provided to increase language access training, capabilities, and requirements for social service providers and organizations serving LGBTQ people living in poverty.

Federal Agency Recommendations:

- Federal, state, and local human services agencies should collect data on sexual orientation and gender identity and use these data to understand the extent to which LGBTQ people access their services, illuminate the experiences of LGBTQ people in these systems, and improve services for LGBTQ clients.
- The Department of Health and Human Services should issue guidance interpreting Code of Federal Regulations title 45, part 1355.34, which implements Title IV of the Social Security Act, to require states receiving federal funding for foster care and adoption programs to prohibit discrimination against prospective foster and adoptive parents based on sexual orientation, gender identity, or marital status and also to prohibit discrimination against foster youth on the basis of sexual orientation or gender identity.
- The Administration on Aging and state and local agencies dedicated to serving older adult communities should incentivize more states to use Administration on Aging dollars to fund congregate meal programs targeted toward LGBTQ elders and subpopulations within this community (e.g., LGBTQ elders of color, lesbian elders, and transgender elders), perhaps by adding more points for grant applications or issuing guidance encouraging states to do so, and explaining how.
- The Small Business Administration should release guidance on Americans with Disabilities Act compliance and best practices for small businesses, and should support expansion of the ADA to small businesses.
- The Office of Older Americans and the U.S. Department of Transportation should fund a pilot project to maintain a fleet of more than one hundred autonomous cars to provide more mobility for people with disabilities and older residents to access services and have greater independence. Such a project could be based on a rides-per-month system, using a card like an electronic benefits transfer (EBT) card.
- The Social Security Administration should eliminate the reduction in disability benefits for people who get married.
- Despite federal efforts to improve nationwide access to the internet, rural internet access remains poor, with only forty-seven percent of rural U.S. residents having access to high-speed service. Without the ability to access or afford internet services, LGBTQ people living in poverty in rural communities are without means to retrieve important information about their health, acquire legal services, or find support from LGBTQ networks outside of their communities. LGBTQ individuals and

organizations should therefore lobby the federal government to ensure access to high-speed internet in rural areas.

2.4

Access to Public Benefits

As a result of higher poverty rates, LGBTQ communities are more likely than the general population to be in need of comprehensive and equal public benefits programs, yet they face unique barriers in accessing public benefits. LGBTQ people often experience discrimination—both interpersonal and systemic—in attempting to access the public benefits they need to survive. For example, eleven percent of respondents to the 2015 U.S. Transgender Survey reported unequal treatment or service, harassment, or being physically attacked in a Social Security Administration office in the past year because of being transgender.[22] More than seventeen percent reported the same treatment in the past year when visiting a public assistance or government benefit office. Asian, Black, and Latinx[23] respondents were more likely to report having a negative experience in a Social Security office by three to four percentage points. Respondents who were currently working in the underground economy and people with disabilities were also more likely to have such an experience (thirty-six percent and sixteen percent, respectively).[24]

Nearly half (forty-five percent) of respondents to the 2015 U.S. Transgender Survey received income from multiple sources such as employment, Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits, or a pension.[25] Thirty-six percent received income solely from their own employment or a partner or spouse's employment. Nearly one in ten (nine percent) received income from SSI or SSDI, and three percent received income solely from a pension.

Recommendations:

- Ensure inclusive family definitions for public benefits programs, and move toward a "blood or affinity" model that acknowledges the fact that LGBTQ people, particularly LGBTQ people living in poverty, often develop familial bonds with people whom they are not legally or biologically related to.
- Where the federal government has excluded certain categories of people from being eligible for public assistance programs as a result of criminal record and/or immigration status, states should supplement those benefits by creating state-run programs that do not discriminate on the basis of those categories.[26] Such programs should also take into account potential issues associated with "mismatched" gender markers on identity documents and create system-wide "overrides" that ensure that such mismatches will not prevent individuals from receiving the public benefits they are entitled to receive.
- The federal government should adjust the federal poverty level so that it more closely charts with the federal and regional median cost of living, as well as inflation, in order to ensure that all people who need access to services designed for people living in poverty are able to gain access to them.
- Federal, state, and local government should increase access to programs that subsidize child care or provide universal state-sponsored child care.
- Universal minimum income should be provided based on inflation and median family income.
- People living in poverty should be given the opportunity to be an integral part of designing programs that are meant to serve them. They should also be compensated for their time and acknowledged for their contributions.
- Given the high rates of employment instability and reliance on working in informal and criminalized economies within LGBTQ communities, public benefits programs that require employment information for eligibility should take steps to ensure that no discrimination takes place on the basis of income.

NOTES

[1] The information contained in this report does not represent any official positions taken by the New York City Mayor's Office. Ashe McGovern is also a former Policy Analyst with the Center for American Progress and former Legislative and Policy Director at the Public Rights/Private Conscience Project at Columbia Law School.

[2] Crosby Burns and Philip Ross, *Gay and Transgender Discrimination Outside the Workplace: Why We Need Protections in Housing, Health Care, and Public Accommodations* (Washington, DC: Center for American Progress, 2011), http://www.americanprogress.org/wp-content/uploads/issues/2011/07/pdf/lgbt_discrimination.pdf.

[3] Elijah Adiv Edelman et. al, *Access Denied: Washington, DC Trans Needs Assessment Report* (Washington: DC Trans Coalition, 2015), https://dctranscoalition.files.wordpress.com/2015/11/dctc-access-denied-final.pdf.

[4] Letter from Adam P. Romero et al. to the Office of Civil Rights, Department of Health and Human Services, "RE: Nondiscrimination in Health Programs and Activities; Proposed Rule RIN 0945-AA02," November 9, 2015, http://williamsinstitute.law.ucla.edu/wp-content/uploads/Williams-Institute-Comments-on-ACA-1557-NPRM.pdf.

[5] Memorandum from Eric Holder to United States Attorneys, Heads of Department Components, "Treatment of Transgender Employment Discrimination Claims Under Title VII of the Civil Rights Act of 1964," December 15, 2014, http://www.justice.gov/file/188671/download; U.S. Department of Labor, Office of Federal Contract Compliance Programs, "Directive 2014-02 Regarding Gender Identity and Sex Discrimination," August 19, 2014, https://www.dol.gov/ofccp/regs/compliance/directives/dir2014_02.html; Letter from Leon Rodriguez to Maya Rupert, "OCR Transaction Number: 12-000800," July 12, 2012, http://www.washingtonblade.com/content/files/2012/08/101981113-Response-on-LGBT-People-in-Sec-1557-in-the-Affordable-Care-Act-from-the-U-S-Dept-of-Health-and-Human-Services.pdf; and Macy v. Holder, No. 0120120821, WL 1435995, 10 (EEOC April 20, 2012).

[6] Baldwin v. Foxx, No. 0120133080, WL 4397641, 4 – 8 (EEOC July 15, 2015).

[7] James et al., *Report of the 2015 U.S. Transgender Survey*, 13.

[8] James et al., 85.

[9] James et al., 84.

[10] James et al., 89.

[11] James et al., 85.

[12] Hannah Husey, *Expanding ID Card Access for LGBT Homeless Youth* (Washington, DC: Center for American Progress, 2015), https://www.americanprogress.org/issues/lgbt/reports/2015/10/01/122044/expanding-id-card-access-for-lgbt-homeless-youth/.

[13] Emily Waters, Chai Jindasurat, and Cecilia Wolfe, *Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-Affected Hate Violence in 2015* (New York: National Coalition of Anti-Violence Programs, 2016), http://avp.org/wp-content/uploads/2017/04/ncavp_hvreport_2015_final.pdf.

[14] James et al., *Report of the 2015 U.S. Transgender Survey.*

[15] James et al.

[16] James et al., 57.

[17] James et al., 14.

[18] Christine Clark and Veronica Cook, *Interpreting Justice: Language Access in the New York Courts* (New York: Legal Services NYC, 2015), http://www.legalservicesnyc.org/what-we-do/practice-areas-and-projects/civil-rights-initiative/interpreting-justice-language-access-in-the-new-york-courts.

[19] Jerome Hunt, *Why the Gay and Transgender Population Experiences Higher Rates of Substance Use* (Washington, DC: Center for American Progress, 2012), https://www.americanprogress.org/issues/lgbt/reports/2012/03/09/11228/why-the-gay-and-transgender-population-experiences-higher-rates-of-substance-use/.

[20] James et al., *Report of the 2015 U.S. Transgender Survey,* 216.

[21] Emily Waters, *Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-Affected Intimate Partner Violence in 2015* (New York: National Coalition of Anti-Violence Programs, 2016), https://avp.org/wp-content/uploads/2017/04/2015_ncavp_lgbtqipvreport.pdf.

[22] James et al., *Report of the 2015 U.S. Transgender Survey.*

[23] The word *Latinx* was popularized in 2014 as an inclusive way of referring to people of Latin American descent or culture, out of a recognition that terms like *Latino/Latina, Latina/o, and Latin@* don't include people of all gender identities, particularly nonbinary people.

[24] James et al., *Report of the 2015 U.S. Transgender Survey,* 220.

[25] James et al.

[26] Pew Charitable Trusts, *Mapping Public Benefits for Immigrants in the States*, September 2014, http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2014/09/mapping-public-benefits-for-immigrants-in-the-states.

CHAPTER 3

Housing and Homelessness

by **Meghan Maury**

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Despite the vow of the United States government, recorded in several international declarations, to recognize a human right to adequate housing,[1] the Department of Housing and Urban Development reported in 2015 that the nation currently fails to house well over half a million people on any given night.[2] These estimates, or point-in-time counts, are modest considering that people accessing nontraditional forms of shelter (such as sleeping in a car, on a friend's couch, in a hotel, etc.) are beyond the reach of such counts. Adequate housing is fundamental to a person's livelihood. Without the stability attached to housing, it is difficult for people to access health care, employment opportunities, education, and other necessary services. Unfortunately, the United States has not explicitly adopted a right to adequate housing in any federal legislation. As they exist today, the country's homelessness and housing issues violate international human rights law.

COMMUNITY ENGAGEMENT IN HOUSING/ HOMELESSNESS POLICY DECISIONS

Important decisions surrounding housing and homelessness policy are frequently made without participation from affected individuals. Government officials are aware of housing and homelessness issues, but fail to enact successful legislation to address the issues, in part because they do not include the voices of people actually experiencing homelessness and housing issues. As an alternative to relying solely on the government, community engagement can effectively address pressing issues on a local level. Picture the Homeless (picturethehomeless.org), a grassroots organization in New York City, was founded and is led by people experiencing homelessness. Members engage in various education campaigns, organize for social justice, and focus on issues surrounding housing, police violence, and the shelter-industrial complex.

Although the United States invests a lot of money in federal programs, homelessness and housing issues persist because the country fails to address systemic discrimination and bias. For decades since the 1930s, the government sanctioned and encouraged racist lending practices, segregated neighborhoods, and wealth disparity among races. It is no surprise that the effects of these actions are widely visible and that these practices and approaches continue today. Thus, to end homelessness and housing issues, U.S. leaders and residents need to candidly discuss and destroy systemic discrimination and bias, acknowledge and learn from the country's racist and problematic history, and work with directly impacted people.

The Cycle of Poverty

The United States also fails to acknowledge that housing issues lead to homelessness and homelessness generates more housing issues. Homelessness is one of the top predictors that a young person will enter the criminal legal system, due in part to the relentless policing of people without stable housing, which leads to subsequent reentry issues such as finding employment, accessing public benefits, and obtaining housing.[3] Most housing programs judge an applicant's credit along with criminal, substance use, and employment history to make a decision about initial and continued renting. Thus, people experiencing homelessness will likely encounter countless barriers when trying to access services that are designed to help them transition out of homelessness. This is the vicious cycle of poverty.

This cycle is exemplified by young LGBTQ people of color, who are especially vulnerable because they face unique challenges. Young LGBTQ people often experience family and community rejection or lack of acceptance and, subsequently, are kicked out of home or run away. Of the 1.7 million young people under the age of 18 who run away from home or are experiencing homelessness, as many as forty percent identify as LGBTQ.[4] It is not uncommon for LGBTQ people—especially those experiencing homelessness or housing instability—to engage in informal work such as sex work or selling drugs for money, work that tends to be over-policed and over-criminalized, because they face high rates of discrimination in finding employment. Furthermore, young LGBTQ people of color are discriminated against when seeking housing

and homelessness services because of compounded bias and animus toward people of color and LGBTQ people. People at the intersection of multiple marginalized identities often experience the most discrimination.

3.1

Discrimination against LGBTQ People

Although the Fair Housing Act does not explicitly protect LGBTQ people from discrimination, HUD released the Equal Access Rule in 2012, which requires HUD-funded providers to make housing available to people regardless of perceived or actual gender identity or sexual orientation.[5] Despite the rule, discrimination is pervasive. In 2015, approximately one in four transgender people in the United States experienced some form of housing discrimination because of their gender identity.[6] HUD research indicates that same-sex couples are treated less favorably than different-sex couples in the online rental housing market.[7] Unfortunately, there are few data available to examine the full extent of discrimination experienced by LGBTQ people when accessing services due to the nature of the topic, underreporting, and lack of funding. Thus, it is vital to expand nondiscrimination legislation and policies, collect extensive data on the discrimination faced by LGBTQ people, and ensure the enforcement of existing nondiscrimination laws.

STIGMA TOWARD PEOPLE EXPERIENCING HOMELESSNESS

Researchers suggest that the societal animus toward people experiencing homelessness is the principal barrier in obtaining homeless rights. People without stable housing are often victims of ridicule, harassment, and even murder; they are treated as less than human by housed individuals and are tragically killed each year in "thrill kills" – the murder of individuals purely as a source of entertainment. Since 1999, the National Coalition for the Homeless has received 1,657 reports of acts of violence against people experiencing homelessness, 428 of whom died as a result of the attacks. Many of these deaths were motivated by hate toward the victim's sexual orientation. Unless homelessness is destigmatized, people without stable housing will continue to be subjected to violence and hatred. Moreover, without comprehensive understanding of the issues surrounding homelessness, policy and legislative changes will provide only temporary relief and will fail to effectively address the systemic and structural issues underlying the pervasiveness and perpetuation of homelessness.

Homeless Bill of Rights

In response to the housing and homelessness crisis, many states and cities have adopted or are considering adopting a homeless bill of rights.[8] Although the exact language varies, some of the rights generally included in these legislative bills are the right to move freely, rest, sleep, and pray in public spaces without discrimination; the right to occupy a legally parked car; the right to not be subjected to discrimination based on housing status; and the right to twenty-four-hour access to hygienic facilities.[9] Even though the existence of these bills will not end homelessness outright, it will help make conditions more conducive for change to occur, facilitate the deconstruction of the stigma surrounding homelessness, and raise consciousness about the rights of people experiencing homelessness.[10]

Recommendations:

- The presidential administration and state governments should support and promote the passage of federal and state homeless bills of rights that would grant essential rights to people experiencing homelessness, including protections against discrimination based on actual or perceived housing status. Governments should also support and promote the passage of a legal "right to shelter" bill similar to but more inclusive than the New York Callahan decree. Congress and state legislatures should work with organizations and coalitions to produce comprehensive, inclusive bills.
- Congress should amend and HUD should adopt changes to the Fair Housing Act (Title VIII of the Civil Rights Act of 1968) to explicitly include nondiscrimination protections inclusive of sexual orientation, gender identity and

expression, source of income, family type, and criminal history.

- HUD and local public housing agencies should explore strategies for extending fair housing protections for LGBTQ people in nontraditional types of housing arrangements (such as room rentals, sub-tenancies, faith-based shelters, etc.).
- HUD should aggressively pursue the enforcement of existing nondiscrimination protections, affordable housing mandates, and fair distribution of housing vouchers. It should withdraw funding from landowners, housing authorities, or any grantees who are not in compliance with existing laws, rules, and regulations.
- HUD should work with local Continuum of Care Programs to improve accuracy of point-in-time counts because they fail to account for all people experiencing homelessness, especially young people and those in non-traditional forms of shelter or housing. HUD should consider conducting point-in-time counts at a time when the weather is warmer so that estimates are more accurate.
- Local attorneys can establish a group to provide free or low-cost anti-eviction legal representation.
- Local organizations can host "know your rights" teach-ins, including how to address attacks on civil and housing rights.

3.2

Existing Housing Programs and Services

Historical Context

For nearly eighty years, the federal government has tried to end homelessness and housing issues by funding federal housing assistance programs. Toward the end of the New Deal era, Congress passed the Housing Act of 1937, authorizing federal housing assistance payments for low-income families, which provided the basis for the creation of public housing and housing choice vouchers, or Section 8 vouchers.[11] Although approximately 4.8 million households receive housing assistance through HUD's

BASIC GUIDE TO HOUSING PROGRAMS AND TAX CREDITS

Public Housing: Public housing describes the 1.1 million varying housing units that are managed by approximately four thousand local public housing agencies across the nation. HUD provides funds to these agencies to administer public housing for over 2.2 million U.S. residents. Generally, tenants living in public housing will pay thirty percent of their income for rent and utilities and the rest is paid for by HUD funds. The public housing program provides assistance for people to live in a designated housing unit. Since many public housing units have been neglected, over two hundred thousand have been demolished or removed from the program in the past few decades and there have been few new public housing developments since the mid-1990s.

Section 8 Housing Choice Voucher: This program, which is also funded by HUD and administered by local public housing agencies, has several different subprograms that provide housing assistance to over five million people in 2.1 million households. The program differs from public housing because it provides people with assistance to rent a privately-owned housing unit. Furthermore, the program is designed to aid the "extremely low-income," or households with incomes not exceeding thirty percent of the federal poverty level or local median, and seventy-five percent of the vouchers must go to such households in accordance with federal rules.

Housing Opportunities for Persons with AIDS: This program funds housing assistance and other services for low-income people living with HIV/AIDS and their families.

Low-Income Housing Tax Credit: In the 1980s, this tax credit was established to give tax credits to developers who built affordable houses. It has been highly praised as a successful program that has created income-mixed neighborhoods and that provides housing for low-income individuals. Each year, over one hundred thousand new affordable housing buildings are erected.

many programs, there is not sufficient affordable housing for all in need—only twenty-five percent of households that qualify actually receive assistance.[12] In some cities, a waiting list requires applicants to wait up to ten years before they can access one of these affordable housing options.[13] In other places, the waiting list is completely closed, leaving people experiencing homelessness with limited housing resources.

Fair Market Rent

Fair market rent is calculated to determine and control rent prices for administering HUD's housing programs. However, because HUD uses a single fair market rent throughout an entire metropolitan area, people who receive vouchers are generally trapped in low-income neighborhoods and robbed of their ability to choose their own housing. In 2011, HUD implemented a pilot program in Dallas to instead calculate fair market rent by the city's zip codes. Early evidence suggests that this has improved the quality of neighborhoods that participants in HUD's housing programs have moved into, decreased violent crime rates in neighborhoods that people moved from, and allowed people to move more successfully into higher-quality neighborhoods.[14] Small alterations to HUD's housing policies, like rethinking the fair market rate calculation, can deeply improve the lives of impacted people.

Housing for People Living with HIV/AIDS

The Housing Opportunities for Persons with AIDS program is particularly important for LGBTQ people because they are overrepresented among those who are living with HIV/AIDS. A majority of the 1.2 million people living with HIV/AIDS in the United States contracted the virus either through sexual transmission or injection drug use, which means that men who have sex with men and transgender women are especially at risk. In 2013, approximately 687,800 men who have sex with men were living with HIV/AIDS, accounting for fifty-five percent of all U.S. residents living with the virus, and, in 2014, men who have sex with men accounted for sixty-seven percent of new infections, even though they only make up two percent of the population.[15] The 2015 U.S. Transgender Survey found that nearly one in five Black trans women have had a positive HIV test.[16]

These unsettling statistics are a result of the stigma, lack of access to services, discrimination, and animus that LGBTQ people face every day. The recognition of the difficulties that people living with HIV/AIDS experience in accessing benefits was recognized in New York City when the city established the HIV/AIDS Services Administration to provide housing services and assistance in accessing Medicaid and SNAP.

Recommendations:

- HUD should calculate fair market rent based on cities' zip codes rather than the entire metropolitan area.
- Congress should pass the Housing Accountability Act of 2016, which would survey tenants semiannually and impose a penalty on landlords for noncompliance with safety standards, to ensure accountability and improved conditions for housing units receiving HUD funds.
- The presidential administration and local governments should allocate more funds to housing programs, as research finds that stable housing is crucial to a person's access to employment, health services, and other types of support.
- HUD should remove the harsh restrictions in all housing choice voucher programs that prevent tenants from using a voucher to move to other housing units across the country.
- Congress should re-implement the Protecting Tenants at Foreclosure Act of 2009 that expired in 2014, to give tenants more protections from eviction.
- HUD should fund the renovation, rehabilitation, and preservation of existing public housing, the vast majority of which were built prior to 1985 and are quickly deteriorating.
- Local organizations can advocate for cities to create programs serving people living with HIV/AIDS, like New York City's HIV/AIDS Services Administration.

3.3

Existing Homelessness Continuum of Care

Over the last few years, the federal government has invested around $5 billion in targeted homelessness assistance annually, but many program changes are required if the presidential administration seeks to end homelessness.[17] Few federally-funded homelessness assistance programs existed before the enactment of the McKinney-Vento Homeless Assistance Act of 1987, which established programs that sought to provide wraparound services for people experiencing homelessness. In 2009, Congress passed the Homeless Emergency Assistance and Rapid Transition to Housing Act, creating the Continuum of Care Program as an attempt to consolidate different homelessness assistance programs. These HUD-administered programs provide outreach, shelter, transitional housing, permanent housing, rent subsidies, and supportive services to people experiencing homelessness. Despite legislative changes, these programs are failing in many states due to harsh restrictions, inadequate competency training, bias and discrimination, limited shelter space, lack of funding, and ineffective coordination among service providers.

Discrimination Accessing Shelters

Services for young people and veterans have been expanded and strengthened in the past few decades, but Congress continues to ignore the needs of other vulnerable populations, including LGBTQ adults, people with disabilities, survivors of intimate partner violence, and elders. These populations face particular challenges that are currently not being addressed, although they are in desperate need of issue-specific services and aid, especially for those who experience multiple forms of oppression. For example, LGBTQ people and people living with HIV/AIDS who are experiencing intimate partner violence suffer significant discrimination when accessing shelters. A 2015 study found that out of survivors from these communities who tried to access emergency shelter, forty-four percent were denied access and seventy-one percent of those denied were denied because of their gender identity.[18] Most shelters follow heteronormative, sex-segregated policies, which especially fails to adequately house and protect transgender people and gay, bisexual, and queer men.

Homeless shelter services in particular are problematic and traumatize LGBTQ people because there is generally a gross misunderstanding of LGBTQ identities. One study of one hundred shelters found that only thirty percent were willing to house transgender women with other women.[19] The 2015 U.S. Transgender Survey showed that seventy percent of trans people who had stayed in a shelter had experienced some form of mistreatment because of their gender identity—fifty-two percent were verbally

WHERE DOES GRANT MONEY FROM THE VIOLENCE AGAINST WOMEN ACT ACTUALLY GO?

The Violence against Women Act of 1994 (VAWA) was designed to provide protections to survivors of crimes associated with domestic violence, sexual violence, and stalking, with the ultimate goal of ending violence against women. Since the 2013 reauthorization of VAWA, the act explicitly bars discrimination against people based on actual or perceived gender identity or sexual orientation in accessing any VAWA-funded program and authorizes funding for LGBTQ-specific shelters and services. However, these protections are not being enforced or implemented successfully due to the lack of understanding of LGBTQ identities.

Furthermore, in fiscal year 2016, over $100 million of federal funding went to prosecution, law enforcement, probation, courts, and strengthening arrest policies as authorized by VAWA. Funding for transitional housing under VAWA, however, was less than a third of this amount, despite research indicating that a majority of unmet requests by survivors of domestic violence were for emergency shelter and transitional housing. More funding should be invested into survivor services and housing instead of toward law enforcement and arrest policies, which disproportionately impact people of color and transgender people.

harassed, physically attacked, and/or sexually assaulted; nine percent were thrown out when staff discovered they were trans; and fourteen percent were forced to present as the wrong gender in order to stay in the shelter.[20] Furthermore, twenty-six percent of respondents who were experiencing homelessness did not access shelters because of fear of mistreatment as a trans person.[21] Similar discrimination is often faced by LGBQ people, especially those who are gender nonconforming or who are accessing shelters with a same-sex partner. Current beliefs, attitudes, and harassment from shelter service providers create a deplorable environment for LGBTQ people, especially transgender people, and discourage them from seeking shelter services in the future.

A PLAN TO END VETERAN HOMELESSNESS CAN ALSO BE USED TO END LGBTQ HOMELESSNESS

The United States Interagency Council on Homelessness has developed an approach to ending veteran homelessness proven to have worked in at least thirty-one communities in two states. As a result, homelessness among veterans has fallen by approximately forty-seven percent since 2010, representing the most dramatic decrease of people experiencing homelessness compared to any other subpopulation. The council uses ten strategies to end veteran homelessness:

1. **Start the top: Get state and local leaders to publicly commit to and coordinate efforts to end veteran homelessness.**
2. **Implement a "housing first" system orientation and response.**
3. **Implement a coordinated entry system**
4. **Set and meet ambitious short- and long-term goals by developing all resources effectively.**
5. **Improve transitional housing performance and consider adopting different models and/or converting or reallocation resources into supportive housing.**
6. **Engage and support private landlords as partners.**
7. **Identify and be accountable to all veterans experiencing homelessness.**
8. **Conduct coordinated outreach and engagement efforts.**
9. **Increase connections to employment.**
10. **Coordinate with legal services organizations to solve legal needs.**

More resources and information an be found at usich.gov/solutions/housing. These strategies provide a framework from which organizations and advocates can also end LGBTQ homelessness.

Recommendations:

- Because virtually all of the homeless assistance agencies work with homeless and runaway youth who identify as LGBTQ, HUD and the Administration for Children and Families should require LGBTQ-specific training for all service providers in facilities and programs receiving federal funds.
- HUD should require shelter and housing units to implement a system of preference-based placement rather than relying on a person's actual or perceived gender or sex. This is particularly important for transgender people who feel they are housed in an unsafe environment or nonbinary people, for whom navigating the shelter placement system is especially challenging.
- America's first emergency shelter for LGBTQ adults only opened in June 2015 in San Francisco, despite the intense need for LGBTQ-specific shelters. HUD should prioritize funding for LGBTQ shelters, housing units, and services.
- HUD should enforce its physical condition standards and ensure that HUD-funded programs and agencies meet the requirements for establishing and maintaining adequate and safe housing and shelters. Often, there is little to no oversight of the physical conditions of housing and shelters, creating unacceptable and hazardous living conditions.
- HUD should continue and improve pilot programs that focus on wraparound services and strengthen the Continuum of Care Program. For example, HUD should recommend that shelters use the Vulnerability Index–Service Prioritization Decision Assistance Tool, which allows outreach teams to rapidly assess the social and health needs of people experiencing homelessness and quickly match them with the most appropriate support and housing services.

- HUD should provide funds to programs to ensure that they provide the necessary resources for young LGBTQ people experiencing homelessness so that they can stabilize their lives, including transitional living programs, skill-building opportunities, health promotion programs, and family intervention services.
- Local LGBTQ organizations can work with shelters and provide cultural competency training to their staff members.
- Local organizations can establish programs that will provide free transportation to people in shelter.

SOURCE-OF-INCOME ORDINANCES

Various states and cities have enacted source-of-income ordinances that promote mixed-income, diverse neighborhoods. Although these ordinances widely vary, they generally declare that a landlord may not refuse to rent a housing unit to an individual or discriminate based on the source of the individual's income, including use of vouchers as part of rental payments. These ordinances also implement a grievance process for those who believe a landlord violated the ordinance. Enactment of source-of-income ordinances can help create more diverse neighborhoods and prevent discriminatory practices with regard to voucher programs.

3.4

Housing and Homelessness Program/Service Accessibility

Strict requirements disproportionately bar LGBTQ people of color from accessing valuable housing and homelessness resources based on criminal history, source of income, credit history, and immigration status. It is now widely recognized that LGBTQ people of color are over-policed and over-criminalized due to discrimination, minority stress, and systemic oppression. Given the racist and homophobic history of the United States, it is unsurprising that these same populations are the ones suffering most from systematic oppression, manifested as homelessness and housing issues.

People with disabilities experience unique challenges when trying to access housing and homelessness programs. Since the deinstitutionalization of mental health care during the 1960s, an unprecedented number of people with disabilities have been experiencing homelessness, living in poverty, forced into the criminal legal system, and living without access to critical health-care resources. According to the 2010 U.S. Census, more than twenty-eight percent of people age 15–64 living with severe disabilities were living in poverty, compared to fourteen percent of people with no disabilities.[24] For people with disabilities who rely exclusively or primarily on SSI or SSDI, affordable housing is nearly unattainable. In 2014, the statewide average for one-bedroom rental units in seventeen states and the District of Columbia exceeded the average monthly SSI payment, which meant that people with disabilities in these states could not afford rent even if they used their entire SSI payment.[25] Even when they can afford housing, people with disabilities often experience more housing discrimination than any other protected group. HUD reported that in fiscal year 2013, discrimination based on disability constituted over fifty percent of all reports of discrimination filed under the Fair Housing Act.[26]

Recommendations:

- HUD should amend eligibility requirements based on criminal record and require that any disqualifying crime is reasonably related to ability to pay rent. There is no reason to deny people housing assistance based on any other crime for which they have been arrested or convicted.
- HUD should not require that a prospective tenant have documentation of formal work history. As previously explained, many LGBTQ people are forced to engage in informal economies because of pervasive bias and do not have such documentation.
- HUD should accept various forms of identification from an individual or family trying to access housing assistance. Currently, undocumented people have no access to any public housing or housing choice vouchers because of the strict identification requirements. Acceptable forms of ID should include EBT

UTAH'S HOUSING FIRST PROJECT

In 2005, Utah began its Housing First Project with the aim of ending homelessness entirely in ten years. The state has been largely successful because it implements a "housing first" model and provides housing to people experiencing homelessness regardless of employment status or substance use. Instead of barring individuals from obtaining housing, Utah provides housing first in order to provide individuals with the stability they generally need to find employment or address substance addiction. Although state officials feared that people would fraudulently take advantage of this program and that it would be too costly, studies show that the program actually encourages people to achieve self-sufficiency sooner and that it saves the government an estimated $12,000–$26,000 a year per person.

cards, posted mail, tax records, and school IDs.

- HUD should prioritize homeless assistance funds to communities that employ alternative tactics to the criminalization and policing of homelessness.
- Congress should pass the Fair Chance at Housing Act of 2016, which would promote fair access to housing by reforming federal housing assistance screening and eviction policies.
- The Social Security Administration should prioritize funding for people with disabilities to make affordable housing more accessible.
- HUD should explore strategies to ensure that people with disabilities are not discriminated against in accessing HUD-funded programs and that this population has reasonable access and accommodations in compliance with the Fair Housing Act.

3.5

Reimagining Housing and Homelessness

To truly end homelessness, the United States must reimagine homelessness and housing issues in a way that meets community needs and must make structural changes to housing policy.

Implementing "housing first" projects across the country is just the first step in securing housing for all. Policymakers must also support alternative forms of housing and shelter, advocate for environmental safety, and stop the growth of gentrification.

Another step toward a solution is promoting harm reduction housing, which is based on the idea that substance use recovery is an arduous, long process and focuses on risks and consequences of certain behaviors instead of on the behaviors themselves. In harm reduction housing, abstinence is not the goal, let alone a screening requirement; rather, the goal is reducing the harm of high-use risk behaviors. An example of this type of housing is so-called wet houses, where tenants are not required to abstain from substance use nor are they required to participate in rehabilitation programs, but they have the option to do so. Wet houses generally use a harm reduction model to help tenants become healthier, but do not expect or force them to become perfectly healthy immediately. Although providing a space for unrestricted substance use seems counterintuitive, studies indicate that wet houses save taxpayers millions of dollars, decrease substance use, and reduce violence against people experiencing homelessness.[28] Housing programs with outcome mandates or strict eligibility requirements are unsuccessful for a significant portion of the target population, yet these types of housing programs are still widely used.

The establishment and creation of low-barrier housing programs is imperative, especially for those experiencing multiple forms of oppression, but so is the improvement and renovation of existing housing programs and policy. For instance, three-quarter houses, which are privately-owned, for-profit, substance-free housing units for people who have just completed substance use treatment, tend to violate safety regulations and are largely hidden from the scrutiny of the public and policymakers. A comprehensive New York City study of 317 three-quarter houses revealed that the lack of oversight, regulations enforcement, and protections rendered these inadequate housing conditions hazardous and a violation of human

BASIC GUIDE TO ALTERNATIVE HOUSING PROGRAMS

Cooperative housing ownership (co-op): Although co-op buildings vary from containing a few units to hundreds, they are generally characterized by the purchase of shares of stock in a corporation whose main purpose is providing housing to their members. The corporation owns the entire property and each member, or tenant, has occupancy rights to particular units in the property. In addition to tax benefits and decision rights as to what happens to the property, co-ops have many legal distinctions from condominiums that are advantageous to its members.

Damp houses: Damp houses are similar to wet houses in that tenants do not have to be substance-free to be housed. However, tenants in damp houses are required to actively work toward recovery.

Single room occupancy: Single room occupancy units are rooms designed for one or two people in a building that consists of multiple such units, like a hotel. Features depend on the specific building, but usually there is no kitchen facility and bathrooms are dormitory-style, with one shared bathroom for each floor.

LGBTQ housing: Considering the overrepresentation of LGBTQ people among people experiencing homelessness and the unique challenges LGBTQ people face in accessing programs, LGBTQ-specific housing and programs should be established. One example is Miami's pilot Host Home Program, which provides young LGBTQ people with safe and supportive shelter and other LGBTQ-specific services. It also provides volunteered space to young LGBTQ people who need housing. In San Francisco, Openhouse provides housing and community services for LGBTQ seniors. Other models include house-sharing among LGBTQ people and prioritizing funds for LGBTQ-specific affordable housing.

Community land trusts: Community land trusts are nonprofit community-based organizations that acquire and maintain permanent ownership of land and provide low-income people with affordable housing. Moreover, they give low-income people the opportunity to build community wealth by ensuring that tenants are not displaced by gentrification or land speculation. In California's East Bay, the Sogorea Te Land Trust (sogoreate-landtrust.com), an organization led by urban Indigenous women, seeks to reclaim stolen Indigenous lands. For more information on community land trusts, see community-wealth.org/strategies/panel/clts/index.html.

rights.[29] Some houses had bunk beds placed in living rooms and kitchens, many had vermin and bed bug infestations, and most purported to have substance use programs in the house but did not actually provide any.[30] Despite the numerous safety issues and threats to livelihood, many tenants preferred three-quarter houses over shelters or living on the streets because they liked the support network from other housemates, who had similar backgrounds and life experience. Thus, while it may seem easiest to close these housing units, people in need indicate that their other available options would likely be worse than three-quarter houses. All homelessness and housing solutions should be led and guided by individuals who are most affected, including decisions about rehabilitating and renovating available housing units.

External conditions, such as "reverse white flight" and environmental concerns, also profoundly affect housing and homelessness conditions. From the 1930s to the 1970s, when HUD helped white families purchase homes by financing ten-year loans, many white people moved to the suburbs, where developers were receiving massive amounts of funds from HUD to create quality neighborhoods with spacious homes. Black people and many other people of color were largely barred from these opportunities to receive federal home loans because of a government-sanctioned, racist practice called redlining. From 1945 to 1959, less than two percent of all home loans funded by HUD went to Black people.[31] The phenomenon of white people moving out of urban centers, referred to as "white flight," resulted in further racial segregation and desolate conditions for communities of color and immigrant populations, who were trapped in the cities because most were denied HUD's home loans. Low-income communities of color and immigrant populations living in cities were soon banished from their homes when the government began razing low-income neighborhoods in order to build large-scale highway

systems to allow white people to travel easily into cities to work and shop. These displaced populations were forced to find other housing with little to no aid from the government.

After many decades, the new trend has become "reverse white flight," where many young white individuals are moving back into urban centers, causing landlords to increase rent prices and evict people who have been living in units for decades in order to gain more profit. As hordes of young, relatively economically advantaged professionals move into cities, developers purchase land on which older housing units stand in order to construct new luxury apartments and condominiums. The result is wide-scale gentrification, which is often characterized by higher rental prices, change in culture, transformation of land use, and different demographics. Furthermore, landlords are now turning to new technological inventions like Airbnb, which advertises short-term rentals for a daily fee to tourists and people who plan on living temporarily in a city. Without rent control protections and stricter regulations, people who have been living in units for a long time can be evicted to serve tourism and larger profits. Currently, twenty-six states have laws that preempt rent control laws or ordinances and only four states and the District of Columbia have enacted rent control laws.[32]

When people of color are displaced, they are often forced to live in areas with environmental concerns, because the real estate market is cheaper. However, these dangerous areas often lack access to clean water, expose residents to pollution and radiation from nearby nuclear plant facilities, are food and health deserts, and remain largely invisible to health regulation enforcement. Despite various policy changes, racism in housing and homelessness issues has never been eradicated. Rather, racism has hidden behind varying forms of discrimination over time, but its effects on people of color, including LGBTQ people of color, have always been devastating.

Recommendations:

- HUD should better enforce safety standards for HUD-funded housing and hold landlords accountable when they do not meet those standards. It is completely unacceptable that there are federally funded housing units that clearly violate safety and health standards.
- HUD and local public housing agencies should implement policies that protect tenants from landlords who have leverage over them through threats of withholding substance use treatment, calling probation officers, and eviction.
- The presidential administration, Congress, and HUD should implement a housing and homelessness policy that is based on the idea of "housing first" for all people experiencing homelessness, not just for those deemed chronically homeless.
- HUD and local public housing agencies should prohibit any implementation of outcome requirements for initial and continued placement of tenants and establish more low-barrier housing for tenants who use substances.
- Congress and state governments should pass rent control and rent stabilization laws that allow for a system of controls on the prices of residential rental and lease prices.
- HUD and local public housing agencies should implement policies that require opportunities for employment in new housing developments for people who are displaced by gentrification.
- Local organizations and other experts can develop workshops exploring the legal and practical implications of using alternative housing options, such as community land trusts or co-ops.
- Local organizations and other experts can develop information sessions exploring available local funds for first-time homeowners. In many states, this includes anyone who has not purchased a home in several years. These sessions can also be used to describe the complexities of loans.
- Causa Justa :: Just Cause (cjjc.org), a coalition of tenants and organizations focused on fighting gentrification through direct action, policy, and basebuilding, can serve as a model for local tenants and advocates to form coalitions to ensure that local government prioritizes housing and tenants' rights.

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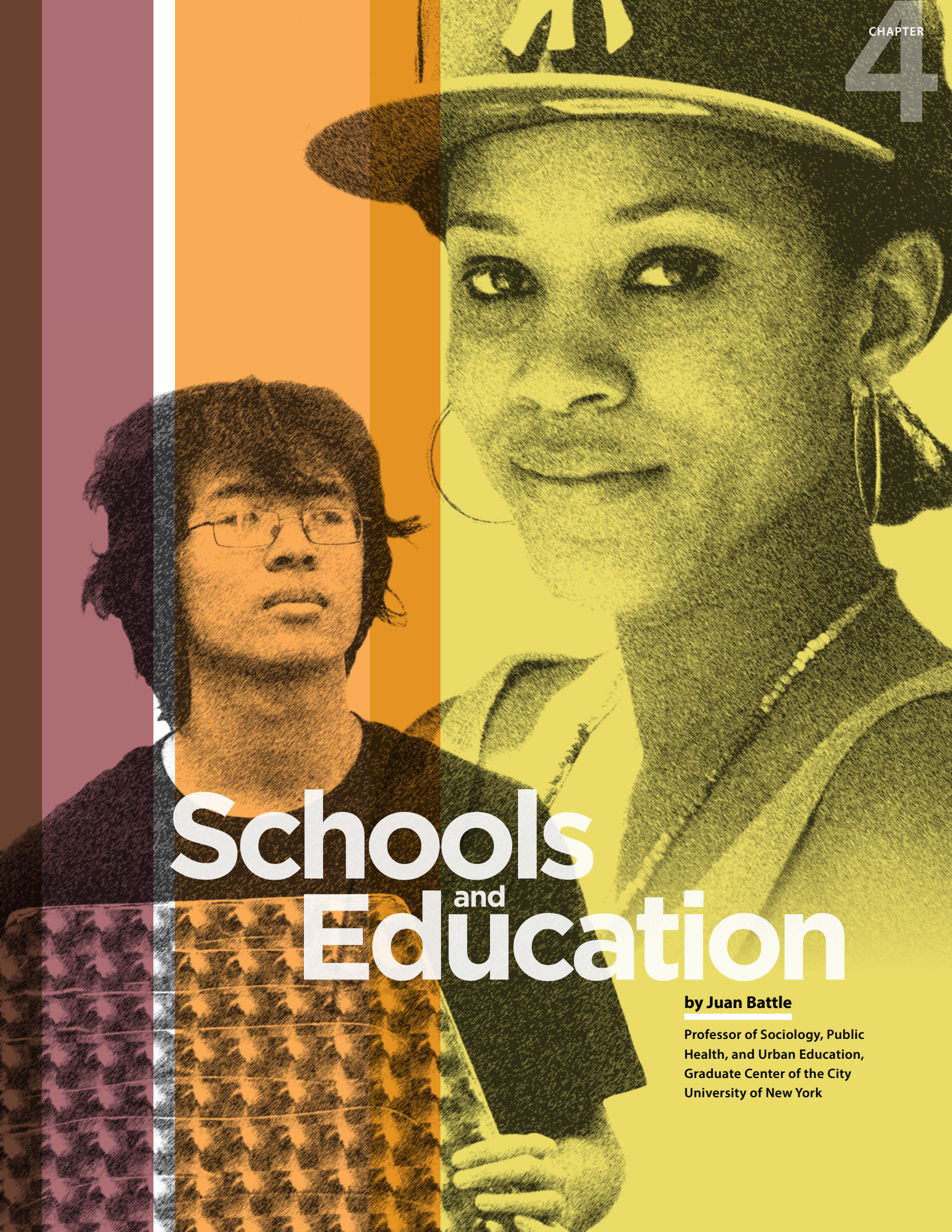
CHAPTER 4



Schools and Education

by Juan Battle

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Numerous researchers have argued that because of shifting priorities in public expenditures and federal benefits, the experience of poverty has shifted from elders to those who are young and/or poor.[1] This chapter explores what schools can do to ameliorate the challenges faced by students who are poor or low-income, LGBTQ, or both. Although recommendations presented here privilege comments provided during our nationwide convenings and focus groups that discussed ways to alleviate LGBTQ poverty, additional recommendations rely on pertinent reports and studies.

4.1

Making Schools Safe for LGBTQ Students

The percentage of LGBTQ students who feel unsafe at school because of sexual orientation (sixty percent) or gender expression (forty percent) is staggering.[2] Because of negative school climates, LGBTQ students are more likely than not to avoid school bathrooms, locker rooms, and some school functions or extracurricular activities.[3] Even more concerning, almost two-thirds of LGBTQ students surveyed in 2013 by GLSEN had heard homophobic comments at school and more than half had heard such comments from school personnel.[4]

Discrimination against transgender and gender nonconforming students is particularly rampant, despite the fact that advocates argue that such students are covered by Title IX of the Education Amendments Act of 1972, which states: "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."

Recommendations:

- Federal, state, and local departments of education should develop and implement guidelines and guidance related to sexual orientation, gender identity, and gender expression for their jurisdictions.[5]
- All primary schools, from elementary school throughout high school, should offer comprehensive sex education that is LGBTQ-inclusive and not abstinence-based.[6]
- Safe spaces for LGBTQ youth should be increased, utilizing the leadership of GLSEN chapters.[7]
- The enforcement of existing policies that protect youth who are LGBTQ, living in poverty, or both should be increased.[8]
- Federal, state, and local entities should promote the creation of safe and healthy schools where bullying is dealt with comprehensively and appropriately and the school-to-prison pipeline is eliminated.[9]
- Title IX protections should be amplified and schools and school boards should be held accountable. At the federal level, the Office for Civil Rights and the U.S. Department of Education should release explicit guidance stating that Title IX protects transgender and gender nonconforming students from discrimination on the basis of gender identity, gender expression, and sexual orientation.

4.2

Training Teachers in Culturally Competent Curricula

Much evidence exists touting the importance of strong(er) teachers in high-poverty schools; however, all too often, high-poverty schools tend to have weaker teachers.[10]

Recommendations:

- Recruiting, training, and retaining LGBTQ culturally competent teachers should be prioritized, as should implementing sensitivity training for teachers, staff, and school administrators on culturally competent and responsive discipline.[11]
- LGBTQ-inclusive history curricula should be developed.[12]
- School staff should be trained to be supportive of LGBTQ students and to intervene and effectively respond to verbal or physical harassment (e.g., bullying), as well as implementing an anti-bullying policy with particular attention to sexual orientation and

gender identity/expression.[13]

- Schools and school boards should develop partnerships with appropriate community-based organizations to provide cultural competency training to teachers and administrators in schools, as well as support and counseling for students and families.

4.3

Implementing Broader Socioeconomic Justice Measures

Research clearly shows that children from all families—especially lower-income families—benefit from smaller class sizes; however, only a few states provide sufficient additional resources for class size reductions to high-poverty districts and schools.[14] Further, states with highly inequitable school funding systems, such as New York, need to better distribute courses in the arts, world language, and Advanced Placement into high-poverty schools.[15]

To address issues unique to students who are LGBTQ, living in poverty, or both, several specific programs could be implemented.

Recommendations:

- Schools should make free and reduced meals, as well as free summer school, available for all economically vulnerable students.[16]
- To make school funding equitable in all jurisdictions, school funding should be uncoupled from real estate taxes.[17]
- All exams that are required to prove mastery of primary education—including high school equivalency diploma (popularly known as GED) exams, the Scholastic Assessment Test (SAT), and the American College Testing (ACT) exams—should be free of charge, as should college applications.[18]
- Barriers to financial aid should be removed for LGBTQ students who do not have the support of their families.[19]
- School and child care should count as "work" for the purposes of welfare-to-work programs.[20]
- Specific programs should be developed and implemented around economic empowerment for transgender people, job readiness workshops, and education enrollment of undocumented people.[21]

4.4

Educational Support for LGBTQ Youth Experiencing Homelessness

LGBTQ children and youth who do not have stable housing are unquestionably a particularly vulnerable population that exists at the intersection of multiple marginalized identities, and their numbers are growing. For example, between the 2006–2007 school year and the 2013–2014 school year, the total number of children and youth experiencing homelessness approximately doubled, from 679,724 to more than 1.3 million students.[22] Strengthening the implementation of the McKinney-Vento Homeless Assistance Act would go a long way toward addressing the barriers to education that this population experiences.

Recommendations for Improving the McKinney-Vento Act:

- Improve methods of identifying children and youth who do not have stable housing.
- Include a focus on preschool-aged homeless children, including clarification that local liaisons must ensure that these children and their families have access to and receive services, if eligible, under preschool programs administered by local educational agencies, including Head Start, Part C of the Individuals with Disabilities Education Act (Early

BETTER IMPLEMENT THE MCKINNEY-VENTO ACT

The McKinney-Vento Homeless Assistance Act of 1987 was developed to address the challenges that homeless children and youth face in enrolling, attending, and succeeding in school. Under this act, state educational agencies must ensure that each homeless child and youth has equal access to the same free, appropriate public education, including a public preschool education, as other children and youth.

Intervention Program for Infants and Toddlers with Disabilities), and others.

- Collaborate and coordinate with other service providers, including public and private child welfare and social services agencies; law enforcement agencies; juvenile and family courts; agencies providing mental health services; domestic violence agencies; child care providers; runaway and homeless youth centers; providers of services and programs funded under the Runaway and Homeless Youth Act; and providers of emergency, transitional, and permanent housing, including public housing agencies, shelter operators, and operators of transitional housing facilities.
- Provide professional development and technical assistance at both state and local levels.
- Remove enrollment barriers, including barriers related to missed application or enrollment deadlines, fines, or fees; records required for enrollment, including immunization records, other required health records, and proof of residency documents; and academic records, including documentation for credit transfer.
- Increase school stability, including the expansion of school of origin to include preschools and receiving schools and the provision of transportation until the end of the school year, even if a student becomes permanently housed.
- Ensure the privacy of student records, including information about a homeless child or youth's living situation and the dispute resolution process.
- Remove "awaiting foster care placement" from the definition of "homeless children and youth."

4.5

Interrupting and Addressing the School-to-Prison Pipeline

Restorative Justice

While funding is being decreased for school counselors, spending is being increased for school security and "safety"—putting more police into schools. This is not always beneficial for students who are people of color, LGBTQ, and/or living in poverty. Schools need a pathway toward restorative justice, to move toward resolving conflicts and keeping vulnerable students in school.[23]

Recommendations:

- Support intergenerational organizing for restorative justice in order to end the school-to-prison pipeline as well as ending push-out policies (e.g., school-based policing).[24]
- Close loopholes in the Student Safety Act to improve public disclosure of comprehensive data on school suspensions and law enforcement activity, including every instance in which a student is handcuffed at school.[25]
- Eliminate barriers to educational programs based on criminal record.[26]

Education in Juvenile Justice Facilities

Unfortunately, far too many LGBTQ youth—particularly those living in poverty—have already had contact with the prison portion of the school-to-prison pipeline. Juvenile justice facilities are mandated to educate their residents. What, then, can these facilities do to prohibit anti-LGBTQ discrimination and create a safe space where all can be educated safely? The following recommendations for juvenile justice facilities are directly informed by research from the Annie E. Casey Foundation.[27]

Recommendations:

- Adopt written policies prohibiting discrimination against any youth on the basis of sexual orientation, gender identity, or gender expression and guaranteeing equal treatment and access to services.
- Require personnel, contractors, and volunteers to interact respectfully with all youth, irrespective of sexual orientation or gender identity/expression.

- Develop protocols for collecting information on sexual orientation and gender identity from all youth served by the agency and for protecting this information from inappropriate dissemination.
- Require all employees, contractors, and volunteers to receive initial and ongoing training on agency policies related to serving LGBTQ youth.
- Create and support structures that ensure sustainable reform.
- Engage families by proactively instituting practices and policies that support parents and families in staying connected to LGBTQ youth in the system.
- Require all contractors to provide LGBTQ-competent services.

4.6

Reducing Segregation and Isolation

Segregation and isolation can occur along many dimensions: geography, age, language, race, socioeconomics, and more. For example, there is a high correlation between zip code and school quality.[28] And while the jury is still out concerning the effectiveness of putting low-income families in high-income neighborhoods, it is clear that school choice leads to greater economic and racial isolation.[29] Arguably, race and class segregation and isolation increases the need for homogeneity. Unfortunately, this only further isolates LGBTQ students, who find themselves marginalized in homogeneous environments. Thus, there is a need for greater racial and economic integration, because it creates "space" for greater diversity and inclusion of LGBTQ people.

Adults, especially older adults over the age of fifty, are an all-too-overlooked population when it comes to education. Though there are national and local organizations addressing the concerns of older adults in general and older LGBTQ adults in particular, including older LGBTQ adults of color, there is still a need a need for increased educational services for these populations.[30]

Recommendations:

- Organizations that serve people of particular ages, sexual orientations, and races should proactively reach out to their constituents and offer educational opportunities to their subpopulations.
- Local colleges and universities (both private and public) should offer more subsidized classes and events for these unique populations.
- Community colleges should be more proactive in providing resources for and supporting LGBTQ students.[31]

COLLECT MORE DATA ON LGBTQ STUDENTS

There simply are not enough data on LGBTQ students: therefore, sexual orientation and gender identity should be included on all education-based data collection tools. Much of the data that do exist focus primarily on issues of pathology. This issue could be addressed at multiple levels of data collection.

- **If local, state, and national education surveys simply added questions to measure sexual orientation, gender identity, and gender expression—jut as they now do with indicators of race, class, and gender—then researchers would be able to conduct rigorous analysis to better understand the lived experiences of LGBTQ students.**
- **At the federal level, for example, a federal policy could be established dictating that all federally funded surveys must include appropriate indicators of sexual orientation, gender identity, and gender expression in their demographic modules.**
- **The National Center for Education Statistics should assess progress indicators for LGBTQ students in the National Assessment of Educational Progress; disaggregate progress for LGBTQ students by socioeconomic status; and include questions about sexual orientation, gender identity, and gender expression in all relevant surveys, including the National Assessment of Adult Literacy, the National Household Education Survey, and the School Survey on Crime and Safety.**

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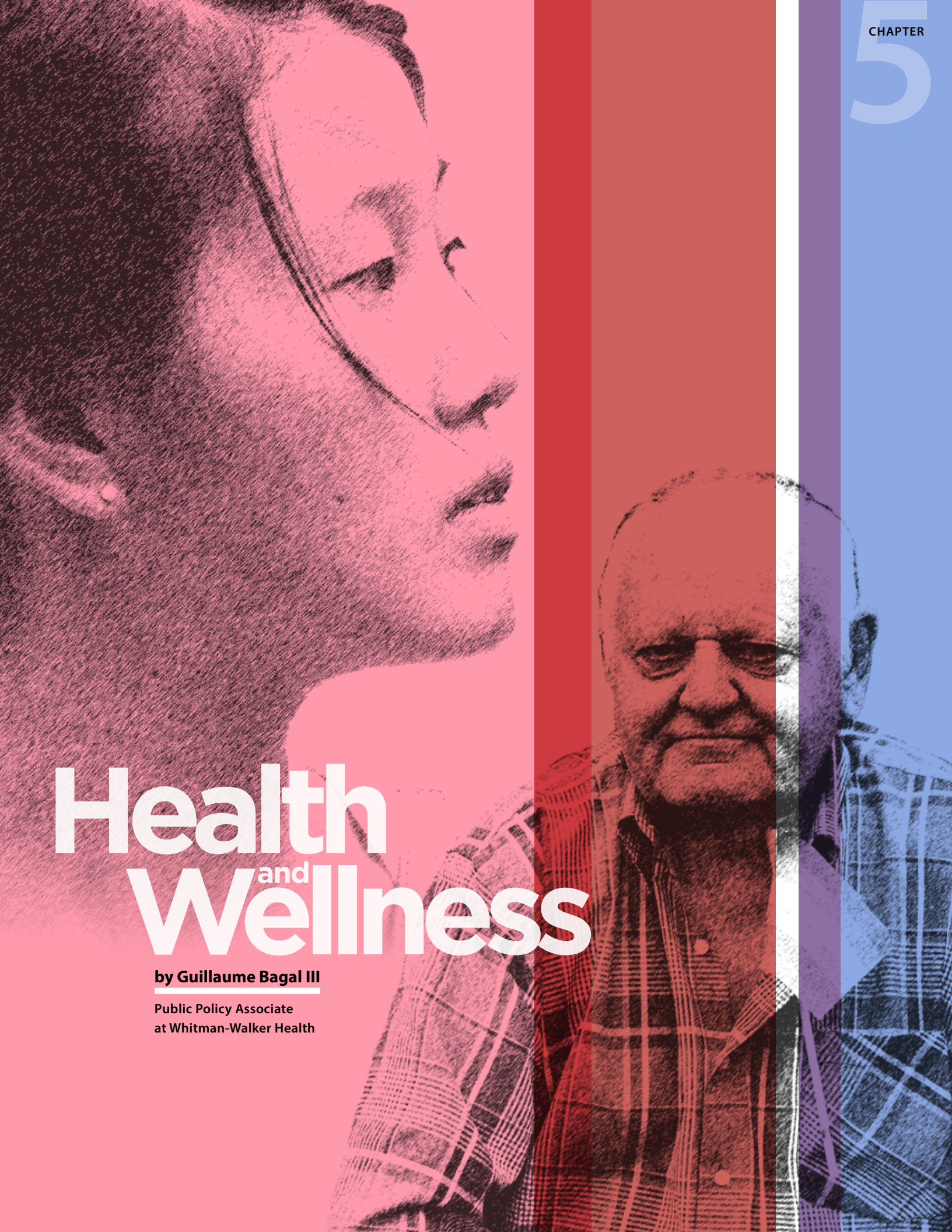

Health and Wellness

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Contrary to the gay affluence myth perpetuated in the mainstream media, LGBTQ people disproportionately struggle with poverty. As poverty is a social determinant of health, LGBTQ people are not only more likely than the general public to rate their health as poor, they also have more chronic conditions and have higher prevalence and earlier onset of disabilities. These disparities, rooted in the stigma and discrimination LGBTQ people experience, are even more prevalent among transgender communities, especially trans people of color. Subject to high levels of unemployment and discrimination, transgender people, particularly those who are Black and Brown, encounter health challenges deserving of unique interventions.

In addition to being the most affected by HIV/AIDS, LGBTQ people report more asthma diagnoses, headaches, allergies, osteoarthritis, and gastrointestinal problems than non-LGBTQ individuals.[1] Older LGBTQ adults are less likely than non-LGBTQ elders to be financially ready for retirement, and also less likely to have long-term care insurance.[2] Trans elders are more likely than cisgender elders to report cardiovascular disease, asthma, and diabetes.[3] In addition to having few savings and lacking long-term insurance, older LGBTQ people tend to be at greater risk of isolation and may live in secrecy, making them more vulnerable to elder abuse and neglect.

While many who attended our convenings and focus groups acknowledged that the Affordable Care Act (ACA) had room for improvement, the ACA was overwhelmingly seen as a victory for LGBTQ people, especially given the rise in Medicaid coverage for people living with HIV/AIDS due to Medicaid expansion.[4] Adequately addressing the health and wellness disparities of resource-scarce LGBTQ people requires viewing this phenomenon through a lens of intersectionality and recognizing the unique challenges and needs of people living at the intersection of multiple marginalized identities.

Recommendations:

- Establish an LGBTQ working group for Healthy People 2020 to advocate for the inclusion of the specific needs of LGBTQ people, including LGBTQ people living in poverty, throughout the initiative.
- Encourage more LGBTQ wellness research from a poverty perspective, and build a clearinghouse to centralize evidence-based studies and findings that contribute to improvements in the quality of life of LGBTQ people.
- Advocate for a more holistic approach to care, one that considers all social determinants of health, promotes mental health, and integrates legal services. Such holistic approaches to care include medical-legal partnerships that avail people of legal services to address health-harming legal needs, including legal support for discrimination, public benefits, and gender marker changes.

5.1

HIV/AIDS and Other Sexually Transmitted Infections

Reduction and Treatment

A complex set of economic and socioeconomic variables drives the HIV epidemic, which affects LGBTQ communities more severely than any other group in the United States.[5] As poverty and poor health are inextricably linked, many present at the convenings and focus groups discussed the multifaceted burden of HIV on the LGBTQ population. The Centers for Disease Control and Prevention has reported a higher prevalence of HIV in the LGBTQ population and in poor and low-income communities. In 2013, men who have sex with men (MSM) accounted for more than half (fifty-six percent) of all people living with HIV/AIDS in the United States while representing just two percent of the U.S. population. Gay, bisexual, and queer men accounted for two-thirds (sixty-seven percent) of all new HIV diagnoses in 2014. In 2013, 687,800 gay, bisexual, and queer men were living with HIV/AIDS, and fifteen percent were unaware of their status.[6]

Not only does stigma prevent people from getting tested for HIV and other sexually transmitted infections (STIs), individuals who are unaware of their status may not engage in transmission prevention behaviors. Income

levels not only influence the likelihood that individuals get tested for HIV, but also whether they get linked to care and achieve viral load suppression. Among gay, bisexual, and queer men, HIV disproportionately affects Black and Latinx men. HIV infections among young Black MSM increased by twenty percent between 2008 and 2010, the highest increase among all subpopulations, and Black MSM accounted for thirty-six percent of all new HIV infections in 2010. HIV prevalence among U.S. transgender women is almost twenty-two percent, with thirty-four-fold odds of HIV infection compared the general reproductive-age population. Furthermore, Black and Brown trans women, who are disproportionately burdened with high rates of poverty, are also at higher risk of HIV.[7] Studies have found that more than one in four (twenty-eight percent) are HIV-positive, and a majority are unaware of their status.

Poverty and drug use are connected in a complicated and mutually reinforcing way that contributes to HIV infections among injection drug users. Higher levels of sex work participation among LGBTQ youth who are experiencing homelessness and trans women due to income and economic insecurities increase the risk of these populations becoming infected with HIV. These communities also experience more violence and harassment, creating environments that contribute to increased HIV risk.[8]

Other STI rates are also higher among some LGBTQ communities than they are for the general population, and rates have been increasing for some infections. For example, MSM account for more than seven in ten (seventy-two percent) new syphilis cases, an alarming increase that has reemerged during the last several years. MSM also account for fifteen to twenty-five percent of all new Hepatitis B infections.[9] Aside from the harmful impact of HIV criminalization laws, participants in the convenings and focus groups shared a wide range of concerns, including the need to integrate legal services into HIV care, the high HIV transmission rate among young people, the need for better prevention and treatment of HIV and other STIs for people who are incarcerated or have a history of incarceration, various access barriers to HIV treatment, and the need for more funding for HIV/AIDS programs. While some pointed out the need to close gaps between the Ryan White Comprehensive AIDS Resources Emergency Act and the ACA, expansion of Medicaid was seen as a significant win for low-income LGBTQ people. A report published in February 2017 by the Henry J. Kaiser Family Foundation indicated that coverage of people receiving HIV care increased nationwide from thirty-six percent in 2012 to forty-two percent in 2014.[10]

Recommendations:

- Support the introduction of legislation to encourage states to become "opt-out" states, meaning that HIV testing is the default when receiving medical services at hospitals. This requires individuals to opt-out as opposed to opt-in, as is currently the case in most states.
- Advocate for continued use of the National HIV/AIDS Strategy, and modify the strategy to specifically address barriers for low-income LGBTQ people.
- Facilitate access to affordable HIV treatment, pre-exposure prophylaxis (PrEP), and post-exposure prophylaxis (PEP) without parental involvement given the high rate of HIV infection among youth and lack of engagement in health care due to fear of parents finding out that they are sexually active or identify as LGBTQ. On December 1, 2016, New York governor Andrew Cuomo signed legislation that expanded access to HIV services for young people, including access to PrEP and PEP for minors without parental consent.
- Encourage community programs that meaningfully engage people living with HIV/AIDS, including long-term HIV/AIDS survivors. Examples of such programs include congregate meal programs and treatment adherence support programs.
- Advocate for the needs of LGBTQ people living with HIV/AIDS who are moving off long-term disability support.
- Replicate the District of Columbia's wrap-around structures available to LGBTQ people living with HIV/AIDS, such as the anchoring-to-care program highlighted in DC's Integrated HIV/AIDS Prevention and Care Plan, which anchors patients to treatment and services by utilizing care management and navigators to

provide traditional linkages, complemented by health-care providers.[11]

- Raise awareness around the benefits of medical-legal partnerships happening around the country and the need for federal funding of HIV-related legal services. Medical-legal partnerships enable legal service providers to work alongside or as integrated members of health-care teams to screen for health-harming legal problems and address social determinants and institutional barriers to health.
- Encourage policies to prevent and address HIV-related discrimination in housing and employment.
- Advocate for initiatives that integrate access to legal services and other resources to manage poverty as part of HIV services.

Funding HIV/AIDS Programs

The Centers for Disease Control and Prevention estimates that 1.1 million people in the United States live with HIV/AIDS and about one in seven remain unaware of their status, with gay and bisexual men representing the most seriously affected population.[12] Community-based interventions for the prevention of HIV, such as HIV/AIDs counseling home visits and outreach programs on HIV risk factors, lead to increased community knowledge of HIV prevention and treatment practices.[13] Released on February 9, 2016, President Obama's fiscal year 2017 federal budget request called for approximately $34 billion for combined domestic and global HIV efforts. Of the domestic HIV budget request, the administration allocated sixty-one percent ($20.8 billion) to care and treatment and three percent ($900 million) to prevention. Though funding for HIV prevention and treatment increased by just over three percent in the fiscal year 2017 budget request compared to the fiscal year 2016 enacted level, which totaled $33 billion, federal funding for HIV prevention and treatment represents less than one percent of the overall U.S. federal budget.[14]

LGBTQ people and people living with HIV/AIDS often experience barriers to accessing health care, such as discrimination based on sexual orientation, gender identity, or gender expression. In 2010, Lambda Legal found that fifty-six percent of lesbian, gay, and bisexual survey respondents (out of 4,916 total respondents) experienced health-care discrimination in forms such as refusal of health care, excessive precautions used by health-care professionals, and physically rough or abusive behavior by health-care professionals. Seventy percent of trans and gender nonconforming respondents experienced the same, and sixty-three percent of respondents living with HIV/AIDS had experienced health-care discrimination. In addition, low-income LGBTQ people and LGBTQ people of color experienced increased barriers to health care. For instance, approximately seventeen percent of low-income lesbian, gay, and bisexual respondents and twenty-eight percent of low-income transgender respondents reported harsh language from health-care providers compared to under eleven percent of LGB respondents and twenty-one percent of transgender respondents, overall.[15]

Recommendations:

- Advocate for increased funding for the AIDS Drug Assistance Program and initiatives to assist people living with HIV/AIDS with applications and renewal processes.
- Speed up the AIDS Drug Assistance Program application and renewal process through streamlining efforts and data interoperability with other programs.
- Give service providers the tools to better advocate for Ryan White funding and for its value as a safety net for people living with HIV/AIDS. Beyond helping policy makers understand that it is not a replacement for health insurance, advocates should highlight the importance of protecting funds allocated to health-harming legal needs of people living with HIV/AIDS.
- Replicate programs such as the Rafiki Housing Program, a community-based, HIV/AIDS transitional housing program that provides a sober and safe environment for African Americans living with HIV/AIDS and experiencing homelessness.[16] It also provides case management for clients who need housing and offers support groups and individual support concerning issues of HIV/AIDS and substance abuse.

Criminalization

Chapter Seven explores in much greater detail the criminalization of poverty. This section deals specifically with discussions during convenings and focus groups that looked at the ways in which public health policy affects all facets of the criminal legal cycle for LGBTQ individuals living in poverty and people living with HIV/AIDS. The criminalization of HIV and related stigma pose a serious barrier to care for individuals in need of testing and treatment for HIV and other health-care services. Many physicians still express negative attitudes toward men who have sex with men and do not ask patients about their sexuality and higher-risk behaviors for contracting and transmitting HIV.[17] Additionally, not all physicians feel equipped to answer patients' questions regarding HIV testing and therefore do not bring up the topic with patients who do not appear at high risk for contracting HIV. Patients often cite fears that others will think less of HIV-positive patients as a reason to avoid knowing their HIV status.[18] Additionally, people living with HIV/AIDS are at higher risk for homelessness, a mutually reinforcing relationship as homelessness can increase a person's risk of contracting HIV.[19]

Urban areas across the country have identified concerning trends of early and repeated entrance into the criminal legal system for behaviors associated with poverty and lack of economic empowerment in LGBTQ communities. Homelessness, particularly among LGBTQ youth, is a noteworthy example. Homelessness exposes individuals to the criminal legal system as offenders and prevents affected individuals from being part of systematized preventative health, leading to more costly treatment needs later in life.[20] Transgender individuals in particular are at higher risk for experiencing homelessness. According to the nationally representative 2015 U.S. Transgender Survey, thirty percent of participants had experienced homelessness at some point in their lives.[21]

Sex work criminalization refers to prohibiting consensual adult sex work and imposing legal penalties on sex workers. LGBTQ people, especially transgender women, are overly represented in sex work because of deeply-embedded prejudiced attitudes that inhibit LGBTQ people from accessing education, work opportunities, and safe housing options. Legal penalties and institutionalized discrimination prevent sex workers from accessing necessary health-care resources.[22]

In addition to the criminalization of HIV/AIDS and sex work, participants in the convenings and focus groups expressed concerns about the criminalization of drug users, pointing out the need for more needle exchange programs and substance abuse services. Drug users, especially heroin users, experience discrimination, abandonment, and inadequate access to necessary health-care resources. The United States lacks effective and culturally competent resources to help heroin users and to prevent the transmission of HIV and other blood-borne diseases through shared needles. Drug addiction creates an all-consuming need that often prioritizes drugs over other critical health issues. Legal punishment and social stigma often prevent drug users from accessing the health-care resources necessary to quit. The country's first medically supervised heroin injection facility in Ithaca, New York, creates a pathway to treatment for individuals addicted to heroin.[23] The facility, however, continues to face harsh social stigma.

Recommendations:

- Engage local activists and service providers in seeking incremental reforms to sex work criminalization if a path to decriminalization is improbable in the jurisdiction.
- Replicate or incorporate aspects of San Francisco's St. James Infirmary, a community health center for sex workers and their families.
- Replicate local programs such as the DC Healthcare Alliance, a locally funded program that provides medical assistance to low-income District residents—including undocumented residents—who have no other health insurance and are not eligible for Medicaid or Medicare.
- Advocate for harm-reduction approaches at state and federal levels, such as government-funded needle exchange programs like the one in Miami.
- Advocate for the establishment of safe injection facilities and supervised injection

sites, which are intended to reduce the health and societal problems associated with injection drug use.
- Address the lack of LGBTQ cultural competency plaguing many homeless shelters and housing services.

5.2

Mental Health

Access and cost barriers to mental health care are likely to remain a primary concern for poor LGBTQ people. The health care bill proposed by House Republicans in March 2017 would roll back coverage for millions of people with mental health conditions and addiction problems by overhauling Medicaid.[24] The need for mental health services for LGBTQ people living in poverty was a common theme in the convenings and focus groups, especially for subpopulations including young people, people of color, and transgender people. A significant systematic barrier that poor and low-income LGBTQ people face when accessing mental health services is the expectation that they navigate complex systems and remain engaged in care despite their unstable circumstances. Research has found that LGBTQ adults are at elevated risk for some mental health and behavioral health conditions; for example, one study demonstrated that LGBTQ adults are 1.5 times more likely to experience depression and anxiety.

Resources determine to what extent an individual can navigate the stigma that is in part responsible for the mental health disparities experienced by LGBTQ people. One study reported that lesbian, bisexual, and queer women showed particularly elevated rates of substance dependence, more than three times the rate for heterosexual women, and that gay, bisexual, and queer men had higher rates of depression and panic disorder compared to heterosexual men. Despite these results and the association between mental disorders and suicidal behavior, limited research has been done to date on the suicidality of LGBTQ individuals, and even less research exists on LGBTQ people living in poverty.[25] According to a 2011 national health study of LGBTQ older adults, more than half of respondents had been told by a doctor that they have depression, thirty-nine percent had seriously thought of suicide, and fifty-three percent felt isolated from others.[26]

Studies have repeatedly concluded that LGBTQ youth report elevated rates of emotional distress, mood and anxiety disorder symptoms, self-harm, suicidal ideation, and suicidal behavior compared to non-LGBTQ youth.[27] Additionally, LGBTQ youth who receive mental health care often receive it from primary care providers, who are not well-equipped to treat mental health issues in this population. Many participants in the convenings and focus groups mentioned the intersection between the transgender experience and mental health, and how few health-care providers understand those issues and provide LGBTQ culturally competent care. This lack of LGBTQ-specific training for health-care providers, along with the limited accessibility of services, the lack of financial incentives to treat LGBTQ youth, a failure to address the intersection between mental health and substance abuse issues, and a general lack of information about LGBTQ health needs, stymies these physicians from providing optimal care.[28]

Recommendations:
- Continue discussions with LGBTQ advocates about whether and how to continue using the "gender dysphoria" diagnosis in the *Diagnostic and Statistical Manual of Mental Disorders,* since it is not appropriate to assign a label to all transgender people yet the diagnosis enables many to access gender-affirming surgery.
- Encourage the development of mental health anti-stigma programs to raise awareness of the significant but often-overlooked issue of mental health, which disproportionately affects those who are LGBTQ and/or people of color, especially those who are resource-scarce.

5.3

Access to Health

Discrimination and Cultural Competency

LGBTQ communities and people living with HIV/AIDS, especially those who are also low-income or living in poverty, face bias and hostility in a

variety of domains. Data from the convenings and focus groups show that barriers to health care caused by discrimination or a lack of cultural competency are particularly concerning for low-income LGBTQ people. Issues of health-care access and fairness are critical to the well-being of LGBTQ people and people living with HIV/AIDS, and both anecdotal evidence and rigorous surveys have shown that LGBTQ individuals with fewer resources and those living with HIV/AIDS continue to encounter less access to health care based on their identity or status. Along with the topics mentioned above, many attendees of the convenings and focus groups discussed the need for greater access to health care for undocumented individuals.

As noted before, low-income LGBTQ people are limited in terms of health provider options and in their responses to discrimination in health-care settings. Lambda Legal's 2010 national survey on discrimination against LGBTQ people and people living with HIV/AIDS provided important data on denials of care and barriers to equitable access in these communities. The survey found that nearly fifty-six percent of LGB respondents, seventy percent of trans or gender nonconforming respondents, and sixty-three percent of HIV-positive respondents reported having at least one experience where they were refused care, had a health-care professional refuse to touch them or take excessive precautions before doing so, were verbally or physically abused by a health-care professional, or were blamed for their health status. Nine percent of LGB respondents reported reluctance to seek medical care because of the concerns, while up to half of trans and gender nonconforming respondents reported such reluctance.[29]

Due to higher rates of poverty among trans people of color and people of color living with HIV/AIDS, these populations experience more discrimination. Furthermore, their lack of resources limits their ability to shop around for health services, making them more likely than other groups to be deeply affected by providers lacking cultural competence. Lambda Legal's survey found that:

- Low-income respondents and respondents of color often reported harsh language by medical providers. Nearly seventeen percent of low-income LGB respondents and fourteen percent of LGB respondents of color reported experiencing harsh language, compared to about eleven percent of LGB respondents overall.
- More than twenty-five percent of trans respondents of color and twenty-eight percent of low-income trans respondents reported harsh language, compared to twenty-one percent of trans respondents overall.
- Thirteen percent of respondents of color living with HIV/AIDS and nineteen percent of low-income respondents living with HIV/AIDS experienced harsh language compared to almost twelve percent of respondents living with HIV/AIDS overall.
- People of color living with HIV/AIDS and LGB people of color were at least twice as likely as white individuals to report experiencing physically rough or abusive treatment by medical professionals. Of LGB respondents, three percent of white respondents and nearly seven percent of people of color reported experiencing such treatment; among those living with HIV/AIDS, the figures were just over three percent for white respondents and nearly eight percent for people of color.

To create a safe health-care environment for LGBTQ communities and individuals living with HIV/AIDS, additional trainings for health-care providers can provide the cultural competence necessary to reduce current barriers to care for these populations. In a survey of ninety-four LGBTQ youth about what they valued in a clinician, respondents indicated they seek privacy, cleanliness, honesty, respect, competency, and a nonjudgmental stance. They prefer providers who are educated about their identity and lifestyle, and they are offended by those that equate sexuality with an HIV diagnosis.[30] The Association of American Medical Colleges lists ways in which health-care providers in a medical school setting may enhance LGBTQ health care, such as participation in community health LGBTQ education events, inclusive nondiscrimination policies for patients, and established steps to address discrimination in health-care environments.[31]

Additionally, the federal government has undertaken efforts to improve the cultural competency of health-care providers, like the Health Resources and Services Administration–funded National Training and Technical Assistance Cooperative Agreement with Fenway Community Health Center for the National LGBT Health Education Center. However, these initiatives have a limited reach, and advocacy organizations recommend expanding cultural competency trainings to further reduce discriminatory health practices and related barriers for LGBTQ communities. The Department of Health and Human Services encourages its employees to participate in LGBTQ cultural competency trainings to increase awareness about sexual orientation and gender identity. The Health Resources and Service Administration held trainings for the National Health Service Corps to provide an introduction to culturally competent care for LGBTQ patients and to focus on strategies to ensure better service for these populations. The Substance Abuse and Mental Health Services Administration and the Health Resources and Service Administration held a joint listening session to discuss LGBTQ cultural competency with health-care providers. Participants heard from stakeholder organizations about training challenges for providers, strategies that are needed to increase culturally competent care, and the use of grants to encourage the inclusion of health competency materials.[32]

Recommendations:

- Advocate for the standardization of cultural competency training for health providers, in order to elevate best practices in serving LGBTQ people, including those living in poverty and of different backgrounds.
- Advocate for a standard of care that prioritizes culturally and linguistically competent services and mandates certification of service providers of LGBTQ services.
- Study and replicate the LGBTQ cultural competency law passed in Washington, DC, in 2016, which requires continuing education programs for licensed health-care professionals to include LGBTQ-related cultural competency trainings.[33]
- Advocate for legislation to ban conversion therapy.
- Address the capacity issue for gender-affirming surgeries by training surgeons and medical students on transgender-related procedures.
- Create culturally competent provider networks for health plans.
- Create culturally competent electronic health records systems within provider/hospital systems, with patients' proper names, self-identified gender along with gender marker for the purposes of health insurance, and so forth.
- Advocate for the need for core cultural LGBTQ standards and training from the Office of Minority Health within the Department of Health and Human Services.

Stigma, Lack of Information, and Transportation

In addition to financial barriers to accessing health care, other barriers brought up during the convenings and focus groups included transportation, stigma, information asymmetry, discrimination, harassment, and mistreatment, all of which disproportionally affect low-income LGBTQ individuals. LGBTQ patients cite stigma and poor relationships with health-care providers as a major barrier to care. Physicians who lack necessary information on LGBTQ-specific health-care needs create barriers to care for LGBTQ patients. Many health-care providers lack awareness of sexual identities and behaviors and do not discuss LGBTQ sexual health with patients. Other providers turn away LGBTQ patients or treat them disrespectfully because of their personal religious beliefs or morals.

Men who have sex with men, who are disproportionally at high risk for HIV, are less likely to disclose their sexual behavior or identity to health-care providers due to fear of homophobia, racism, or lack of cultural competency. LGBTQ people living in communities with significant anti-LGBTQ prejudice are at even higher risk of failing to seek needed health care or completing medical treatments. In one study, only a quarter of newly diagnosed HIV-positive men returned to receive confirmatory test results and discuss referrals for care because of negative experiences with health-care providers.[34] Stigma associated with LGBTQ people and sex more generally

continues to cause preventable harm, fueled by false beliefs, fear, and a lack of trust between patients and providers.

Lack of comprehensive public information on HIV transmission and risk in some communities may cause many individuals, including LGBTQ people who lack knowledge on LGBTQ-specific sexual health, to not seek testing because they do not consider themselves to be at risk. Further, inadequate resources exist to inform all patients of measures and medicines to help prevent HIV, such as PrEP and PEP.[35] While newer preventative measures such as PrEP and PEP are proven to be effective in preventing HIV infections, knowledge and uptake of those tools is concentrated in mostly white LGBTQ communities with more resources.

The location of LGBTQ-competent health-care facilities and access to transportation pose a further barrier to care. LGBTQ-competent health-care facilities are primarily located in areas that were most affected by HIV during the early years of the AIDS epidemic. These locations often no longer reflect the areas most in need of LGBTQ-competent and HIV-specific health-care services. Despite disproportionately higher rates of HIV among Black MSM, Black communities that demonstrate the need for LGBTQ-competent and HIV-specific health-care services typically lack these services.[36] Communities also often lack convenient and available forms of transportation to reach facilities. Women, because of fewer financial resources and the frequent added responsibility of caring for family members, suffer particularly from the lack of convenient and available forms of transportation to LGBTQ-competent and HIV-specific health-care facilities.[37] Transportation barriers are especially problematic for transgender women and LGBTQ youth due to economic hardships and time restraints.

Recommendations:

- Advocate for statewide consistency and funding of health-care services, since depending on the county or city the quality of care varies noticeably.
- Replicate the California Healthy Youth Act, which requires school districts to provide students with integrated, comprehensive, accurate, and unbiased comprehensive sexual health and HIV prevention education at least once in middle school and once in high school.
- Replicate legislation like California's AB 2394, which advocates for transportation being a covered benefit under Medicaid and includes round-trip transportation for members to obtain covered Medi-Cal services.
- Advocate for school wellness centers to include the following services without parental consent: mental health, teen pregnancy prevention and care, young parents care, general health, and LGBTQ-specific or -inclusive services.

5.4

Insurance Coverage and Costs

Insurance coverage and cost were common themes throughout the convenings and focus groups. Attendees expressed concerns about the affordability of services and medicine, insurance gaps in states that had not expanded Medicaid, and how difficult it is for LGBTQ people living in poverty to navigate the very complex insurance system in the United States. Within the LGBTQ population, subpopulations have different patterns of insurance coverage and health-care utilization. The transgender community experiences even higher rates of poverty and lower rates of health insurance coverage than the general LGBTQ population. Additionally, many health plans include transgender-specific exclusions, such as denying coverage for surgical treatment related to gender transition, mental health care, and hormone therapy. These exclusions limit needed services to individuals with the means to seek alternative providers and pay out of pocket. Attendees specifically pointed out the lack of transition-related care available in federal and state Medicaid programs, as well as private insurance providers. Meanwhile, data from 2013 show that the uninsured rate does not vary substantially by sexual orientation, but that bisexual adults generally demonstrated more limited access to care than heterosexual, lesbian, and gay individuals.[38]

The passage of the ACA provided new health

insurance coverage opportunities for millions of U.S. residents, including low-income LGBTQ people and people living with HIV/AIDS. According to focus groups conducted by the Henry J. Kaiser Family Foundation, the ACA's health insurance expansion, through health-care marketplaces and Medicaid expansion, resulted in improved coverage for those living with HIV/AIDS. In particular, the Kaiser focus groups found:

- Those enrolling in private coverage sold on the marketplaces had access to more comprehensive health services. While in the past many received HIV-related care and treatment through the Ryan White HIV/AIDS Program, participants faced economic and health insecurity related to other, non-HIV health-care needs. Some participants found they were able to find much more affordable coverage through the marketplace compared to pre-ACA insurance costs.
- Many faced barriers during enrollment and although most of these were surmountable, some became discouraged and did not enroll. A few enrolled in plans with very high deductibles and as a result were concerned that their out-of-pocket costs would be prohibitive. Several enrolled in plans without fully understanding their coverage or knowing if their HIV doctor would be in their plan's network or whether their HIV medications would be covered. Where participants had used their new coverage, it was mostly to access HIV drugs. A smaller share of participants used their coverage more broadly and while they reported staying in care, some had to change providers or pharmacies or switch to different non-HIV drugs.
- Participants gaining new coverage through Medicaid expansion reported continuing to get their HIV care needs met, as they had in the past primarily through the Ryan White program, while also receiving care for other health problems that had previously gone untreated. These enrollees generally reported smoother coverage transitions compared to those in the marketplaces. In addition, most had already used their coverage for accessing HIV care and treatment.
- Participants living in states without Medicaid expansion, but who would have otherwise been eligible, continued to receive HIV care through the Ryan White program but worried about how to meet other health needs. They were frustrated by their state's decision not to expand and continued to worry about the health and economic insecurity that accompanied being uninsured.
- The Ryan White program was cited as a key source of care, treatment, and support for many participants, including those gaining new coverage, helping to ensure a smooth transition into new forms of health insurance, to afford new coverage, and to supplement coverage with needed services where gaps remained.[39]

High medicine costs further prevent individuals from accessing necessary health-care resources. Prejudiced attitudes and unequal work opportunities economically disadvantage many LGBTQ individuals and create further difficulties in paying rising medical costs.[40]

Recommendations:

- Advocate for a single-payer health-care system as the best way to guarantee that everyone has access to adequate basic health care.
- Encourage the expansion of Medicaid in states that have not expanded it yet, using documented improved health access and outcomes in expansion states to make the case.
- Replicate the automatic renewal of Medi-Cal and My Health LA in California. Automatic renewal of Medicaid is particularly helpful for LGBTQ people experiencing homelessness, as they may not be in the same place as when they originally applied.
- Encourage the funding of patient assistance programs, which help patients obtain free or nearly free medicines if they qualify. These programs are especially beneficial for people who are low-income but may not qualify for Medicaid.
- Advocate for the clarification of Medicare's transition-related care policies.
- Remove age restrictions for Medicare and expand it to all, following the lead of Michigan.
- Introduce guidance to address the lack of transition-related care in federal and state Medicaid programs and private insurance providers.

5.5

Reproductive Justice

Although *Obergefell v. Hodges* legalized same-sex marriage across the United States and allowed same-sex couples to adopt jointly, LGBTQ families and youth still face risks of discrimination in adoption and foster parenting procedures. Furthermore, only four states legally require foster parents to undergo cultural competency training inclusive of sexual orientation and gender identity.[41] Another area for improvement that attendees of the convenings and focus groups discussed included the lack of access to and affordability of family planning resources, including the need to cover reproductive technology under the ACA and other insurance coverage. Attendees of the Los Angeles convening stressed the importance of framing family acceptance as a public health issue. They proposed that health providers more actively recognize the direct impact of family acceptance on an individual's mental health, as lack of support and helplessness may lead to depression, suicidality, and other issues. Attendees also shared that family acceptance is not often considered a policy issue that requires intervention or something that agencies, government, and schools could address.

Recommendations:

- Advocate for greater integration of reproductive rights in the LGBTQ movement.
- Challenge the current definitions of family in systems related to family planning and push for LGBTQ cultural competency training in those fields.

5.6

Health Care for Incarcerated Individuals

LGBTQ people's experiences in the criminal legal system and in prison are often worsened by a lack of cultural competency within the system. In particular, transgender individuals experience a lack of cultural knowledge and variability in health support for trans-specific issues, such as hormone adjustments. The Department of Justice estimated in 2012 that there were 3,200 transgender inmates in U.S. prisons and jails.[42] In a review of state policies related to transgender health care in the prison system, researchers found that there were substantial disparities in health care for inmates diagnosed with gender identity disorder or related conditions. Most states allow for diagnostic evaluations, but wide variability exists in access to hormone replacement therapy, with some allowing for continuation of treatment and others allowing for both continuation and initiation of treatment. In all states, transgender prisoners were denied gender confirmation surgery.[43] Attendees of the convenings and focus groups discussed the need for better access to transition-related care and HIV treatment while in prison, and to explore pre-release enrollment to Medicaid for eligible individuals.

Recommendations:

- Challenge the treatment industrial complex in juvenile and adult justice systems, including the privatization of mental health (the treatment industrial complex refers to for-profit prison corporations undermining efforts to treat and rehabilitate prisoners, for corporate gain).
- Incorporate a system that will facilitate the pre-release enrollment of eligible inmates to Medicaid in order to maintain individuals' health care after incarceration.
- Advocate for quality and culturally competent access to transition-related and HIV care for incarcerated individuals, and facilitate a smooth medical handoff when released to ensure continued engagement in care.

5.7

Rural Community Needs

Health-care disparities are often more pronounced in rural areas in the United States, and this is further compounded for LGBTQ individuals, often due to a lack of cultural competency. This hinders physical and mental health providers from meeting the health needs of rural communities.[44] The lack of connection to positive, affirming resources also isolates LGBTQ youth, making them more susceptible to self-destructive

behavior patterns.[45] Isolation continues further into adulthood, when LGBTQ populations are more likely to experience depression and engage in high-risk behaviors.[46]

Sexual health is typically less progressive in rural communities than in urban areas, and rural areas are more likely to promote abstinence-only sex education. The lack of provider cultural competency was a concern for convening and focus group participants in rural areas. This leads to LGBTQ people having a poor grasp of sexual safety and health, making them more at risk for sexual health episodes or infections, and it also contributes to limited coverage and providers who are limited in their responses. LGBTQ communities are also more vulnerable to violence in rural areas—LGBTQ individuals are more likely to experience hate crimes in rural areas than in urban or suburban settings, exposing them to greater health risks. Almost eighteen percent of victimizations in rural settings were due to a victim's actual or perceived sexual orientation.[47]

Recommendations:

- Advocate for the use and reimbursement of telemedicine for greater access to various services that are lacking in rural areas.
- Require health providers and other service providers to undergo LGBTQ cultural competency training.
- Push for more free mobile clinics and testing centers.
- Increase coverage for unemployed and employed individuals.
- Introduce free educational workshops, as well as sexual health discussion groups in non-drinking meeting places/spaces.
- Encourage anti-stigma work such as school-based LGBTQ-affirmative interventions, and institute laws to protect LGBTQ people.

5.8

Medical Leave

The federal Family and Medical Leave Act (FMLA) entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons. In response to the Supreme Court's decision in *United States v. Windsor* that struck down the Defense of Marriage Act's definition of a spouse as a person of the opposite sex, the FMLA was updated in 2015 to include legal same-sex marriages. The provisions under the FMLA did not change substantively other than to include the revised regulatory definition of spouse, and civil unions are not considered marriages under the FMLA. The FMLA currently includes the following provisions for same-sex partners and spouses:

- The updated rule provides eligible employees the opportunity to take leave to care for their lawfully wed same-sex spouse, regardless of where they live, when caring for their spouse with a serious health condition, taking qualifying exigency leave due to their spouse's covered military service, or taking military caregiver leave for their spouse.
- Eligible employees may take leave to care for the child of their same-sex partner (married or unmarried) or unmarried opposite-sex partner, provided that the employee meets the *in loco parentis* requirement of providing day-to-day care or financial support for the child.

Recommendations:

- Endorse the Healthy Families Act, which would require employers with fifteen or more employees to grant them up to seven paid sick leave days per year for caregiving.
- Adopt paid leave laws and policies that cover extended relatives and chosen family and amend existing paid leave laws and policies to do the same.

5.9

Holistic Care Approaches

Legal Services

Progressive health-care organizations serving LGBTQ communities often offer ancillary services alongside the provision of health care, recognizing the barriers to social and legal services encountered by their patients. At organizations like Whitman-Walker Health in Washington, DC, lawyers and paralegals work with clients to remove legal barriers to health care and public benefits navigators assist patients in connecting

with the most appropriate health insurance option, whether Medicare, Medicaid, a plan purchased on the exchanges, or another resource. Transgender individuals can receive assistance with updating identity documents and legal records. Clients receive help protecting their medical privacy, obtaining disability income if they are unable to work, protecting their families through health-care directives and wills, and fighting discrimination through the enforcement of nondiscrimination laws. These resources are also very useful in supporting LGBTQ immigrants navigating complex and foreign systems such as immigration and social services.

Recommendations:

- Emphasize the need for a holistic approach to care, including interventions like medical-legal partnerships that encourage addressing social determinants to improve health outcomes.
- Encourage partnerships between legal entities and community organizations to support low-income LGBTQ people.
- Require provider screening for social determinants of health.

Data Collection

While LGBTQ people experience more poverty than the general population does, elders and people with disabilities are even more economically vulnerable. The fact that LGBTQ people are not routinely represented in national surveys makes it that much harder to ensure that they have access to quality health care and discrimination protections.

High-quality, routinely collected data on sexual orientation and gender identity are critical to understanding health disparities in LGBTQ communities, developing effective policy solutions, and measuring the impact of government and civil society programs intended to address the needs of LGBTQ people and families.[49] To date, however, collection of data on sexual orientation, gender identity, and gender expression has been piecemeal and limited, providing little visibility into the challenges facing LGBTQ communities. Relevant data points include gender identity, sex assigned at birth, gender expression, sexual orientation identity, sexual behavior, sexual attraction, transgender status, relationship status, preferred name, and pronouns.[50]

While LGBTQ communities have often been considered difficult and costly to access for data collection purposes, a growing array of research methodologies is reducing barriers to collecting and understanding data related to sexual orientation and gender identity. These data collection methods include population surveys, research initiatives, programmatic data, clinical records, and tailored recruitment methods for "hidden" populations. First, many LGBTQ advocacy organizations hope to add questions on sexual orientation and gender identity to major federal surveys. Currently, no major federally supported survey routinely collects information about both sexual orientation and gender identity, and the United States Census only collects information on same-sex couples. Other surveys that do not currently incorporate questions on sexual orientation and gender identity include the Department of Commerce's American Community Survey and Survey of Income and Program Participation, the Department of Labor's Current Population Survey, the Department of Justice's National Inmate Survey, and the U.S. Department of Veterans Affairs' National Survey of Veterans. The Department of Health and Human Services' National Health Interview Survey includes a question about sexual orientation, but none about gender identity. LGBTQ data collection advocates hope that adding demographic questions to these surveys will help policymakers understand the challenges facing LGBTQ communities.[51]

Collecting data on sexual orientation and gender identity in health-care settings can help improve quality of care by connecting LGBTQ individuals with appropriate resources and services, such as anatomically appropriate screenings for transgender people, STI testing, and mental health screenings.[52]

Currently, federal agencies routinely collect demographic data, and the Federal Interagency Working Group on Improving Measurement of Sexual Orientation and Gender Identity in Federal Surveys is thinking through ways to enhance LGBTQ-related data collection. The U.S. Environmental Protection Agency is piloting the collection of self-disclosed data on sexual orientation and gender identity from employees

and applicants using the existing process for collecting, managing, and using other demographic data.[53] Such pilot programs present opportunities to explore the expansion of data collection to allow a better understanding of LGBTQ individuals' health needs.

Additionally, in communities with large non-English-speaking populations, questions on sexual orientation and gender identity should be translated into the relevant local languages to ensure representative data collection. Those who collect and use such data should also ensure the confidentiality of respondents. As the Center for American Progress has noted, "Assurances of nondiscrimination and confidentiality are critical in these settings because LGBT individuals may have well-founded concerns that sharing [sexual orientation and gender identity] information will expose them to discrimination, including denials of access to benefits and services."[54]

Recommendations:

- Adopt the collection of data on sexual orientation, gender identity, and gender expression in all areas related to social determinants of health.
- Advocate for the inclusion of questions about sexual orientation, gender identity, and gender expression in census reports and in federal surveys for elders and people with disabilities.

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CHAPTER 6

Hunger and Food Security

by Frank J. Bewkes

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Access to adequate, nutritious food remains a problem for millions of people in the United States. Poverty is a leading cause of hunger and food insecurity (having limited access to adequate food due to lack of money and other resources).[1] The poverty rate in the United States has been above ten percent since the 1960s and, as noted elsewhere in this report, marginalized groups experience disproportionately high poverty rates.[2] As a consequence, households such as those headed by single parents—especially women—as well as by Latinx and Black U.S. adults experienced substantially higher rates of food insecurity in 2016 than the average U.S. household.[3]

Research also shows that, similar to other marginalized groups, LGBTQ adults are 1.6 times more likely to report food insecurity in the past year than non-LGBTQ adults.[4] In 2014, Gallup data showed that over a quarter (twenty-seven percent) of LGBTQ adults lacked enough money for the food they needed at least once in the year prior to taking the survey, compared with seventeen percent of non-LGBTQ adults.[5] More than 10.7 million adults in the United States identify as LGBTQ, indicating that approximately 2.9 million LGBTQ adults experience this form of food insecurity.[6] LGBTQ people of color experience higher rates of food insecurity—for example, forty-two percent of Black LGBTQ people and thirty-three percent of Latinx LGBTQ people experience food insecurity.[7]

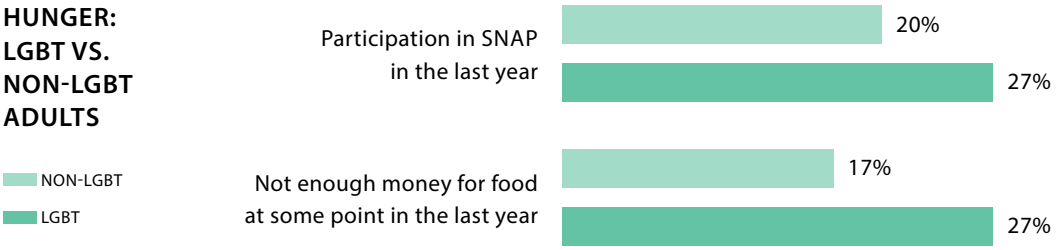
Overall, more than twelve percent of U.S. households were food insecure in 2016, and almost five percent of households experienced very low food security, meaning that "the food intake of one or more household members was reduced and their eating patterns were disrupted because the household lacked money and other resources for food."[8] In 2010, close to eight percent of male same-sex couples and over fourteen percent of female same-sex couples reported participating in SNAP, the nation's largest food assistance program, compared with less than seven percent of different-sex married couples.[9] As of 2014, same-sex couples were nearly 1.6 times more likely to report participating in SNAP than their different-sex counterparts within the past year.[10]

Again, those with multiple marginalized identities tend to be hit the hardest. Black same-sex couples are three times (if female) to six times (if male) more likely to be poor than their white counterparts.[11] Black same-sex couples have particularly high levels of SNAP participation, with a participation rate over three times that of their white counterparts, according to an analysis of the 2014 American Community Survey.[12]

WHAT IS SNAP?

The Supplemental Nutrition Assistance Program (SNAP, formerly known as food stamps) is a program that helps millions of low-income people who are experiencing food insecurity purchase the food they need. State agencies administer SNAP benefits using EBT cards. Recipients can use these cards to purchase food and nonalcoholic beverages.

HUNGER: LGBT VS. NON-LGBT ADULTS



SOURCE: Taylor N. T. Brown, Adam P. Romero, and Gary J. Gates, *Food Insecurity and SNAP Participation in the LGBT Community* (Los Angeles: The Williams Institute, 2016), http://williamsinstitute.law.ucla.edu/wp-content/uploads/Food-Insecurity-and-SNAP-Participation-in-the-LGBT-Community.pdf. Note: SNAP participation data were collected from the National Survey of Family Growth and do not include data on transgender identity.

To address the elevated plight of hunger in LGBTQ communities, more information must be gathered on the extent and causes of the problem—particularly among LGBTQ subgroups, such as people of color and transgender people—and increase access to affordable and healthy food, including increasing access to SNAP.

6.1

Data on LGBTQ Hunger and Food Insecurity

More state and federal data on hunger and food insecurity among LGBTQ populations in the United States are needed. Transgender, bisexual, and queer people especially remain mostly absent from poverty and hunger research.[13] What data do exist tend to show that bisexual adults have even higher poverty rates than lesbian and gay adults, "indicating that this population may have unique needs that ought to be identified and addressed in future research and interventions."[14] No government data on hunger within the transgender community currently exist, but some nongovernment sources indicate that transgender people are also disproportionately affected by hunger. According to one needs assessment report, half of transgender respondents were food insecure, a rate double that of cisgender respondents.[15] This may not be surprising, as the transgender community experiences poverty at a rate more than double that of the general U.S. population.[16] And while the transgender community disproportionately experiences very low incomes of less than $10,000 per year—twelve percent compared to the overall U.S. rate of four percent—transgender people of color experience very low incomes at even higher rates.[17]

The USDA tracks food insecurity in U.S. households through the Current Population Survey Food Security Supplement, an annual supplement to the U.S. Census Bureau's Current Population Survey that is sponsored by the USDA's Economic Research Service. While the Current Population Survey does collect data identifying people in same-sex couples, neither the survey nor its supplement gathers data on sexual orientation or gender identity. Surveys that do capture hunger and/or food assistance program utilization data by sexual orientation, such as the National Health Interview Survey and the National Survey of Family Growth, do not collect gender identity information in a way that allows for identifying transgender respondents. Meanwhile, the Gallup Daily Tracking Survey collects data on food insecurity in the LGBTQ community as a whole, but not the subgroups that make it up.

Recommendations:

- Federal agencies should add sexual orientation and gender identity measures to federal surveys—including large nationally representative surveys—in which other demographic data are collected.
- Federal agencies should provide mechanisms for program participants to voluntarily identify their sexual orientation and gender identity on applications and administrative forms, wherever other demographic information is requested.
- The Department of Health and Human Services should commission a study on LGBTQ hunger and food insecurity using all currently available data, governmental or not, including data collected on a voluntary or limited basis (e.g., pilot programs) and data not fully released to the public. The Research Development Project on Human Service Needs of LGBT Populations conducted by the Office of Planning, Research and Evaluation within the Department of Health and Human Services conducted a similar study, but while LGBTQ food insecurity was addressed, it was not the focus.[18]

6.2

Access to Affordable and Healthy Food and Clean Water

The Universal Declaration of Human Rights includes a right to food as part of the right to an "adequate" standard of "health and well-being."[19] This right demands that food be accessible both physically and economically.[20] The United

Nations High Commissioner for Human Rights has clarified this right as meaning that "a person must live in conditions that allow him or her either to produce food or to buy it."[21] For too many people in the United States, including those who are LGBTQ, affordable and healthy food is just not accessible. Over twenty-three million U.S. residents, including 6.5 million children, live in low-income neighborhoods that are "food deserts."[22] The USDA defines a food desert or "low access community" as a census tract where "at least 500 people and/or at least 33 percent of the census tract's population resides more than one mile from a supermarket or large grocery store (for rural census tracts, the distance is more than 10 miles)."[23] With more than four percent of adults identifying as LGBTQ, that suggests at least one million LGBTQ adults live in food deserts.[24] This is likely a conservative estimate: LGBTQ people might be more likely to live in food deserts considering that they are more likely to live in the South and to live in poverty.[25]

Low-income urban populations have the least access to food stores.[26] Food insecurity is also very prevalent in rural areas, where ten percent of same-sex couples live, and in the Southern United States generally, where thirty-five percent of the U.S. LGBTQ population lives.[27] Almost two-thirds of the U.S. LGBTQ population lives in the South, the Midwest, or the mountain states, where they are respectively 1.5, 1.8, and 1.9 times more likely to experience food insecurity than non-LGBTQ people.[28] The food desert problem has also become a serious issue on Native American reservations.[29] As transgender and two spirit Native Americans report annual incomes less than $10,000 at a rate four times that of the general U.S. population, they are likely four times more affected by the growing food desert problem.[30]

Even those low-income LGBTQ adults who do have access to grocery stores often contend with low quality and high prices.[31] These food insecure communities also contend with negative health effects associated with poor nutrition.[32] Moreover, low-income people also often lack access to clean water because of deteriorating water infrastructure and insufficient funding for replacements and repairs.[33] This is a growing problem, and a 2017 investigation found that almost one-fifth of the United States has been "exposed to potentially unsafe water more than once" since 2007.[34]

The most important way to increase access to healthy food and clean water is to increase resources available to purchase or provide them. The recommendations below offer ways to reduce structural barriers to accessing healthy food and water.

Recommendations:

- Local governments and public interest organizations should encourage, support, and expand community garden cooperative initiatives, which give local participants access to low-cost and fresh produce. The American Community Garden Association provides education and other resources to over two thousand community gardens across the country.[35] The U.S. Departments of Agriculture, Housing and Urban Development, and Energy should also support these community garden initiatives (including roof gardens in urban areas), and the Department of Education should begin similar initiatives in schools.
- Communities should begin programs to collect "excess fresh foods from farms, gardens, farmers markets, grocers, restaurants, state/county fairs, or any other sources in order to provide it to those in need."[36] Also known as "gleaning" programs, these programs aim to use the more than one hundred billion pounds of edible food that is discarded in the United States each year.[37] For example, in Washington, DC, DC Central Kitchen repurposes surplus food into 4,500 meals for the hungry daily.[38] Gather Baltimore is home to a similar initiative.[39]
- Communities, state and local governments, and nonprofits should develop programs to provide low-cost loans or other incentives to grocers to enable and encourage them to open stores in communities that are food deserts, as well as to current retailers that need assistance to carry healthier food options. FreshWorks in California has done this and supports nearly eighty projects.[40] The Federal Healthy Food Financing Initiative provides another model for this kind of support.[41] Secondary resellers of discounted groceries

can also be encouraged in this manner, providing fresh and healthy food at low prices, while also decreasing waste.[42]

- The Department of Agriculture should implement the enhanced retailer standards authorized by the Agricultural Act of 2014 (also known as the 2014 Farm Bill).[43] State and local governments should also consider implementing such rules, as Minneapolis did, requiring convenience stores to stock a certain amount of perishable produce.[44] This will ensure that people living in food deserts have access to fresh produce.
- Communities should develop initiatives to deliver food to hungry LGBTQ elders and people living with HIV/AIDS. With severe proposed cuts to the Department of Health and Human Services' budget—and, by extension, funding for programs such as SNAP and Meals on Wheels—communities must prepare to step in with supplementary resources.[45]
- Farmers, farmers markets, and community supported agriculture operations should accept SNAP, WIC, and Senior Farmers Market Nutrition Program benefits, and pursue partnerships that allow them to incentivize the purchase of fresh fruits and vegetables for consumers who use these benefits. The 2014 Farm Bill created the Food Insecurity Nutrition Incentive grant program to provide grants for these incentives, and state and local governments should consider creating such programs, such as Double Up Food Bucks in Michigan.[46] The number of farmers markets authorized to accept SNAP increased by over eight hundred percent between 2008 and 2016, but many still struggle to procure the equipment and infrastructure to accept EBT payments.[47] Increasing federal grant awards through the Local Food Promotion Program and the Farmers Market Promotion Program could be used as an incentive to increase that number even further.[48] State and local governments could issue similar grant incentives.
- Secondary resellers of discounted produce should be encouraged to start mobile market initiatives whereby trucks can make stops in the hearts of food deserts where produce is needed most. Second Harvest Food Bank, which serves the San Mateo and Santa Clara counties in California, does this.[49]
- The federal government should increase funding for programs such as the Drinking Water State Revolving Fund and the USDA Rural Development Water and Environmental Program.[50]
- Federal and state governments should expand the SNAP Education Program and allow educational campaigns to serve SNAP-eligible communities broadly, so that more people have access to information about how to eat healthy on a budget.[51] Several participants in the convenings noted the general disparity in prices between healthy and unhealthy food.
- Provided strict food safety and consumer protection standards are met, the Food and Nutrition Service should make the SNAP Online Purchasing Pilot program permanent, allowing for home delivery of food to those in need—many of whom may have limited mobility or other disabilities, or live in food deserts.[52]
- Communities should develop free guides containing maps of locations where food assistance can be found. Hunger Free America created guides for New York City that contain information on "how and where to access SNAP/Food Stamps, WIC, School and Summer Meals, senior meals, soup kitchens and food pantries, and farmers' markets that accept SNAP as payment."[53]

6.3

Access to Food-Related Public Assistance Programs

While identifying as LGBTQ and/or having a same-sex partner increases the likelihood of food insecurity and SNAP participation, many who are eligible for SNAP benefits do not participate in the program.[54] In 2014, only eighty-three percent of all U.S. adults eligible for SNAP participated, an issue participants in the convenings and focus groups noted as well.[55] There are a variety of reasons for this gap, though awareness of eligibility is a common one.[56] For example, families led by immigrants, regardless of citizenship status, are less likely to report receiving SNAP benefits, due to many

factors such as language barriers, lack of legal identification, or worry about potential immigration consequences.[57]

There are nearly 640,000 legally present LGBTQ immigrants in the United States and an additional 267,000 who are not in the country legally, all of whom face additional hurdles to accessing food-related public assistance.[58] While SNAP eligibility is eventually extended to most legally present immigrants, many must wait five years before they can participate in programs like SNAP for which eligibility is based on income, though certain groups, such as refugees and minor children, are exempt.[59] Only seven states offer state-only food assistance programs to legally present immigrants who are not yet eligible for SNAP.[60] Immigrants who are not legally present are barred from receiving SNAP benefits entirely.[61] Anyone seeking to immigrate to the United States or obtain permanent residency once in the country may be denied entry if they are deemed likely to become a "public charge," or dependent upon the government.[62] Under current law, nutrition programs, such as SNAP, are not considered in this calculation; however, this could soon change, as leaked drafts of a presidential executive order in January 2017 included adding food assistance to public charge determinations.[63] While the official executive order had not been released as of November 2017, the leaked draft has nonetheless led to widespread fear, leading many eligible immigrant families to withdraw from SNAP participation or decline to apply for the program altogether.[64]

LGBTQ communities also face other difficulties in accessing programs like SNAP, including lack of awareness of eligibility, misunderstanding of requirements, difficulty documenting income, and challenges interacting with administrative agencies and private social services agencies. For example, as many as forty percent of homeless youth are LGBTQ.[65] Transgender people are particularly vulnerable to homelessness, and nearly one-third of respondents to the 2015 U.S. Transgender Survey had experienced homelessness at some point in their lifetime.[66] Lack of awareness about eligibility and misunderstandings about requirements can create barriers to enrolling in SNAP and other programs for many people experiencing homelessness.[67] One-fifth of respondents to the same survey reported engaging in currently criminalized activity, such as sex work or drug sales, for income.[68] LGBTQ people involved in such informal economies face difficulty and stigma documenting their income as required by SNAP.[69] LGBTQ applicants have also reported low LGBTQ cultural competency among government employees and difficulty completing a complicated in-person process. A study by Legal Services NYC found that twenty-four percent of low-income LGBTQ people had difficulty applying for benefits.[70] Of those, twenty-three percent classified their issues as "LGBT-related," such as encountering difficulty changing a name or updating a gender marker.[71]

Even when access to SNAP is available, many find the benefits inadequate, including many of the convening participants.[72] Benefits amounted to roughly $1.40 per person per meal in fiscal year 2017.[73] Almost one in three households participating in SNAP still rely on a food pantry to prevent hunger.[74] SNAP does not cover food expenses sufficiently and almost half of participants end up skipping meals.[75] More than

PARTICIPATION RATES OF U.S. RESIDENTS ELIGIBLE FOR SNAP IN 2014

SOURCE: U.S. Department of Agriculture, *Food and Nutrition Service, Trends in Supplemental Nutrition Assistance Program Participation Rates: Fiscal Year 2010 to Fiscal Year 2014 (Summary)*, June 2016, https://fns-prod.azureedge.net/sites/default/files/ops/Trends2010-2014-Summary.pdf.

eight in ten U.S. residents support increasing SNAP benefits to lessen this problem.[76] Many households go to food pantries to fill the SNAP gap. The Emergency Food Assistance Program provides federally funded commodities to food banks and pantries; however, many of these food banks and pantries are religiously affiliated and therefore might not be as welcoming to LGBTQ people.

Recommendations:

- The federal SNAP program should be protected and strengthened, and benefits should be boosted to adequately meet the nutritional needs of each recipient. To do so, the federal government should switch from the USDA's Thrifty Food Plan to the more adequate Low-Cost Food Plan to determine benefit amounts and remove the excess shelter cost deduction used in benefit calculations. State governments should consider raising benefits, such as Washington, DC, has.[77]
- Federal and state governments should fully fund SNAP Outreach for all states and launch a national public education campaign targeted to LGBTQ communities to raise awareness about eligibility for food-related public assistance programs such as SNAP.
- The federal government should provide funding for states to streamline the benefits application process into a single application, available in online and paper formats, expanding the simplicity of the "no wrong door" philosophy of the Affordable Care Act exchanges and building on progress already seen in the SNAP program with projects such as the Elderly Simplified Application Project.[78]
- Government agencies and other service providers that provide food assistance should adopt plans and implement training programs to ensure that employees and volunteers are LGBTQ culturally competent and sensitive to sexual orientation and gender identity issues.
- The federal government should allow the USDA to expand the Summer Food Service Program to allow all sites to serve three reimbursable meals to all children. The federal government should also make the Summer Lunch EBT Pilot program permanent and nationally available in places where a summer lunch is not available at a certain distribution site. Currently, migrant children are the only children who may receive three meals and only at sites that have received special permission.[79]
- SNAP benefit eligibility should be ensured for all legally present immigrants who qualify, without exception. States that do not already have programs to provide food assistance to legally present immigrants who are not yet eligible for SNAP should create them, and the federal government should also develop a process whereby immigrants who are not legally present can receive SNAP benefits to avert hunger.
- All localities should develop a paperless office system to automate the benefits application process and remove the need to appear in person, as New York City has done.[80]
- Congress should pass legislation banning discrimination on the basis of sexual orientation, gender identity, or gender expression for all federal anti-poverty programs. The USDA should also adopt a regulation explicitly prohibiting discrimination on the basis of sexual orientation, gender identity, or gender expression in all of its federally supported programs, including SNAP and the Emergency Food Assistance Program.
- The USDA should discontinue and disallow the use of photo EBT cards, should remove gender markers on cards (or at least make updating them easy), and should simplify the process of changing one's name on a card with sensitivity toward ensuring that transgender individuals can update their cards with the fewest barriers possible.
- Congress should repeal provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 that subject people with felony drug convictions to lifetime bans on receiving SNAP and TANF benefits. Furthermore, until that occurs, the USDA and the Department of Health and Human Services should provide guidance to states that urges them to opt out of this provision.
- The USDA should enhance the enforcement of language access requirements in SNAP to prevent programs from turning away people who do not speak English.

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[80] See, for example, Betsy Gotbaum, *Paper(less) Jam: A Survey of New York City Human Resource Administration Eligibility Specialists* (New York: Office of the New York City Public Advocate, 2009), http://www.nyc.gov/html/records/pdf/govpub/4749hraworkerreport_webfinal.pdf.

CHAPTER 7

The Criminalization of Poverty

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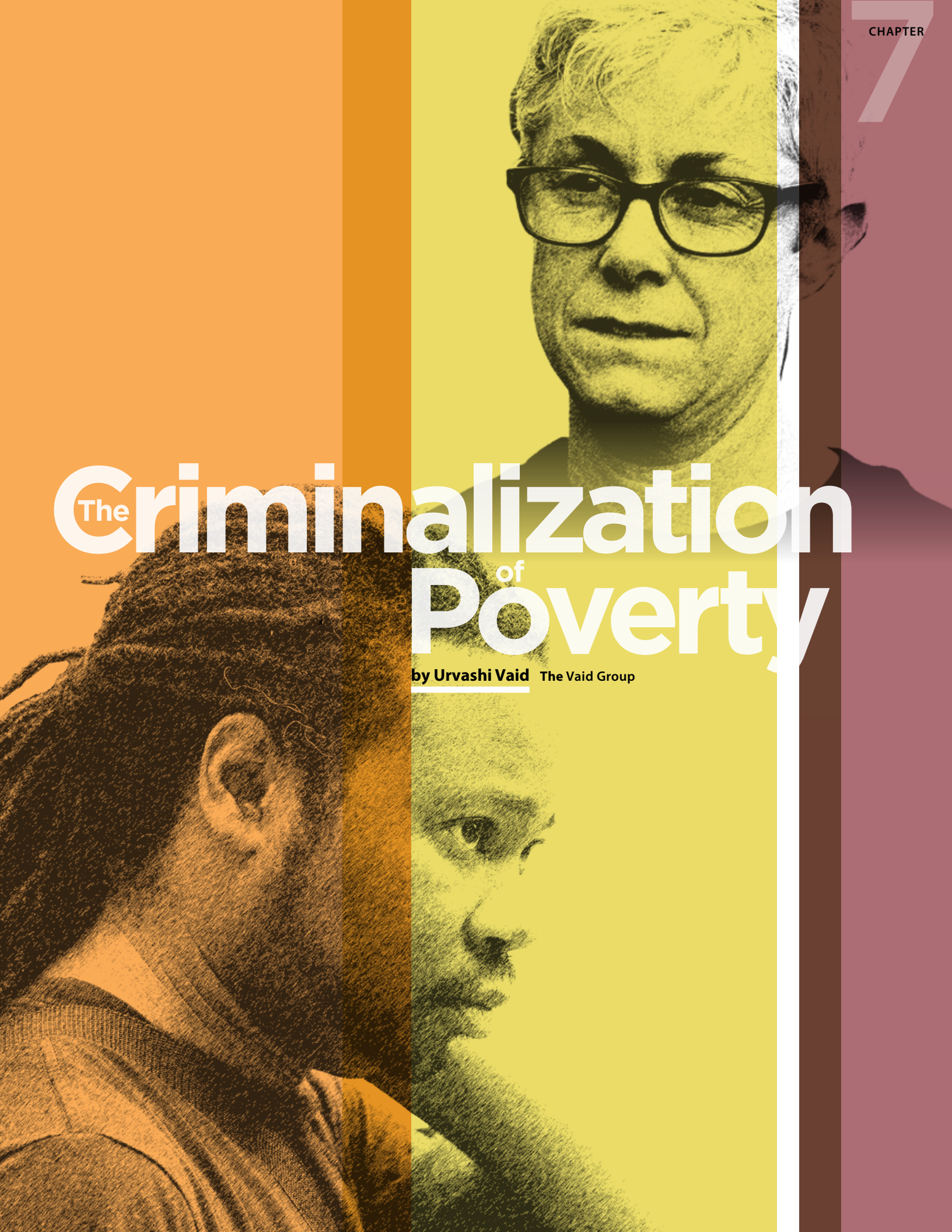

This chapter looks at nine impacts of criminalization on the lives of low-income LGBTQ people and people living with HIV/AIDS. The areas covered are: (1) criminalization of homelessness, (2) criminalization of sex work, (3) criminalization of immigration, (4) policing of LGBTQ people, (5) court-imposed fines and other costs, (6) cash bail and private probation, (7) alternatives to detention for people with disabilities, (8) incarceration and reentry, and (9) collateral consequences of conviction. These key areas were identified by advocates during the convenings and focus groups that formed the research base for this report.

These are by no means the full range of arenas in which criminalization interacts with the lives of low-income LGBTQ people. There are many other ways that poverty, criminalization, sexuality, and gender interact. The full intersection of sexuality, gender identity, and poverty is hard to quantify. This is partly because most government programs, poverty programs, and social service agencies do not collect information on the sexual orientation or gender identity of the people served. The most specific data on the intersection of economic instability with sexual orientation and gender identity come from the experiences of social service providers and directly affected individuals.[1] Debate also exists among advocates about whether, when, and how data on sexual orientation and gender identity should be collected, reflecting concerns about surveillance and the potential misuse of collected information.[2]

Background

LGBTQ communities endure systemic discrimination that prevents individuals from accessing economic opportunities, education, food security, stable housing, social service supports, and competent health care. As a result, LGBTQ people and people living with HIV/AIDS are disproportionately impacted by laws and policies that criminalize people for activities resulting from or associated with poverty and addiction, such as homelessness, engagement in underground economies, and drug use or sales.[3]

The disproportionate representation of LGBTQ people and people living with HIV/AIDS in the criminal legal system can best be understood in the larger context of widespread and continuing discrimination in employment, education, social services, health care, and responses to violence. The policing of gender and sexuality pervades law enforcement and the operation of courts and the penal system, and occurs within a larger context of racial profiling and targeting of homeless and low-income communities, a context that disproportionately affects LGBTQ people of color. LGBTQ people, specifically transgender women of color and LGBTQ youth of color, are routinely profiled as being engaged in sex work, public lewdness, or other sexual offenses. Police in many jurisdictions use possession of condoms as evidence supporting arrests for prostitution-related offenses.

Far too often, families reject LGBTQ youth at a young age and they are forced to fend for themselves, potentially triggering a lifetime of economic and social instability. In too many instances, even LGBTQ youth with supportive families find themselves living outside of a family home due to familial poverty or deportation. Family rejection and homelessness are top predictors that a young person will come in contact with the criminal legal system because of police targeting of homeless and low-income communities and people engaged in survival economies such as drug sales, sex work, and other criminalized activity—behaviors that many marginalized individuals feel they have no choice but to engage in to quite literally survive.

Laws and policies that reduce poverty and make housing, health care, and drug and mental health treatment more available will reduce the number of people in the criminal legal system. However, the criminalization and policing of poverty is a profitable and intricate business.

7.1

Criminalization of Homelessness

According to a 2012 survey by UCLA's Williams Institute on the experiences of LGBTQ homeless youth, service providers are witnessing an increase of LGBTQ youth experiencing homelessness.

Service providers reported that LGBTQ youth make up forty percent of homeless youth despite only making up seven percent of the youth population.[4] The report goes on to say that many of the agencies working on homelessness are poorly equipped to meet the needs of LGBTQ populations. The authors note: "While family rejection on the basis of sexual orientation and gender identity was the most frequently cited factor contributing to LGBT homelessness, over 40% of the agencies do not address these family-based issues."[5]

A 2012 publication by the National Alliance to End Homelessness reported that as many as twenty percent of runaway and homeless youth are LGBTQ, extrapolating, "This suggests as many as 80,000 LGBTQ youth are homeless for over a week each year."[6]

A study by the Urban Institute on LGBTQ youth in New York notes that, in general, "homelessness is one of the most common drivers of youth engagement in survival sex."[7] The study goes on to note: "Economic difficulties related to housing and the lack of available employment and health care are among the predominant factors driving LGBTQ youths' engagement in survival sex."[8]

In the past decade, hundreds of cities have passed laws that criminalize behavior engaged in by people experiencing homelessness, and even actions by community members who attempt to offer them food, money, or access to certain spaces. These ordinances criminalize life-sustaining activities such as sleeping, sitting, loitering, lying down, sharing food, and camping in public. An analysis of cities that criminalize such life-sustaining activities found that of 187 cities with these ordinances, forty-three percent ban sleeping in vehicles, fifty-three percent ban sitting or lying down in particular public places, and seventy-six percent ban begging in particular public places.[9]

Criminalization of life-sustaining activities and community support is especially harmful in cities where an overwhelming majority of people experiencing homelessness have no shelter or permanent affordable housing options, and thus are susceptible to arrest just because they are sitting or lying down on public sidewalks.[10] A 2013 survey found that seventy-four percent of people experiencing homelessness do not know of a place where it is safe and legal for them to sleep.[11] In 2015, the Department of Justice argued that these laws unconstitutionally punish people for being homeless because they have no other place to sleep or sit.[12]

The recommendations below propose a shift away from criminalization and toward support for those who lose their homes and must live in shelters, those who live in transitional housing, those who live in subsidized housing, and those who live on the street.

Recommendations:

- The Office of Community Planning and Development at the Department of Housing and Urban Development, and its corollaries in state housing departments, should prioritize grant funding for communities working to ensure safe and affirming spaces for LGBTQ people in homeless shelters, programs, and services; communities working on coordinated entry systems; and communities working to serve people returning after a period of incarceration.
- The Department of Justice (DOJ) and HUD should continue and expand their efforts to vigorously combat the criminalization of homelessness through grant criteria, litigation, dialogue with local officials, and disseminating information about the harms of and alternatives to criminalization.
- DOJ should issue guidance to state and local governments on the unconstitutionality and cost-effectiveness of anti-homeless ordinances.
- DOJ should intervene in litigation challenging anti-homeless ordinances.
- DOJ should incorporate investigation of civil rights abuses of people experiencing homelessness as a standard practice in federal pattern-and-practice investigations.
- DOJ should include provisions addressing discriminatory policing of people experiencing homelessness in federal consent decrees.
- U.S. attorneys should deprioritize the enforcement of laws that criminalize sex work and homelessness-related criminal laws.
- State and local governments should create crisis response teams that are not based in

law enforcement agencies and can direct people without stable housing to services and away from law enforcement and the criminal legal system; governments should also provide adequate funding for such services, including services that are LGBTQ-inclusive and competent.

- State and local law enforcement homeless outreach teams should be prohibited from arresting and displacing people experiencing homelessness and destroying their personal property. Such teams should also be restricted to providing referrals to service providers.
- Federal HUD funding should be leveraged to discourage state and local governments from criminalizing activities such as begging, sitting or lying on sidewalks, loitering, and so-called vagrancy laws. Incentives could include providing bonus points in applications for funding for communities that do not enact criminal policies but rather strive to find alternate solutions to housing instability, such as Utah's Housing First Program.
- DOJ's Civil Rights Division should actively support legal challenges to ordinances that unconstitutionally criminalize people experiencing homelessness.
- The federal government should review its grant programs, particularly DOJ community policing grants, to end funding for the criminalization of homelessness.
- Federal, state, and local governments should increase resources available for housing assistance and support for low-income individuals and families.
- State and local governments should expand "housing first" policies aimed at providing permanent housing. Housing first policies have been proven to be more cost effective, reduce the number of people experiencing homelessness, and increase the sense of autonomy amongst people who have experienced housing instability.[13]
- State and local governments should repeal ordinances criminalizing life-sustaining activities because they are unconstitutional and harmful to people experiencing homelessness.[14]
- State and local governments should repeal ordinances targeting community members who support those who are homeless by providing food, access to public spaces, and other necessities.
- State and local governments should eliminate revenue-generating incentives to criminalize homelessness, such as arrest quotas, fines, and fees.

7.2

Criminalization of Sex Work

In the United States many factors, from economic instability to discrimination in employment and housing to a lack of family support, can lead people to rely on informal and criminalized economies, including sex work, to meet their basic survival needs.

The Urban Institute conducted interviews in 2013 in New York City with LGBTQ youth to document the experiences of youth engaged in survival sex. The study found that almost all of those who engaged in survival sex did so in order to make ends meet. "Nearly all respondents (95 percent) had received money in exchange for a sexual service, while 31 percent had received shelter, 18 percent had received food, 15 percent had received drugs, and 11 percent had received clothing."[15] The report further explained:

> LGBTQ youth, [young MSM], and [young women who have sex with women] lack access to voluntary and low-threshold services, including short- and long-term housing, affordable housing and shelter options, livable-wage employment opportunities, food security, and gender-affirming health care. Many of the youth who are able to access these services experience institutional barriers. Among the few service providers and public benefits programs that exist, LGBTQ youth, [young MSM], and [young women who have sex with women] report high rates of service denial, as well as violence from breach of confidentiality and unsafe and discriminatory treatment by staff and other recipients of these services, on the basis of their sexual orientation, gender identity, gender expression, and age."[16]

The transgender community faces significant discrimination and barriers to accessing employment and is disproportionately affected by the criminalization and policing of the sex trade. The nationally representative 2015 U.S. Transgender Survey documented that twelve percent of respondents had, at some point, engaged in some form of sex work.[17]

Trans women across the country report frequent profiling and harassment under laws that prohibit loitering for the purposes of prostitution.[18] In some jurisdictions the possession or presence of condoms is used as a tool of profiling or to support a charge of prostitution, thereby deterring vulnerable populations from carrying and distributing condoms.[19] This profiling, harassment, and criminalization leads to higher rates of isolation, trauma from increased arrests, and the long-lasting consequences of an arrest record, including loss of access to public housing.

The below recommendations center on reducing harms caused by the criminalization of the economic instability of LGBTQ people engaged in sex trades.

Recommendations:

- State and local governments should repeal laws that criminalize sex workers and customers. Decriminalization of sex work can promote healthy sex and reduce transmissions of STIs.[20]
- Police should be prohibited from confiscating or citing the presence or possession of condoms as evidence of intent to engage in prostitution-related offenses.
- Harm reduction, sex worker rights, and LGBTQ community stakeholders should identify best practices and policy recommendations for ensuring that laws and enforcement practices regarding sexual exchange do not conflict with HIV/AIDS strategies and other public health strategies.
- Criminal justice agencies should engage with stakeholders in harm reduction, sex worker rights, and LGBTQ communities to develop strategies for ensuring that efforts to combat human trafficking prioritize harm reduction–based services and other needs identified by affected individuals themselves over "end demand" and law enforcement–based responses. Prosecutions related to commercial sex should be limited to cases involving force, fraud, or coercion.
- DOJ's Office of Victims Services should collect data from service providers to assess the effectiveness and impact of raids and sting operations, in terms of effectively identifying trafficking survivors; the impact on survivors and community members who are targeted; long-term outcomes for survivors identified through raids versus survivors identified through other mechanisms; and unintended consequences, including community impact and immigration consequences, for those not identified as trafficking victims, as well as the impact on service provision after a raid occurs.
- "Complaints by sex workers should be met with the same respect and regard that would be given to any other crime victims, and complaints should be addressed and investigated without penalty to these victims of violence. It is critical that police assure sex workers that they will not be investigated or arrested for illegal behavior if they come forward to report violence."[21]
- "Special attention must be given to police officers who commit violence or other crimes against sex workers. These acts include sexual assault or abuse, sexual harassment, theft, and offering not to make an arrest in exchange for sex. Police leadership must make it known that they take such exploitation seriously. Police and the courts must aggressively investigate and punish police officers who harass or commit violence of any kind against sex workers."[22]
- "Local police and government agencies must keep arrest and violence statistics relating to sex workers and make these available, so policymakers and advocates can examine criminal justice trends."[23]

7.3

Criminalization of Immigration

Poverty interacts with immigration detention in many ways for LGBTQ people. According to the Economic Policy Institute, overall, twenty percent of immigrants live below the poverty line.[24]

LGBTQ people seeking asylum are increasingly at risk of being detained. Human Rights First documented that in 2014, U.S. Immigration and Customs Enforcement (ICE) held 44,270 asylum seekers in immigration detention facilities, nearly a three-fold increase from 2010, when the agency detained 15,769 asylum seekers.[25] Parole was granted in 2015 in only forty-seven percent of cases of people who were determined to have a credible fear of persecution and were not regarded as high flight risks (compared to eighty percent being granted parole in 2012).[26]

Like other immigrant detainees, LGBTQ people without access to counsel are detained at a higher rate. As a recent report by the National Hispanic Leadership Association reports, almost eighty-five percent of detained immigrants do not have representation by an attorney.[27] Immigration law professors studying access to counsel have found that this is the "single biggest factor in the outcome of an asylum case."[28]

Bonds that allow detainees to be released while their case proceeds to adjudication can—and often are— set at very high levels. A 2015 study of bonds set in California found that rates ranged from $10,000 to $80,000, with the presence of a lawyer being the determining factor in how high a bond was set.[29] As is the case in non-immigrant settings, people who do not have money to pay for bonds are often detained, even though this greatly harms their lives. In addition, bail bond companies charge very high interest rates to finance the payment of bonds for those who cannot pay, and these charges can end up being higher than the original cost of the bond. Advocates report that bonds for LGBTQ people are often set at very high levels.

LGBTQ people within the immigration detention system are at heightened risk for discrimination and abuse, including sexual assault.[30] LGBTQ detainees are more than fifteen times more likely to experience sexual assault in detention facilities from fellow detainees and guards.[31] The Human Rights First report documents a number of stories of LGBTQ individuals seeking asylum and enduring violent detention due to an inability to pay bond for release.[32]

Pilár (pseudonym) is a Garifuna trans woman from Honduras who faced persecution because of her sexual orientation and gender identity. She endured months of repeated sexual abuse by a group of men who referred to her as their "sex slave." After her complaints to the police were ignored, she fled for the United States and sought protection at the U.S. southern border in March 2014. Border Patrol agents apprehended Pilár and placed her in removal proceedings. In an ICE custody determination in April 2014, ICE did not set bond. Pilár received limited legal assistance from a leading LGBTQ immigrant rights organization in her custody redetermination hearing before a judge. The judge set the bond at $12,000—an amount that Pilár and her family were unable to pay. As a result, Pilár had to endure the length of her asylum proceedings in detention. In September 2014, Pilár was granted asylum by the immigration judge and was finally released from detention, after spending six months detained due to her lack of financial resources.[33]

Trans women are almost always housed with male prisoners and are especially vulnerable to violence. A Fusion investigation of trans women in immigrant detention found that one in five hundred detainees is transgender but that one in five confirmed assault cases in ICE detention involved trans individuals.[34] United We Dream notes that LGBTQ detainees are often housed for long periods in solitary confinement out of a purported concern for their safety, and that they are fifteen times more likely to be sexually assaulted than their non-LGBTQ counterparts.[35] LGBTQ people and people living with HIV/AIDS are often "outed" in detention facilities, which can leave them more vulnerable to discrimination, harassment, and assault.[36]

To address these unsafe situations, a number of queer activists have begun to raise funds for LGBTQ people facing high bonds. The Lorena Borjas Community Fund started in 2012 by trans Latina activist Lorena Borjas has raised more than $20,000.[37] Meanwhile, the Queer Detainee Immigrant Project has started to fundraise directly for LGBTQ immigrants facing high bonds and is discussing plans to launch a bond fund.[38]

In September 2015, thirty-five members of Congress sent a letter to the Director of Homeland Security urging ICE to end the detention of LGBTQ individuals. They followed up that letter in March 2016, urging DHS and ICE to do more to protect LGBTQ immigrants in detention in general, and repeated the call to end the detention of transgender detainees in particular, and to increase the use of community-based alternatives to detention.[39]

Under the presidential administration that took office in January 2017, immigration enforcement has rapidly increased in intensity, as has discrimination against immigrants, including LGBTQ immigrants. Community organizing has also increased in response to the changing environment. Organizations fighting mass incarceration and immigration advocates identified the criminalization of poverty as one of the main sources for funneling documented and undocumented immigrants into the criminal legal system. "Community defense zones" have been created with the intent of keeping ICE out of courtrooms and public housing.[40] Police gang raids that were already facing opposition from the low-income communities of color being targeted started to receive even more community outrage.[41]

Recommendations:

- DOJ's Office of Community Oriented Policing Service (COPS) should uncouple immigration enforcement from local law enforcement, terminate the use of the state and local criminal legal system (including through detention, notification, and transfer requests) to enforce civil immigration laws, and remove immigration information from FBI databases.
- ICE should stop detaining LGBTQ individuals and use alternatives to detention in all cases, especially community supervision rather than GPS monitoring or other dehumanizing and costly tools.
- ICE should end the detention of LGBTQ and other immigrant detainees for inability to post bond.
- ICE should expand the use of community-based programs to secure appearance at immigration court hearings.
- ICE should revise its risk assessment tool for guiding release decisions with a presumption for parole or release on recognizance.
- DHS should require language-accessible Legal Orientation Programs in all immigration facilities.
- DHS and DOJ should require and provide access to counsel for all immigrants facing removal proceedings.
- Congress should restore discretion to immigration judges so they can consider a wider range of factors that may warrant a person not being removed.
- DHS and ICE should enforce Prison Rape Elimination Act (PREA) standards in immigration detention facilities.
- States should regulate private bond fund providers to protect immigrant detainees from abuse.
- National and state legislatures should stop federal and state governments from using for-profit companies to run immigration detention facilities and alternatives to detention.
- State and local government resources and policies should support true sanctuary cities and provide resources to organizations creating community defense zones.
- Federal and state governments should end contracts with any facility that creates unsafe conditions for detainees.

7.4

Policing of LGBTQ People

The connection between policing, poverty, and LGBTQ people is complex and yet its dynamics are clear. Low-income people, including LGBTQ people, experience unique forms of targeting by police.[42] A 2012 report by the National Alliance to End Homelessness found that approximately twenty to forty percent of LGBTQ homeless youth navigated systems of poverty, often experiencing pervasive amounts of police contact, arrests, and jail time. A 2014 study by Breakout found that eighty-seven percent of LGBTQ youth of color faced contact with the police, as opposed to thirty-three percent of LGBTQ white youth.[43] Fifty-eight percent of respondents to the 2015 U.S. Transgender Survey who had interacted in the past year with law enforcement officers who thought or knew they were trans reported being harassed or mistreated during such interactions.[44]

LGBTQ people often encounter discrimination, abuse, and brutality at the hands of law enforcement. A report by Lambda Legal in 2016 noted: "One out of every five respondents (21%) with police contact in the past five years reported that police had a hostile attitude toward them."[45] The report also found that "respondents were also subjected to sexual harassment (3%) and physical assault (2%)—including being hit or attacked with a weapon."[46] LGBTQ people who came forward after victimization were too often treated unfairly.[47]

Among other forms of profiling and police violence, LGBTQ people experience unlawful, unnecessary, and humiliating searches to assign gender, homophobic and transphobic discrimination and abuse, and unsafe placement in the custody of local law enforcement, including in police lockups.[48] Police routinely confiscate condoms and cite them as evidence of intent to engage in prostitution-related offenses.[49] Data from low-income LGBTQ individuals who reported violence to police in 2014 reveal that such survivors "were 1.8 times more likely to experience discrimination, 1.3 times more likely to experience threats and intimidation and 2.1 times more likely to experience hate violence incidents in the workplace when compared to other survivors."[50]

Finally, although there are no official data, available research indicates that sexual harassment and assault of members of the public by police officers occurs with alarming frequency. Yet the vast majority of police departments have no policies or training in place explicitly addressing this issue.[51] Studies have found that young women of color, low-income women, lesbian and trans women, and otherwise marginalized cisgender and transgender men and women are particularly vulnerable to sexual misconduct by law enforcement officers.[52]

Tying revenue-generating strategies to policing skews the priorities and practice of policing and negatively impacts vulnerable populations.

Recommendations:

- State and local governments should eliminate revenue-generating incentives to criminalize poverty, such as arrest quotas, fines, and fees.
- Federal guidance should be issued to support decriminalizing survival activities of low-income communities. With decriminalization, money for policing should be diverted to social services.
- State and local police departments should mandate LGBTQ-specific and general de-escalation training for the police. Training must be coupled with a cultural change in policing.
- Police departments should develop better accountability and punishment structures that do not just target individual officers.
- Civilians should be involved in defining what safety and justice looks like in their community and how the police should or should not play a role in certain situations.
- Local police departments should implement the recommendations of the President's Task Force on 21st Century Policing that are of particular concern to LGBTQ people, including:
  - Issue model policies on police sexual misconduct, interactions with LGBTQ people, and prohibition against using the possession or presence of condoms as evidence of intent to engage in prostitution-related offenses.
  - Uncouple immigration enforcement from local law enforcement agencies, terminate the use of the state and local criminal legal system—including through detention, notification, and transfer requests—to enforce civil immigration laws, and remove immigration information from FBI databases.
  - Issue guidance on memoranda of understanding with school resource officers.[53]
- DOJ/COPS should issue guidance to local law enforcement agencies on stop, search, and seizure procedures, including consent searches and officer identification.
- Federal grant-making to law enforcement agencies through COPS should be conditioned on adoption and enforcement of anti-profiling and nondiscrimination provisions inclusive of sexual orientation and gender identity, and upon strategies for enforcing these grant conditions.
- DOJ should continue to pursue proactive pattern-and-practice investigations and consent decrees that are comprehensive and

address officer sexual misconduct as well as mistreatment of LGBTQ people in the sex trades.

- Federal and state governments should expand PREA mandates/audits to police lockups and expand regulations beyond brick-and-mortar facilities to other places of detention, such as police cars.
- DOJ should follow the recommendation of the President's Task Force on 21st Century Policing to facilitate memoranda of understanding between school administrators and law enforcement agencies to address concerns of LGBTQ students by specifically ensuring, as follows:
  - Selection, employment, training, and oversight of school-based security personnel should be LGBTQ-inclusive (e.g., ensuring that police in schools are trained to address disproportionate adverse treatment of gender nonconforming girls), and competency should be assessed and required.
  - Cross-training should be mandated for school and security staff regarding the needs of LGBTQ youth; preventing and addressing bullying related to actual or perceived sexual orientation or gender identity; cultural competency and implicit bias; and de-escalation, conflict resolution, and restorative practices.
  - Citations, court referrals, and arrests should not be imposed for most behavioral infractions, including violations of dress codes (which should not impose gender disparities).
  - Police should not search students to assign, assess, or purportedly confirm gender.
  - Students' sexual orientation and gender identity should not be unnecessarily disclosed to parents/guardians, who are notified when students are ticketed.

7.5

Court-Imposed Fines, Fees, Surcharges, Interest, and Other Costs

People convicted of crimes increasingly face financial penalties in addition to whatever sentence is imposed. Penalties imposed by courts upon criminal conviction can include fines (imposed after a guilty plea or verdict), fees (efforts by states to recover costs for the "use" of the criminal legal system), surcharges (flat fees or a percentage imposed to cover the cost of a particular government program or function), interest (charged for late payment on payment plans and for those unable to pay all at once), and restitution (aimed at providing compensation to actual victims, often paid to government agencies that manage victims funds). They can also take the form of late fees (which can be a percentage or a fixed amount on a late payment); fees on making installment payments; and costs of collecting debt, jailing for contempt of court, arrest warrants, and probation (with fees) until the debt is paid in full. LGBTQ service providers consulted by the authors of this report in several cities mentioned the difficulty for low-income people to come up with money for the fines and fees that are imposed on them.[54]

Additionally, fees and penalties often continue to accrue during incarceration. For example, a survey of nearly 1,200 LGBTQ prisoners conducted by the organization Black and Pink found that a majority of those surveyed (eighty-three percent) reported having to pay a fee to see a doctor (twenty-six percent of the respondents reported an annual fee of $100; the remainder faced fees between $2 and $10 per visit). At every level of the fee scale, significant numbers of LGBTQ prisoners reported they could not access medical care because of the fee.[55] Depending on the fee scale, twenty-nine to fifty-five percent of the respondents said these fees prevented them from getting the medical care they needed.

According to one estimate, the total amount of criminal justice debt owed by individuals in the United States in 2011 totaled over $50 billion.[56] These penalties create tremendous burdens on individuals and families:

- Fees, fines, surcharges, and restitution can trap individuals in a spiral of escalating consequences simply because they are not able to pay the original fine.
- Such burdens fall disproportionately on communities of color and other criminalized communities.[57] As the Department of Justice and many researchers investigating policing

and court practices in places like Ferguson, Missouri, have found, in many communities of color and low-income communities, criminal fines are used to pay the cost of operating town governments. "Indeed, data from the United States Census suggests that there may be a correlation between the cities that are most dependent on fines and fees for revenue and high African-American populations."[58]

- Criminal legal debt burdens families in significant ways (see section below). Additionally, failure to pay criminal justice debt can result in being barred from receiving urgently needed public benefits (like TANF, SNAP, housing assistance, and social security and disability benefits).
- Fees, fines, and restitution are not limited to criminal cases—they are often imposed in civil cases and family court cases. For instance, inability to pay child support is widespread and leads to punitive measures enacted to collect that debt, which in turn often harm the individual's efforts to get back on their feet (through more fines, the loss of a driver's license, or re-incarceration).
- "Jails and prisons in forty-one states charge incarcerated people for room and board through pay-to-stay programs. For example, Riverside County, California requires incarcerated people to pay $142 per day for their incarceration. Now that the data in this report can confirm that the majority of people that fill our local jails are poor, states and local governments should resist the temptation to create new forms of criminal justice fees, such as increasingly common pay-to-stay programs. Otherwise, states and local governments risk spending more on the administrative costs of collection than the little money they are able to chase down. In 2013, Riverside County had collected less than 1% of what it hoped to generate through its pay-to-stay program."[60]

Ferguson, Missouri, garnered national attention after police killed eighteen-year-old Michael Brown. In the wake of this tragedy, an investigation by local public defenders revealed how pervasive and exploitative criminal debt collection was. In one year Ferguson collects $2.6 million in court fees and fines, representing the city's second-largest source of income. In 2013, the municipal court in Ferguson issued 33,000 arrest warrants for minor offenses. Many residents were jailed because they could not afford the hundreds of dollars in court fines for offenses such as traffic violations. The imposition of criminal justice debt is not unique to Ferguson.[59]

Recommendations:

- DOJ should direct states to undergo bail reform by issuing guidance to ensure that people are not incarcerated solely because they cannot afford bail, and should eliminate cash bail without imposing other onerous conditions.
- Court operations should be fully funded by public funds, not by defendants.
- Stop tacking surcharges on top of sentences—these do not serve any purpose other than keeping low-income people in debt and in jail.
- If fees are imposed, there should be a cap on the amount that local cities, towns, and counties can get from court-imposed fees, fines, and charges.[61]
- No policing for profit: End fees that go to support law enforcement agency budgets.[62]
- States should not assess harsh penalties on people who cannot pay. People receiving public benefits should not be assessed any financial penalties.
- Additional fines for failure to pay because of financial hardship should be stopped.
- Debt collection agencies should be monitored by local attorneys general and be required to operate with fairness. States should disallow private debt collection companies to add high additional fees to the ones that they are trying to collect from low-income people.
- Eliminate all pay-to-stay programs.
- Reduce the high costs of phone calls from prisons and jails and stop replacing in-person jail visits with expensive video visitation. New York and Mississippi have reduced phone and video visit rates.

7.6

Cash Bail and Probation

Cash Bail

An estimated seventy percent of people detained in local jails have not yet been convicted and are there simply because they lack the money to make bail.[63] Researchers estimate that reducing pretrial detention through bail law reform would save an estimated $190 million.[64] The Prison Policy Initiative found that people in jail are "drastically poorer than their non-incarcerated counterparts." And those unable to meet bail fall within the poorest third of the U.S. population.[65]

Cash bail can have devastating consequences for individuals detained before trial simply because they cannot afford a cash bond. This is a pervasive problem for LGBTQ people who are arrested and cannot post bail. In a recent article on the specific impact of cash bail on LGBTQ individuals, ACLU attorney Chase Strangio noted how the assessment done by pretrial services agencies on a detained individual's risk for not appearing at trial (a key factor in the setting of bail) interacts with anti-LGBTQ stigma, discrimination, and lack of rights:

> All of these conditions—family rejection, employment discrimination, school harassment—lead to disproportionately high rates of homelessness, HIV transmission and contact with law enforcement for LGBT people, particularly transgender people of color. Then the very same conditions increase the likelihood that bail will be set once a person is arrested because they cannot establish the type of ties to the community that the system deems necessary.[66]

Black and Pink's survey of LGBTQ prisoners showed that seventy-four percent of those surveyed were being held in jail before trial because of their inability to post bail; fifty-one percent were held for more than a year prior to their trial taking place.[67] Strangio argues:

> Once in prison, our community members face horrific rates of abuse. From sexual assault to deliberate withholding of needed medical care to the brutality of long-term isolation, these abuses have too-long lurked in the shadows of our advocacy efforts. Eliminating or paying bail increases the chances that a person's case will be dismissed or will result in a non-criminal disposition, increases the time the person spends out of jail with the health care and community connections that they need, and decreases the chances they will plead guilty to a charge with collateral consequences.[68]

Private Probation

In many jurisdictions in the United States, probation supervision is outsourced to private companies. Over one thousand courts around the country currently contract with for-profit corporations to "supervise" people on probation and parole. Often, people are subjected to these private probation and parole corporations simply because they don't have enough money to pay court fees, and are charged with criminal contempt or sentenced to additional conditions as a result. In this "offender-funded" system, corporations profit by charging people on probation and parole high fees—a mix of court fees, service provider fees, and supervisions fees, which is just a debt-collecting fee. These corporations threaten people with incarceration and harass their family members for money. In effect, unpaid traffic tickets originally amounting to a few hundred dollars can become a burden of thousands of dollars for the profit of these corporations. Courts and local and state governments are sanctioning and encouraging a system that punishes people living in poverty for being low-income.

Advocates and researchers have uncovered widespread abuse by private probation companies, often growing out of incentives that link a company's revenue to fees imposed on probationers. "For example, in Mississippi, a woman was charged a $377 fine for driving without a valid license, but her probation supervision fees, including a fee for electronic monitoring, totaled almost $300 per month. When she fell behind on payments, the probation officer threatened to have her arrested—potentially resulting in the loss of child custody—even though she had already paid the fine to the court and her only outstanding debt was owed to the probation company."[69]

Recommendations:[70]

- Eliminate the use of money bail. No one should be detained for being too poor to pay a bail bond. If bail must be set, states and municipal judges should expand the use of unsecured bonds, through which defendants are not required to pay any money in order to be released pretrial, but will be liable to pay an agreed-upon amount of money if they do not appear for court.
- Ban for-profit money bail systems, as Kentucky and the District of Columbia have done.
- Stop locking people up for failure to pay fines and fees (so-called criminal justice debt).
- Reduce the number of arrests that lead to jail bookings through increased use of citations and diversion programs. States such as Kentucky and Maryland have expanded the use of citations. Washington, DC, and Seattle have increased the use of citations and diversion programs to reduce arrest and jail rates.
- Increase funding for indigent criminal defense, to enable low-income defendants to obtain counsel. Lack of counsel affects individuals' length of stay in pretrial detention, which in turn affects their ability to work and their economic viability.
- Abolish cash bail.
- Abolish supervision fees.
- De-couple payments received by contractors from the length of time individuals serve on probation.[71]
- Probation should not be imposed due to an inability to pay a fine or debt that a court has ordered.
- "Eliminate financial conditions for pretrial release and develop local pretrial service systems to support and assist defendants' appearance for court dates. Nearly three quarters of survey respondents were held in jail prior to their conviction. However, multiple states across the country have instituted new pretrial services that do not require defendants to pay bail or bond in order to regain their freedom. These programs have proven effective at ensuring defendants' appearance in court without mandating incarceration beforehand."[72]

7.7

Alternatives to Detention for People with Disabilities

The U.S. Census Bureau reported in 2010 that nineteen percent of the population (56.7 million people) had a disability.[73] Disability can be apparent (requiring use of a wheelchair or other devices, for example) or non-apparent (cognitive disabilities, mental health conditions, or congestive heart failure, for example). A 2012 study published in *American Journal of Public Health* on disability among lesbian, gay, and bisexual adults found that the prevalence of disability within this population is higher than in their heterosexual counterparts.[74] An estimated twenty-nine percent of people with disabilities live below the poverty line.[75]

As social safety net programs have been cut, the criminal legal system has grown. For instance, the Vera Institute for Justice reports that there were over two million bookings of people with mental health conditions in U.S. jails in 2007.[76] The Center for American Progress reports: "Between 7 percent and 10 percent of all police interactions involve individuals with mental health conditions—and in larger police departments, officers report an average of six encounters per month with people in psychiatric distress."[77] Police officers are more often than not asked to fulfill functions that ought to be provided by social workers. Rather than being recruited or trained for these duties, they are trained as adversaries to community members, and as military commandos.

Similarly, detention facilities (police lockups, jails, juvenile justice centers, immigration detention centers, and state and federal prisons) house people suffering from mental health conditions and physical disabilities. Incarcerated individuals are more than three times more likely to report having a disability than non-incarcerated people.[78] Data from the Bureau of Justice Statistics in 2004 estimated that significant numbers of prisoners in federal, state, and local jail facilities had mental health challenges: forty-five percent of those in federal

facilities, fifty-six percent of those in state facilities, and sixty-four percent of those in local jails.[79]

A recent white paper by the Ruderman Family Foundation demonstrated "the disproportionate impact that the School-to-Prison-Pipeline and the Foster-Care-To-Prison-Pipeline have on children and youth with non-apparent disabilities" and found that people from traditionally marginalized groups (people of color, LGB people, women, and low-income people) had both higher rates of disability and higher rates of incarceration.[80]

Recommendations:

- Develop pre-arrest alternatives to incarceration, as well as community-based diversion programs.
- Divert people with disabilities to community-based services.
- Ensure accessibility, neededaccommodations, and appropriate treatment within courts and the larger criminal legal system, including all detention facilities.
- Crisis intervention teams, not law enforcement, should be available for community members seeking help for neighbors and family members experiencing mental health issues.
- Increase provision of mental health services in all local, state, and federal detention facilities.
- Train school personnel to better recognize and support people with non-apparent disabilities.
- Develop and promote tools to address cognitive and behavioral challenges for youth with non-apparent disabilities without relying on criminalization.
- Provide federal funding to implement public hygiene centers, public bathrooms, and syringe access and overdose prevention programs that significantly improve health outcomes for low-income people and individuals experiencing homelessness.
- Decriminalize drug possession, sale, and use.
- "Create addiction treatment-on-demand programs and mental health treatment programs in non-carceral settings. Rather than criminalize addiction and mental illness, or create more prison beds in the name of "drug treatment," well-funded community-based addiction treatment programs and outpatient mental health care facilities would create authentic opportunities for healing and healthcare that can keep individuals and communities safer."[81]

7.8

Reentry

Low-income LGBTQ people and people living with HIV/AIDS have distinct needs throughout the reentry process, including connection to health care, obtaining accurate identity documents, an understanding of state laws (or lack thereof) prohibiting discrimination based on sexual orientation and gender identity, and more.[82] Reentry programming and preparation in prisons and jails varies widely by facility, but in almost all instances lacks information about issues specific to LGBTQ communities.

The Bureau of Prisons provides education, training, resources, and life skills to people who are currently incarcerated to prepare them to return to their communities and to reduce the incidence of recidivism. The Bureau also has oversight, through contract evaluation measures, over residential reentry centers located in communities nationwide. However, placements in community corrections facilities are rarely made with concerns about sexual orientation or gender identity or related services in mind. Similarly, community corrections facilities generally lack specific programming for LGBTQ people or the cultural competency to integrate LGBTQ concerns into their existing service models.

As an example, transgender people often lack updated identity documents. Efforts to secure employment can frequently be stymied by lack of consistent identification. Similarly, in states where sexual orientation and gender identity are not specifically protected classes for the purposes of employment discrimination or housing, LGBTQ people may need particular assistance in finding a job placement or a place to live. These concerns arise in the context of community corrections facilities but are also common in the

context of community supervision. Community supervision officers may not be aware of the services LGBTQ supervisees need, and may not know what service providers (especially for services such as physical and mental health care) have LGBTQ cultural competency.[83]

Finally, LGBTQ social service organizations need additional resources, training, and expertise to better access reentry resources that exist, deliver these resources within LGBTQ communities, and create unique programs that can serve the needs of low-income LGBTQ people.

Recommendations:

- Expand educational opportunities for prisoners, including those in solitary confinement and protective custody.
- Increase post-release programming for formerly incarcerated LGBTQ people.
- Eliminate sex offender registries and other post-conviction penalties that create barriers to reentry.
- Require that all UNICOR employment training programs integrate the specific needs of LGBTQ people, particularly trans and gender nonconforming people, especially as relates to uniforms and job readiness.
- The National Institute of Corrections should provide guidance and technical assistance to state and local corrections agencies on discrimination in community corrections services and in all reentry programming.
- As part of its effort to improve access to identity documents for people returning to their communities, DOJ should issue explicit guidance to facilities on how to assist trans people in updating their identity documents.
- DOJ should institute a pilot project to create LGBTQ- and HIV-specific reentry services in communities with a high need for directed services.
- The National Institute of Corrections and the PREA Resource Center should collaborate to ensure that PREA is being effectively implemented in community corrections facilities and that all other relevant statutory and regulatory provisions are being followed, by issuing LGBTQ-inclusive compliance guidance to all community corrections facilities and ensuring that all contracts with these facilities include comprehensive nondiscrimination provisions.
- The president should, by executive order, create an Office for National Reentry Policy, and a corollary National Advisory Committee on Reentry under the Federal Advisory Committee Act.
- The Bureau of Prisons should work with LGBTQ advocates to build and update its community resource database and other national reentry resource tools. As a part of that process, the Bureau and advocates should determine how best to establish and indicate whether a resource is safe and affirming to LGBTQ people, and how to identify resources that are tailored to meet the needs of LGBTQ people.
- The Department of Labor should provide grants through the Reentry Employment Opportunities program for projects that provide services for formerly incarcerated LGBTQ individuals.
- LGBTQ advocacy organizations should secure funding for training in reentry funding and services for providers serving LGBTQ communities in order to increase the available number of programs serving low-income LGBTQ people.

7.9

Collateral Consequences of Conviction

Criminal conviction brings additional legal, financial, and regulatory penalties that affect people who are trying to rebuild their lives after serving their sentences. The American Bar Association has documented more than forty-eight thousand sanctions that are placed on those who are convicted (beyond their sentence itself).[84] These sanctions can include bans on being able to vote, revocation of a driver's license, prohibitions on employment in particular fields, bans on receiving welfare or other social safety net benefits, housing bans, and requirements that the person register as a sex offender and comply with additional rules.[85]

These additional penalties are especially harmful to the families of LGBTQ people, to LGBTQ people of color, to LGBTQ people working in survival

economies, and to those convicted under sex offender laws.

Families and LGBTQ People of Color

Any penalty that limits the rights of parents to gain custody of their children or to receive public benefits and welfare to support their families is harmful to LGBTQ people.[86] Overall seventeen percent of LGBTQ people are raising their own children.[87] Significant numbers of LGBTQ people who are incarcerated have children. Black and Pink's survey of LGBTQ prisoners found that forty-four percent of those surveyed had children.[88] In addition, data from the Williams Institute and the Movement Advancement Project show that LGBTQ people of color are disproportionately living in poverty.[89] Thus, any additional penalties after conviction harm LGBTQ families.

A 2014 national collaborative research project surveyed and interviewed 712 formerly incarcerated individuals and 368 family members of formerly incarcerated individuals, including a significant number of LGBTQ participants.[90] The report, released in November 2015, documented several critical impacts of being incarcerated that are faced by formerly incarcerated people—including LGBTQ people—and their families:

- Families are saddled with significant debt as a result of fees and costs associated with a conviction. For families living on an income of $15,000 a year or less, these costs are unsupportable.
- Up to sixty percent of formerly incarcerated individuals remain unemployed a year after their release, and a significant number (sixty-seven percent) remain unemployed even five years after their release. Difficulty in securing employment follows those who have been incarcerated many years after their release.
- Losing the income of a family member who is incarcerated severely harms families. Sixty-five percent of families reported having difficulty making ends meet.[91]

LGBTQ People Engaged in Survival Economies

LGBTQ people engaged in survival economies are especially vulnerable to the impact of "collateral consequences" of conviction. The American Bar Association database lists over 1,840 instances in which penalties are imposed in cases involving "prostitution." These include a wide range of restrictions on what kind of job a person can hold, where they may live, whether they can be a guardian or have custody of their own children, and whether they can get various kinds of licenses for work. These additional penalties make it hard for individuals to get jobs, find homes, get custody of their kids, and get ahead.

The criminalization of people charged with sex-related offenses and the collateral impact of sex offender registries have particularly affected LGBTQ communities.[92] Historically, law enforcement has targeted LGBTQ people with sex-related charges. Law enforcement continues to profile transgender women—particularly trans women of color—for prostitution, and also raid cruising grounds where men seek sex from other men. In Mississippi, officials currently require individuals convicted under anti-sodomy laws to register as a sex offenders despite the U.S. Supreme Court's ruling in 2003 that such laws are unconstitutional.[93]

Research indicates that LGBTQ youth are at a higher risk of being placed on sex offender registries than their non-LGBTQ peers. One study found that study participants were more supportive of sex offender registration for gay youth for engaging in consensual sex with peers than for straight youth.[94] The report *Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts* documents how LGBTQ youth are disproportionately charged and adjudicated for sex offenses, forced to undergo sex offender treatment, and required to submit to sex offender risk assessment even in cases not involving sex offenses.[95] LGBTQ youth offenders also report being forced to undergo conversion therapy in baseless and damaging efforts to change their sexual orientation or gender identity.

People of color are disproportionately affect-ed by sex offender registration.[96]

Recommendations:

- End all bans on access to SNAP, welfare, and other social safety net benefits for people convicted of any crime. Provide guidance to states to encourage states to stop taking driver's licenses away from people who are behind on child support.
- Make it optional, rather than mandatory, for applicants for aid to identify co-parents who can be pursued for child support.
- Fund preventative and educational programs about HIV/AIDS at shelters, soup kitchens, and other locations that are easily accessible to people experiencing homelessness.
- Unreported crimes when people experience violence, out of fear of police pushback, particularly for people who are already criminalized or have engaged in informal economy work.
- Decriminalize prostitution and voluntary sex work.
- End the ban on voting for all individuals with criminal convictions.
- Increase state-by-state activism to eliminate laws that inhibit the ability of individuals to rebuild their lives after incarceration.
- Reform sex offender registry laws to address collateral consequences for people listed on them, including addressing bans on employment, housing, and other areas that prevent formerly incarcerated individuals from building their lives.

NOTES

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CHAPTER 8

Financial Inclusion and Exclusion

by Carla Sutherland Senior Advisor at the Vaid Group

One of the most common ways to build wealth is to borrow money needed to purchase an asset—such as a house—and pay it off over time. Assisting in this kind of 'wealth building' is a key role played by financial services. For most participants in this was an option far out of their reach. Rather, they raised concerns about how the lack of financial services exacerbated the challenges they faced in struggling to simply survive on too few resources. Participants discussed the difficulty of getting a bank account without a permanent address, the prohibitive costs that many banks charge to keep an account —particularly accounts that do not keep a predetermined balance; punitive and exorbitant overdraft fees; charges for withdrawing funds from ATMs; and the absence of banks in low-income neighborhoods.

8.1

Financial Services

The absence of basic financial services is expensive. Costs can escalate dramatically if alternative financial services need to be used. People without bank accounts are heavily penalized for undertaking transactions outside of the banking system. For example, using a non-bank ATM card issued by employers in lieu of a paycheck may cost $5 per use. Many unbanked employees choose this option despite the fees, as otherwise they face charges of at least two to five percent of the value for getting a check cashed.[1]

Employees who need an immediate influx of cash and can't afford to wait for their paychecks face interest rates on short-term loans of three to six hundred percent. These "payday loans" were raised as a particular issue of concern in a number of the convenings. These small, short-term, unsecured loans are often advances on the borrower's paycheck, at incredibly high interest rates and with expensive penalties for customers who do not meet the payback plan. In at least two of the convenings, groups discussing these issues called for payday loans to be outlawed. Consumer advocates report that borrowers typically take out nine of these loans a year and end up indebted for more than half of each year.[2] The problem is so widespread in some areas that there are hotlines dedicated to helping people experiencing difficulties with payday loans.[3]

With just under nine million households in the United States that do not hold any bank accounts, and a further 24.5 million households that have a checking or savings account but also obtain financial products and services outside of the formal banking system,[4] this is a widespread challenge for poor households, particularly low-income or poor African American households, which are disproportionately reliant on financial services outside of the banking system. There is growing attention being paid to finding ways to get more people into the formal banking system. However, there is also growing evidence that banks are "often costlier for the poor than check cashers and other alternative services."[5] For instance, a form of short-term, high-interest loan that is commonplace in the formal banking sector is the use of overdrafts. If an overdraft was viewed essentially as a short-term loan, and if it had a repayment period of seven days, the APR for a typical incident would be over five thousand percent.[6] In 2011, U.S. residents paid $38 billion in overdraft fees.

8.2

Financial Inclusion

Increasingly, economic justice advocates are calling for "financial inclusion," which extends far beyond doing away with payday loans or increasing access to banking.[7] It is a call for "sustained access to useful and affordable financial products and services that meet individuals' and businesses' needs." These include

THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

Established in the wake of the economic crisis of the late 2000s, this act was intended to:

> **"promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail," to protect the American taxpayer by ending bailouts, [and] to protect consumers from abusive financial services."**

transactions, payments, savings, credit, and insurance. The World Bank reports that countries that have achieved the most progress toward financial inclusion have put in place:

> An enabling regulatory and policy environment, and have encouraged competition allowing banks and non-banks to innovate and expand access to financial services. However, creating this innovative and competitive space has to be accompanied by appropriate consumer protection measures and regulations to ensure responsible provision of financial services.[8]

As the financial crisis of the late 2000s showed, this latter point is particularly important. A critical component of the Dodd-Frank Act was the establishment of the Consumer Financial Protection Bureau (CFPB). Over the past five years the CFPB has taken legal action against banks, mortgage companies, credit card issuers, payday lenders, and debt collectors and others, and it has recovered $11.7 billion that it returned to more than twenty-seven million harmed consumers. Since their inception, the Dodd-Frank Act, and in particular the CFPB, have been opposed by Republican lawmakers arguing that both have imposed costly regulations and limited the choice of consumers in the financial service markets. Early in his presidency, President Donald Trump specifically said he will "do a big number on Dodd-Frank." Members on the Republican-controlled House and Senate banking committees have readied bills that would weaken many of the law's protections, leading to real concerns that all of the gains made may be swept aside to usher in a return to a pre-recession era when large banks and other financial institutions operated without significant regulatory oversight.[9]

It is important to oppose efforts to dismantle and weaken the Dodd-Frank Act, particularly any strategies aimed at limiting the effectiveness of the CFPB. It is likely that early in this administration Republicans will reintroduce the (misnamed) Creating Hope and Opportunity for Investors, Consumers and Entrepreneurs (CHOICE) Act, which would gut many of the key components of the Dodd-Frank Act—particularly the CFPB. The proposed changes to the CFPB include repealing the Bureau's authority to ban products and services that regulators deem abusive, such as payday-lending rules. In addition, Republicans are targeting the structure of the CFPB and pressing to replace the Bureau's individual director, appointed by the president and confirmed by the Senate, with a five-member commission. The panel would be subject to congressional oversight and appropriations. Critics of these proposed changes argue that they will deliberately weaken the Bureau by subjecting it to greater industry influence and partisan politics, and hence make it less effective and nimble at responding to abuses.

It is important for LGBTQ communities to be actively engaged with and supporting economic justice campaigns concerned with the Dodd-Frank Act and the CFPB.

Note: As anticipated the House passed the CHOICE Act, a deregulation package, in 2017. With support from a small number of Democrats, the Senate is expected to pass a watered down version of CHOICE (dubbed the Economic Growth, Regulatory Relief, and Consumer Protection Act) in the first quarter of 2018. For ongoing anylsis and discussion see Americans for Financial Reform (www. ourfinancialsecurity.org)

Recommendation:

- Congress should oppose any regulations or legislation designed to weaken the intent of the Dodd-Frank Act or the effectiveness of the CFPB.

8.3

Community-Owned Businesses

Alongside reforming existing financial institutions, in many of the convenings and focus groups discussion focused on creating the necessary conditions for fairer and more inclusive financial institutions that could actively contribute to building a more equitable and sustainable economy. In particular, a number of participants pointed to the need for co-ops and other employee- or community-owned and -run businesses.

The central tenets of these kinds of institutions are that they (1) allow for a more equitable distribution of wealth by sharing any profits to everyone who has contributed to their production and (2) incorporate employee-owners into

decision-making and management processes. Both of these fundamental characteristics of co-ops make them valuable vehicles for correcting outrageous and unsustainable income and wealth imbalances and for building greater economic inclusivity, stability, and sustainability. A necessary first step in harnessing the potential of this uniquely beneficial type of business is to help grow the sector to scale.[10]

Recommendation:

- Establish a national-level regulatory framework for worker-cooperatives, including a clear, universal definition for worker-cooperatives and a national worker-cooperative incorporation code; financial support mechanisms, such as a dedicated worker-ownership fund; and cross-sector partnerships with the existing decentralized network of employee-ownership service providers.[11]

8.4

Specific Challenges for LGBTQ Communities

Nondiscrimination Protections

Beyond these general recommendations, there are additional and specific challenges that LGBTQ communities face in relation to financial inclusion. In a report released in 2015, the Center for American Progress drew together data from a number of smaller studies that demonstrated how existing information, albeit limited, suggests that "the lack of nondiscrimination protections presents an unfair barrier for LGBT communities," concluding that:

> Access to credit is critical for [LGBT] individuals who are committed to building better and more prosperous lives for themselves and contributing to the national economy—including purchasing new homes, securing access to necessary transportation, or embarking on a new business enterprise. As long as it is legal for creditors to treat the identities and relationships of LGBT applicants differently than those of other applicants, LGBT individuals' ability to secure adequate and affordable credit remains uncertain. Furthermore, ongoing disparities in credit access for people of color and low-income people have a disproportionately negative impact on LGBT individuals.[12]

A majority of states still do not clearly protect LGBTQ people from discrimination in credit or financial services. This needs to change.

Recommendations:

- Congress should pass a comprehensive nondiscrimination bill banning discrimination based on sexual orientation and gender identity in employment, public accommodations, housing, credit, and federal funding.
- Congress and state legislatures should appropriate necessary funds for full enforcement of nondiscrimination protections.

Financial Counseling and Support

Reliance on small-scale studies to demonstrate discrimination stems, in part, from the fact that major nationally representative studies do not include a focus on sexual orientation and gender identity/expression. Disproportionate impact would be more easily argued if studies such as the Survey of Consumer Finances included a focus on sexual orientation, gender identity, and gender expression.

COLLECT MORE DATA: SURVEY OF CONSUMER FINANCES

The Survey of Consumer Finances is conducted every three years by the Board of Governors of the Federal Reserve System. The main purpose of the survey is to collect data to "better understand the financial condition of families in the United States and to study the effects of changes in the economy." The data collected in the survey also support a wide variety of research on topics including saving, investment, debt payments, pension coverage, business ownership, use of financial institutions, credit discrimination, and financial markets. Current demographic markers collected include race, education, level of income, and geography.

Recommendation:

- **Include data and analysis of sexual orientation, gender identity, and gender expression in the Survey of Consumer Finances.**

While strategies and initiatives to support and empower economically vulnerable people and communities are in place that don't actively exclude LGBTQ people, very few take active steps to be proactively inclusive and welcoming. Participants in the New York convening issued a call to expand financial empowerment centers and make them more welcoming. In New York City, these centers were introduced under Mayor Michael Bloomberg in response to a growing consumer debt crisis. The size of consumer debt is staggering: fifty-four million U.S. households collectively owe more than $800 billion in debt to credit card companies, with the average debt per consumer in the twenty largest U.S. cities at between $24,000 and $27,000. Many low-income people have few places to turn to for support, and the quality of advice offered tends to be inconsistent at best and counterproductive and predatory at worst. Piloted in New York City, financial empowerment centers offer free, professional, one-on-one financial counseling. The centers provide users with free tools and information to help address their own financial situations and work toward financial stability. Since their launch in 2008, the centers have helped tens of thousands of residents reduce their debt by tens of millions of dollars and build substantial savings. Bloomberg Philanthropy has supported the establishment of similar centers in a number of other cities.[13]

Recommendation:

- Expand access to financial empowerment centers and consciously make them more welcoming to LGBTQ communities.

8.5

Supporting LGBTQ-Owned Businesses

At a number of the convenings participants pointed to the need for small start-up capital—wanting to harness the possibilities of businesses "by the LGBTQ community, for the LGBTQ community." Two important federal initiatives were established to address marginalized communities that struggle to access credit to develop businesses and entrepreneurial opportunities.

The Minority Business Development Agency within the Department of Commerce was established in 1969 with a primary focus on Black-owned business development. Since then it has expanded to include businesses owned by other racial and ethnic minorities, as well as women-owned businesses. Its mission is to actively promote the growth and competitiveness of minority-owned businesses by providing access to capital, access to contracts, and access to market opportunities—both domestic and global. The main feature of the organization and its site is to provide business consulting services to minority-business owners. While it has considerably declined from its glory days, primarily due to cuts in funding under Republican presidential administrations, the agency operates on an annual budget in the region of $30 million a year.

Within the Department of Agriculture, a number of programs exist that support business development and job training opportunities for rural residents. The Rural Business-Cooperative Service helps provide capital, technical support, educational opportunities, and entrepreneurial skills that can help rural residents start and grow businesses or access jobs in agricultural markets and in the bio-based economy. In particular, the agency's business programs provide much-needed capital in rural areas, often in partnership with private-sector lenders and community-based organizations. The capital may be in the form of loan guarantees; direct loans; or grants to individuals, rural businesses, cooperatives, farmers and ranchers, public bodies, and nonprofit organizations. The funding is intended to help improve the quality of life in rural communities by enhancing economic opportunities. In 2013, the agency spent $159 million in grants and provided $1.1 billion in loans.[14]

Neither of these programs focus any specific attention on the challenges faced by LGBTQ communities.

Recommendations:

- The Minority Business Development Agency should include LGBTQ-owned businesses in program development, outreach, and access to capital.
- The Rural Business-Cooperative Service should prioritize funding and technical

assistance for LGBTQ-owned or -operated small businesses.

8.6

Resilience

Many participants spoke about their concern that policy initiatives tend to focus on individuals, rather than communities. This kind of approach runs the risk of not recognizing or building the resilience of LGBTQ communities. There is a growing recognition of the need for community-focused development and major investments to be informed by a "resilience frame" rather than a deficit model.

The Department of Commerce's Economic Development Administration comes closest to recognizing and using this frame. It plays a critical role in fostering regional economic development by making strategic investments to foster job creation and attract private investment, and particularly focuses on economically distressed areas of the United States. It strives to be guided by the "basic principle that communities must be empowered to develop and implement their own economic development and revitalization strategies." Grants made by the Economic Development Administration are designed to "leverage existing regional assets to support the implementation of economic development strategies that advance new ideas and creative approaches to advance economic prosperity in distressed communities."[15] The focus on "communities" is welcome; however, within broader communities all too often smaller and especially stigmatized groups can be overlooked, silenced, and excluded. This will only change through affirmative actions that deliberately uplift marginalized and excluded groups.

Recommendation:

- The Economic Development Administration should prioritize grant funding for applicants that integrate LGBTQ communities into economic development strategy; prohibit discrimination on the basis of sexual orientation, gender identity, and gender expression in revolving loan fund lending; and prioritize LGBTQ-owned and -operated small businesses.

NOTES

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CHAPTER 9

Federal Economic Policy

by **Tyrone Hanley**

National Center for Lesbian Rights

Meghan Maury

National LGBTQ Task Force

At our convenings and during interviews with people living or working in rural communities and small towns, participants spoke about the hard times LGBTQ people are facing. Transgender individuals spoke about their anger at being turned down again and again for job opportunities because of their gender identity. Service providers spoke of their despair at listening to elderly clients who were losing their housing and having to tell them that all that they could do was put them on a waiting list. Shelter workers talked about the desperate need for more beds and their fear for young LGBTQ people who weren't being accommodated.

Implicit in these stories was a recognition of how economic policy impacts real people. Within these discussions there was a deep understanding of how systems of oppression create and sustain financial disparities along lines of race, gender identity/expression, sex, sexuality, age, ability, geography, and family. Sometimes courageous conversations and interventions were needed during the convenings to underline the reality that people of color and transgender people—and, in particular, transgender people of color—experience the worst financial hardships overall. There was also a recognition that LGBTQ families with children—and especially Black women—face particular hardships. At the same time, people living at the intersections of multiple marginalized identities were quick to point out the resilience of their close-knit communities, and often pointed to structures that communities had built in response to being excluded.

An important starting point in the convenings and focus groups was an understanding that poverty is not inevitable and poverty on this scale is not about individual failure. In the Los Angeles convening, participants spoke of the blame and shame that accompanies poverty, and how attempts to address poverty at a structural level won't be successful until the pervasive cultural belief that people are poor because they haven't tried or worked hard enough is challenged. It is this kind of attitude that also underpins opposition to welfare and public benefits programs, and is a central component of conservative think tanks' federal budget reasoning.

In contrast, the implicit belief underpinning discussions in the convenings and focus groups was that in a wealthy country there is a need—and resources—for a robust social safety net to ensure that everyone's basic human needs are met. While not thoroughly examined, participants voiced anger and frustration at a number of economic policy frames, including:

- How the current U.S. economic policy framework does not serve the vast majority of people, especially low-paid workers
- How profit is valued more than the environment
- How trade negotiations with other parts of the world have enriched the United States at the expense of other countries
- How the U.S. economy is rigged to favor corporations and a wealthy elite

Articulating the impacts of these frames can be difficult, yet we know that around one dollar in every five in the U.S. economy—or just under $4 trillion per year—comes from spending by the federal government. Around eighty percent of the federal government's revenues come from individual income and payroll taxes, so the U.S. public has a vested interest—and indeed a responsibility—to see that our tax dollars are raised and spent in a manner that reflects our priorities.

At its best, each of the dollars the government spends can advance the common good and everyone's quality of life through investments in infrastructure, systems, and structures that the government can make available to everyone—investments in things like clean water, transportation, health-care access, income security, energy, and education. Instead, some economists argue that for decades (regardless of which political party has had control of Congress or the White House) we've been operating under a three-pillar policy frame ushered in by President Reagan in 1980. The three pillars are:

1. Cut taxes, especially for the wealthy and for corporations.
2. Minimize regulations, especially on high finance.
3. Reduce government social spending to reduce the trade deficit.

These pillars form a structure of inequality, but because they continue to inform U.S. economic

policy, they must be considered and discussed when seeking solutions.

Close to one-third of the U.S. population is living in either deep poverty (on an income that is half of the federal poverty level), in poverty (below the federal poverty level), or near poverty (up to two times the federal poverty level).[1] LGBTQ people are disproportionately likely to live in poverty, and would benefit significantly from major economic policy changes. If LGBTQ activists and their organizations are going to seriously address poverty in our communities then it is essential that we understand the way in which federal and state governments make important economic decisions—most centrally, how they raise funds and how they spend them.

9.1

Raising Revenue

At nearly seventy-five thousand pages, the U.S. tax code is often viewed as overly complex and incomprehensible, but its aim is relatively simple: collect money from the people to pay for shared resources. Money collected through the income tax goes to pay for some of the nation's most critical public resources, including public education, roads and public transportation, and programs referred to as the "safety net"—SNAP, welfare, and other programs that help people subsist when they need it most.

Two of the largest programs run by the federal government—Medicare and Social Security—are not paid for through income taxes. The costs of these programs are primarily funded by payroll taxes that are taken directly out of U.S. residents' paychecks. There are other contributors to federal revenue, including corporate income taxes, but personal income tax (separate from payroll taxes) makes up the lion's share of the federal budget—about forty-nine percent in 2016, compared to corporate taxes of about nine percent. This ratio of personal income tax to corporate tax is one of the most significant changes to be ushered in since the 1940s, when personal income tax (40 percent) and corporate taxes (45 percent) were roughly even in terms of their contribution to federal revenues.

Historically, the personal income tax system was levied most heavily against those who could afford to pay the most—this is the system referred to as "progressive taxation," in which the more money one makes, the higher the percentage of one's income one pays in taxes. For example, Table 1 shows the tax rates for a single person in 2017 (note that these are the rates paid on taxable income—income after deductions).

As can be seen, U.S. residents pay only a ten percent tax rate on the first $9,325 of their taxable income, but rates on income over that amount get taxed at progressively higher rates. Progressive taxation helps to mitigate the enormous wealth gap between the country's richest

SINGLE TAXABLE INCOME TAX BRACKETS AND RATES, 2017

Rate	Taxable Income	Bracket Tax Owed
10%	$0 to $9,325	10% of taxable income
15%	$9,325 to $37,950	$932.50 plus 15% of the excess over $9,325
25%	$37,950 to $91,900	$5,226.25 plus 25% of the excess over $37,950
28%	$91,900 to $191,650	$18,713.75 plus 28% of the excess over $91,900
33%	$191,650 to $416,700	$46,643.75 plus 33% of the excess over $191,650
35%	$416,700 to $418,400	$120,910.25 plus 35% of the excess over $416,700
39.6%	$418,400+	$121,505.25 plus 39.6% of the excess over $418,400

and poorest residents. Those who have more than they need agree to pay more so that the infrastructure that sustains their wealth will be maintained and those who don't have enough can access lifesaving resources in their time of need.

For the first fifty years of the United States' modern tax system, this trend was a generally accepted principle. It wasn't until the 1980s that the wealthy ruling class prevailed in their collective assertion that they were paying more than their "fair share." President Reagan spearheaded a radical restructuring of tax rates, significantly lowering tax rates for people with the highest incomes. The results were drastic. Though top tax rates had dropped from over ninety percent to seventy percent in the 1970s, Reagan ushered in a top tax rate of only twenty-eight percent by the end of his term. Since then, when Democrats are in the White House tax rates on the wealthiest have hovered near forty percent, but even when those comparatively low rates are in place, many of the wealthiest U.S. residents continue to call for lower tax rates, arguing that reducing taxes on their wealth will improve the economy overall.

Because LGBTQ people—particularly lesbian, bisexual, and queer women, LGBTQ people of color, and transgender people—tend to be disproportionately low-income and/or living in poverty, the relative tax burden on the wealthy versus the poor matters tremendously to LGBTQ communities. And because lower tax rates on the very rich tend to concentrate wealth in the hands of people who already have it, low-income LGBTQ people have a more difficult time gaining access to the type of accumulated wealth that releases people from the cycle of poverty. At the same time, lower tax rates on the wealthy mean smaller revenue for the government, which means the budget available for social programs is also reduced. See below for further discussion on how the federal government spends money raised through taxation.

Of course, top tax rates don't tell the whole story—tax burden is also determined by what credits and deductions people are eligible for. Over the last few decades, economic justice advocates have increasingly looked to the tax code as a way to ease the financial difficulties faced by low- and lower-middle-income people. Largely as a result of advocates' efforts, a number of tax credits and deductions are currently available that significantly alleviate poverty. For example, the Earned Income Tax Credit and the Child Tax Credit lifted 8.2 million people out of poverty in 2016 alone. Those two credits are arguably the largest poverty alleviation programs in the federal government, aside from SNAP.

STATE EARNED INCOME TAX CREDITS

Advocates have been successful in pushing for a state version of the Earned Income Tax Credit in nineteen states plus the District of Columbia. For more information on how groups have successfully advocated, see *A Guide to Effective EITC Advocacy* from Tax Credits for Workers and Their Families.[2]

Deductions can also help some low-income taxpayers account for large expenditures for the year. For example, people who have high medical costs may be able to deduct their out-of-pocket expenses from their taxable income as a health-care deduction. This can be particularly important for LGBTQ taxpayers, who are able to deduct the out-of-pocket costs of expenses like transition-related care (including surgery), sexual health care (including abortions), and HIV-related care.

Some credits are also of particular interest to LGBTQ taxpayers who are struggling to afford the high costs of starting and growing a family or meeting their own needs. For example, the adoption tax credit may help a same-sex couple to offset often-unaffordable legal and other costs of adopting a child. Education tax credits may help young LGBTQ people who don't have a relationship with their family to afford community college by refunding them almost half their tuition and fees on their yearly tax return.

Some of the tax credits frequently used by low-income LGBTQ taxpayers include:

- Earned Income Tax Credit: A refundable poverty reduction tax credit for low-income taxpayers. Total credit based on amount of income and number of children.
- Child Tax Credit/Advance Child Tax Credit: A

partially refundable credit for taxpayers with children under the age of seventeen. Total credit based on income and number of children.

- Child and Dependent Care Credit: A credit meant to defray some of the costs of child care or care for a disabled dependent.
- Education credits: A series of credits intended to help defray the costs of higher education such as community college and university.
- Adoption credit: A credit that helps some parents offset the costs of adoption, including legal costs.
- Saver's Credit: Provides a credit for money invested in a taxpayer's retirement account.

This section, like much of this chapter, is less driven by the stated priorities of participants in the convenings and focus groups. In no small part, this is because of the perceived complexity of the tax system and because conservative politicians have been successful in perpetuating the myth that "everyone" is paying too much in taxes. In fact, most lower- and lower-middle-class people are liable for little to no tax on their income, and instead tend to benefit from the poverty-reduction tools that poverty advocates have worked to include in the tax system. This section is included despite the lack of policy solutions brought forward by participants because participants did identify some tax programs (e.g., the Earned Income Tax Credit) as programs that helped reduce their financial stress. Though the recommendations below would help address poverty and income inequality, more drastic economic policy shifts must occur in order to address income disparities. Still, tax policy advocacy may be a more accessible advocacy strategy than others in this section because participants in the convenings and focus groups expressed a familiarity with existing poverty-alleviation measures within the U.S. tax code.

Recommendations:

- The IRS and state departments of revenue should host free sessions to teach people how the tax system affects them, including content on credits and deductions that specifically affect LGBTQ people, such as deductions of transition-related medical health expenses, deductions of abortions and other reproductive health expenses, and the adoption credit.
- Congress should increase the tax rates on the wealthiest U.S. residents by returning to the tax brackets that were in place in the 1960s and '70s.
- States without a progressive income tax should adopt one, or increase income tax rates on the wealthiest people in their state.
- Congress should increase the Earned Income Tax Credit, especially for people without dependents, and expand eligibility by removing the age requirements. States should adopt state Earned Income Tax Credits, or expand existing ones beyond what is available at the federal level.
- Congress should reinstitute and expand the Advance Earned Income Tax Credit, which made funds available to low-income taxpayers throughout the year rather than forcing them to wait until the end of the year to receive the funds.
- Congress and state governments should explore ways to allow unmarried family members to file taxes together in order to take advantage of credits and deductions that are otherwise only available to legally related individuals.

NOTES

[1] "Distribution of the Total Population by Federal Poverty Level (above and below 200% FPL): Timeframe: 2016", The Henry J. Kaiser Family Foundation, 2017, http://www.kff.org/other/state-indicator/population-up-to-200-fpl/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D. The federal poverty level was set for 2017 at $12,060 for an individual, $24,600 for a family of four, and $32,960 for a family of six. For more information, see "Federal Poverty Level (FPL)," HealthCare.gov, accessed December 1, 2017, https://www.healthcare.gov/glossary/federal-poverty-level-FPL/.

[2] Tax Credits for Workers and Their Families, *A Guide to Effective EITC Advocacy,* 2013, http://www.taxcreditsforworkersandfamilies.org/wp-content/uploads/2013/10/GuidetoEffectiveEITCAdvocacy.pdf.

THE 2017 TAX CODE LEGISLATION

In 2017, Congress passed its biggest tax code overhaul in decades. The move left many people wondering how they would be impacted, and upon filing taxes in early 2018 many felt little change to their refund or balance due. Middle- and low-income people found themselves questioning whether frenzied advocacy by progressive organizations and politicians against this bill was blown out of proportion.

It wasn't.

But it makes sense that people would feel that way. Most provisions of the bill are more significant at the macro level than the individual level. For middle- and low-income taxpayers, the assortment of tax cuts, rate changes, and shifting of deductions had only a minimal impact. On average, taxpayers making the least amount of money—people with incomes under $25,000—did see bigger refunds, but only by an average of $60. People making between $25,000 and $48,600 saw an average increase to their refund of $380.[1]

The very rich saw bigger refund increases—an average of $7,640 for people earning more than $149,400 and an average of $193,380 for people with incomes higher than $3,439,900 per year. Corporations also benefit significantly from changes in the law.

You may be thinking that doesn't sound all that bad. Even if it's clearly unfair that the wealthiest will benefit the most, at least low-income people will still be slightly better off, right?

Wrong.

When we add up all these tax savings, the real impacts of the law become clearer; when we look at the other side of the equation, the true outcomes snap into focus.

In aggregate, the tax rate changes, shifts in deductions, and corporate tax cuts will cost trillions of dollars. To give just a few examples, the tax rate cuts for individuals will cost $1.2 trillion, the elimination of personal exemptions will an additional $1.2 trillion, and corporate tax rate cuts will cost $1.3 trillion on top of that.

All of these tax cuts mean less income for the government. Less income for the government means less funds to support the types of programs addressed throughout this report: public housing, food assistance, health care, and scores of other programs.

Trump's 2019 budget proposal reflects the devastating impact of the reduction in government income that these tax cuts have wrought.

SELECTED PROVISIONS IN TRUMP'S 2019 BUDGET PROPOSAL PROGRAM

PROGRAM	FINANCIAL CUTS IN BUDGET PROPOSAL
Medicaid and Obamacare health coverage	$172 billion per year
SNAP	$213 billion over ten years; four million people will lose access
Housing programs	$6.8 billion; raises rents, cancels housing choice vouchers, eliminates energy assistance
Disability benefits	$72 billion
TANF	$21 billion over ten years
(Military spending)	(Increase of $810 billion)

Let's think again about how this tax legislation will actually impact low-income people. On tax day, the average person earning under $25,000 will receive an additional $60. Throughout the year, that same person may see increases in their cost for health insurance, loss of access to SNAP, higher rent, and a cut in their SSDI benefits. Though the equation may be complex, the math is simple: Low-income people will be much worse off as a result of these changes.

[1] Tax Policy Center, Distributional Analysis of the Conference Agreement for the Tax Cuts and Jobs Act, December 2017, http://www.taxpolicycenter.org/publications/distributional-analysis-conference-agreement-tax-cuts-and-jobs-act/full.