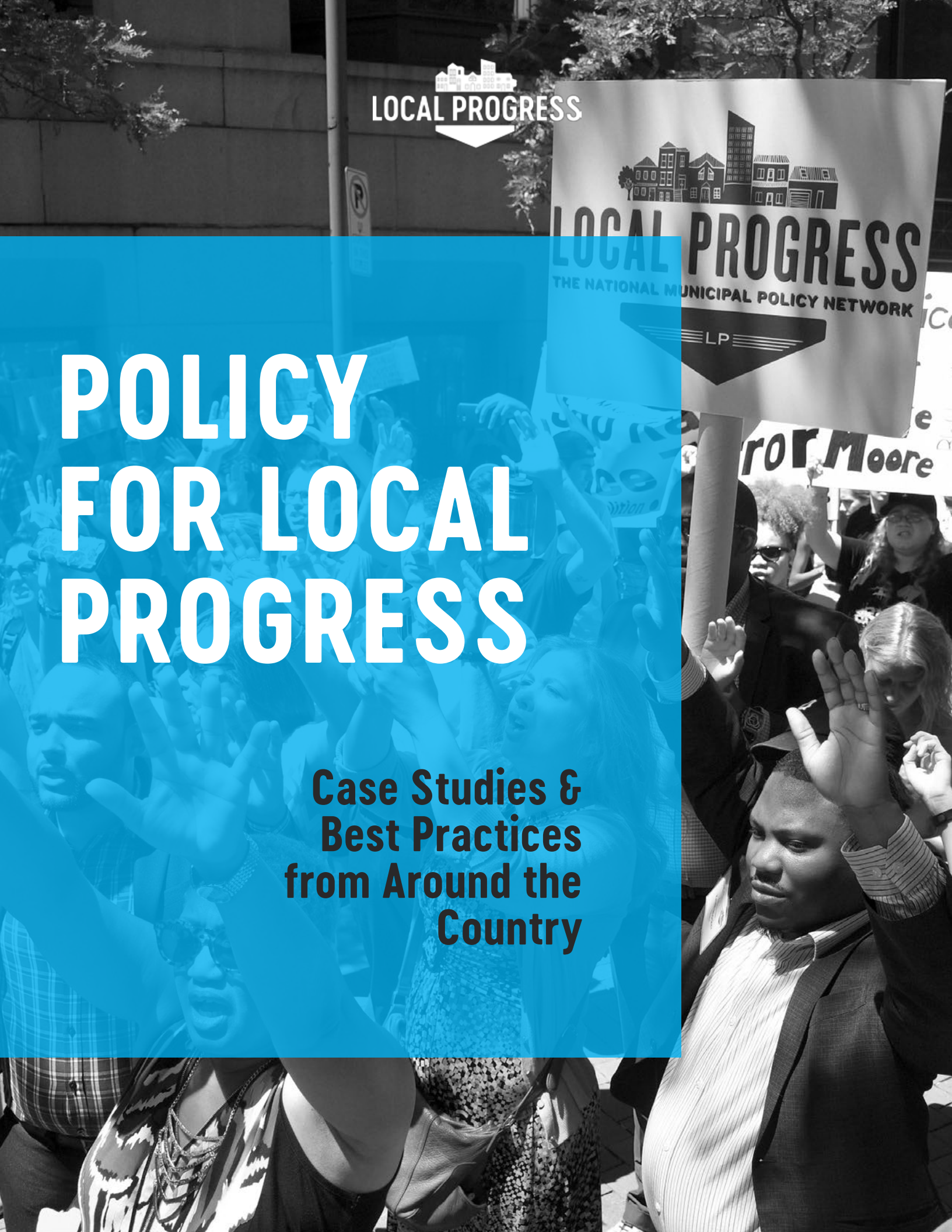
LOCAL PROGRESS



POLICY FOR LOCAL PROGRESS

Case Studies & Best Practices from Around the Country

As **Local Progress** celebrates our sixth year, we are delighted to share this updated version of our policy brief publication, a resource which we hope is helpful for our members across the network. We are grateful to the following allied organizations for co-authoring this policy book with us. Their substantive expertise and commitment to working with local elected officials to promote progressive public policy are incredible assets to our movement and our country.

ABOUT US

Local Progress was founded in 2012 to connect local elected officials to help replicate progressive policy across cities by sharing innovative ideas and best practices; to provide training on how to govern most effectively; and to impact the national discourse by coordinating and elevating innovative municipal work across the country.

OUR VISION

Our network is made up of hundreds of local elected officials from around the country who are united in their commitment to shared prosperity, equal justice under law, livable and sustainable communities, and good government that serves the public interest. We are building a strong piece of movement infrastructure that can help advance a wide array of priorities at the local level and help transform national politics and policies in the years and decades ahead.

In an era when conservatives control too many of state governments and too much of Washington, DC, we know that localities can and must work together to push our country in a new and exciting progressive direction . This is both the promise and the immensity of the task before us.

POPULAR DEMOCRACY IN ACTION

Local Progress is a project of Popular Democracy in Action. Popular Democracy in Action and its affiliates know that everyday people have the power to change the world. We upend politics as usual to forge a representative, multiracial government and society where we all thrive, no exceptions.

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THE PROBLEM

Over the past several decades, urban economies in the United States evolved at jarring speed. As major manufacturers shifted their operations overseas, thousands of blue-collar jobs at the city level were lost and the availability of blue-collar jobs diminished. Yet many urban areas are experiencing signs of manufacturing job stabilization, spurred in part by a growing demand for specialty products and easier access to advanced manufacturing technologies.

Cities are now seeing a new generation of small, local makers and manufacturers develop sustainable ways to make a middle-class living. These producers are the bakers, small-batch brewers, woodworkers, hardware start-ups and artists that enrich the city landscape, support the creation of new family-sustaining jobs, and lift up the city's tax revenue. But without specific zoning laws in place that give producers accessible and affordable locations to set up shop, cities risk stunting the growth of this diversified, resilient economy, in an era where both consumers and nearby businesses are increasingly hungry for locally fabricated products.

THE SOLUTION

Artisan zoning is an approach to land use and development that provides space for small-scale manufacturers that produce little to no vibration, noise, fumes, or other nuisances, meaning they can fit within a wide variety of industrial, commercial, and even residential districts. Planning departments don't always need a total zoning code overhaul to carve out more spaces for these types of businesses – in some cases, cities have pursued changes or additions to ordinance language instead of drafting new zoning maps from scratch. Some creative approaches include building ordinances around existing but unoccupied industrial facilities, or requiring that new residential buildings devote part of their bottom floor to light industrial production.

Proposals for these types of additions – often referred to as artisan or fabrication zones – are predicated on their potential boon to the economy. Many types of light manufacturers run low-maintenance and low-cost operations, and can support the revitalization of underserved areas.

POLICY SOLUTIONS

One of the most creative ways to make space available for artisan manufacturers while revitalizing neighborhoods is to tap into low-cost, vacant, or unutilized real estate that can be repurposed to host a community of producers. Only a small percentage of businesses or communities active in the artisan industry may know they can take advantage of this real estate, so legislators play a key role in widely communicating this approach to those who are looking to ramp up their operations.

When reviewing whether to create artisan zoning changes, elected officials act as the liaison between the planning department and the public. There should be clear consensus on the potential economic and sustainability benefits of supporting small-scale producers in mixed use areas, while also making sure community members are being heard as they question what types of changes new zoning laws may bring to the neighborhood. For example, if artisan manufacturers in the food and beverage industry also want to sell their products out the door, it's important to make sure the business community and residents agree on issues like business traffic or noise. **Indianapolis** is currently navigating this issue, as artisan food and beverage businesses look to expand their retail operations into the night hours.

Legislators can also play a role in making sure zoning language is clear enough that non-industrial interests cannot take advantage of land use changes designed to benefit small businesses. For example, **Philadelphia**'s zoning revision in 2012 included an industrial-residential classification that labeled industrial components as optional, meaning a housing developer could build a new apartment condo under the industrial-residential classification without having to provide any space for manufacturers.[1] City council members successfully passed a

bill[2] three years later that required development projects under this provision to mark off 50 percent of the combined ground floor area of all buildings sharing the same lot for light industrial or artisan use, or 60 percent for non-residential use like retail.

Lawmakers can also push the consensus on wraparound partnerships at the municipal level to make sure local makers get the support they need to grow. They can help ensure businesses in the artisan zone know how to access support from local workforce development organizations to connect with job seekers, as well as provide information on how to bid on procurement opportunities for their class of services.

But beyond residents and workforce organizations, officials need to ensure community organizations, anchor institutions, and the small producers themselves are part of the zoning process from start to finish. In order to overcome opposition, advocates can often find allies in unlikely places: the local health department that wants to combat food deserts by allowing local food producers to set up shop in residential areas, neighborhood groups that want local jobs and to fill blighted buildings, police officers who want to reduce the number of vacant buildings that are associated with crime, and transit proponents who support local jobs in residential areas because it means less people need to drive into the city center.

After new zoning ordinances have been established and new spaces are opened up to artisan manufacturers, legislators will be responsible for coordinating closely with enforcement agencies to ensure that new and sometimes experimental approaches to adopting new work spaces fall in line with safety and security codes. That includes setting up an annual schedule for site visitations. There may also be a need to set expectations in artisan zones around the varying schedules of their users, from garbage pickups to parking requirements.

Finally, lawmakers may want to consider long-term planning for the preservation of light manufacturing space in artisan zones. These zones may run the risk of falling victim to their own success as they draw in a mix of new production and residential uses. As residential development sets in, the economics of the production space may change, pricing out artisan producers. To guard against this, lawmakers should explore opportunities to support mission-driven industrial developers that provide an important source of affordable light-manufacturing space.[3]

CITIES WITH ARTISAN ZONING CODES

INDIANAPOLIS, IN. Indianapolis began overhauling its zoning ordinance in 2012, with special emphasis on increasing high paying jobs, using the surplus of vacant properties, decreasing the mileage traveled by residents and reducing the need and opportunity for crime. The Division of Planning created two new designations, Artisan Manufacturing and Artisan Food and Beverage, which allowed small manufacturers to start working in non-industrial areas. It also included a blight-fighting provision that allows artisan manufacturers to work in buildings in certain land use categories that have been vacant for five years, making artisan manufacturing the most easily-permitted form of manufacturing throughout the city. Reactivating these spaces has increased the property value and in turn the tax revenue for the city, and they now provide affordable spaces for start-up companies with a uniqueness that reflects the city's history.4

NASHVILLE, TN. Nashville started reevaluating its standing zoning ordinance in 2011, with an interest in creating opportunities for manufacturing in the city. It created the "Artisan Zoning" designation for light manufacturers looking to start up in mixed use districts and some live-work districts. One standout success of this push has been the Wedgewood Houston plan, which turned approximately 5 acres of what was previously a tow-truck lot into a mixed use space for housing, artists, and light manufacturers.[5] That district is now considered the artisan campus of Nashville, led by maker spaces like Fort Houston, which opened with 10,000 square feet in 2011 but is expanding to a 45,000 square foot space this year.

BOZEMAN, MT. Bozeman, with a population of just over 45,000, has been championing a pro-artisan zoning framework since allowing artisan manufacturing to take hold in retail areas like downtown in 2014.[6] As part of the addition, producers must work in an enclosed space, can't hold storage outdoors, or expand beyond 3,500 square feet. The new framework was meant to assist those who create goods with hand tools or "small-scale, light mechanical equipment," and now permits these producers to work in dense areas like downtown. This change is rooted in the city's 2009 economic development plan, which designated manufacturing as one axis to create mid- to high-wage jobs and spur more diversity among the community and its businesses.

ADDITIONAL RESOURCES

For more case studies and detailed examples of artisan zoning, visit **Urban Manufacturing Alliance's (UMA)** Land Use and Real Estate Development Community of Practice or Albany Law School's Community Development Clinic who has worked in partnership with UMA on this area of research.

INTERACTIVE CITATIONS AVAILABLE ONLINE AT WWW.LOCALPROGRESS.ORG/NOTES

Co-authored by the Urban Manufacturing Alliance

COMMUNITY BENEFITS

"There is a movement growing across the country of local elected and appointed officials who recognize that economic development with community benefits can transform local economies and create shared prosperity"

—The Partnership for Working Families

THE PROBLEM

Too often, major development projects do not deliver tangible benefits to local residents. Instead of yielding good jobs, new affordable housing, environmental benefits, and community amenities, big residential or commercial developments often lead to corporate profits at the community's expense – both through tax dollars and displacement.

THE SOLUTION

The Community Benefits approach to development aims to ensure that new developments serve the needs of local residents, not just the needs of developers and their tenants. This approach ensures that the development process includes community voices and the development project delivers meaningful benefits, such as:

- good paying, safe, full-time, career-track jobs in construction and operation of the project;
- workforce systems that are accessible to communities and effectively prepare people for project jobs and help connect them to those jobs;
- truly affordable housing as part of any residential development;
- important local infrastructure such as community centers, supermarkets, or schools;
- access to project jobs for local residents and those with barriers to employment such as a criminal record;
- reducing and/or mitigating negative environmental impacts.

WHAT ROLE DO LEGISLATORS PLAY: Local officials have powerful tools available to ensure that economic development delivers these benefits.

- *Demand strong community benefits in government agreements with developers.* Major development often occurs on city land or receives public funding or tax breaks often accruing value to the developer, and city officials can demand that in exchange the developer act in ways that benefit the community.
- *Encourage (but don't require or oversee) negotiation of private community benefits agreements between developers and community coalitions.* Even if development occurs entirely on private land without public economic assistance, it will likely require land use approvals that require the support of planning boards and city councils. Because community groups can oppose these government actions, developers have a strong incentive to communicate with the community and enlist its support for the project. Legislators can encourage negotiation of strong private community benefits agreements by supporting a transparent, accessible and robust land use process that encourages the input of all relevant stakeholders by making clear to the developer that they will weigh the communities' views seriously in evaluating project approvals. Private community/developer negotiations can address issues that cannot, for legal reasons, be part of the government's official land use process. Ultimately, the negotiation of CBAs should happen without the involvement of elected officials; for legal and practical reasons, the process needs to be led by engaged residents and strong advocacy organizations. However there is a role for local elected officials to play in encouraging negotiations.
- *Enact ordinances and policies establishing baseline community benefits for future projects.* There are important legal limitations to the demands that a

city can make of a specific developer in exchange for land use approvals, but legislators generally do have the power to adopt rules applicable to a range of development projects, such as living wage, local hiring or affordable housing requirements.

- *Incorporate community benefits into land use planning and policy. I*n addition to creating a robust and inclusive land use process, legislators can create an infrastructure that encourages provision of real community benefit. They can require major developments to provide Community Impact Reports, detailing the impact that the project will have on jobs, housing, the environment, and public coffers, among other things. They can use regulatory incentives (such as density bonuses) and land value capture mechanisms to strengthen their hand in negotiating for community benefits with developers. And they can write community benefits measures directly in to specific plans, overlay zones and other land use controls.
- *Convene key stakeholders to establish a consensus community benefits framework for major projects.* Legislators can also build support for a community benefits program by bringing a broad range of community voices together to build consensus around community benefits and lay down a political marker for how development should happen.

POLICIES IN ACTION

NEW YORK, 2013: The development of the Kingsbridge Armory into ice sports center in the Northwest Bronx will be governed by a community benefits agreement that provides for living wages for all workers on the project, targeted and local hire for all jobs on the project, more than $8 million in contributions to a community fund, local contraction and M/WBE utilization requirements, green building measures and community access to project facilities. The CBA was negotiated by the Kingsbridge Armory Redevelopment Alliance, a broad-based coalition of community organizations.

OAKLAND, 2012: The Jobs Policies for the $800 million redevelopment of the Oakland Army Base as a major warehousing and logistics center established requirements for local hire, disadvantaged hire, living wages, limitations on the use of temp workers, and community oversight and enforcement. The Policies were included in the lease and development agreement between the city and the developer. The policy terms were negotiated between the city and the broad-based Revive Oakland coalition, which also entered into an agreement with the city not to oppose project approvals and under which the city agreed to enforce the Jobs Policies.

SANTA ANA 2012: The city adopted a Sunshine Ordinance to increase transparency around development projects. The ordinance requires that developers planning to receive private subsidy hold a community meeting shortly after submitting project applications to provide information and take public comment, later making the notes publicly available.

PITTSBURGH, 2008: The Hill District CBA, negotiated with the developers of the new Penguins hockey arena, ensures funding for a new grocery store, union neutrality for all permanent jobs at the arena, requirements to hire local workers, and funding for a community center.

MILWAUKEE, 2004: The Board of Supervisors adopted the Park East Redevelopment Compact, attaching standards and criteria for proposals to develop 16 acres of previously underdeveloped prime real estate owned by the county. The compact requires payment of prevailing wages on construction jobs, and favors proposals that include affordable housing, contracting with disadvantaged and local businesses, job training, and green building.

Other CBAs have been signed in Atlanta, Denver, Milwaukee, Minneapolis, Oakland, San Diego, San Francisco, San Jose, Syracuse, Washington D.C., and Wilmington.

LANDSCAPE AND RESOURCES

Land use and economic development policy is highly local and complicated, and legislators should consult with lawyers and advocates early in the development process.

The **Partnership for Working Families** (PWF) with its **Community Benefits Law Center** is the leading authority on community benefits. The organization **Good Jobs First** has created a valuable set of materials to introduce readers to the development process. The **Center for Popular Democracy** can help you build a strong coalition in favor of development that works for your entire city.

Co-authored by the Partnership for Working Families

PARTNERSHIP for Working Families

CONSTRUCTION IN THE SOUTH

THE PROBLEM

Economic hardships, few or no opportunities for career advancement, unstable work, injuries and even death on the job are all commonplace for construction workers in the South. Health and safety on the job is of particular concern, as the number of injuries and deaths have risen with industry growth. Nationally, more than 900 construction workers were killed on the job in 2015.

Workplace injuries are common and low wages place a significant economic burden to workers and their communities. One in seven workers have been injured during their construction career, and more than one in three has suffered an injury in the last 12 months, with just 5% being covered by worker's compensation. These injuries cost cities an estimated $1.47 billion annually in medical expenses, lost wages, lost productivity, lawsuits, and the cost for families caring for injured workers. Most construction workers are earning less than $15 an hour and more than one in ten have experienced wage theft in their construction career. The median amount of wages stolen was $800 or 57 hours of labor for the average construction worker, resulting in a loss of $29.8 million annually. In addition, one of three workers is misclassified as an independent contractor, denying workers their rights to minimum wage, overtime, and burdening families with the employer's share of payroll taxes.

THE SOLUTION

As the construction industry continues to grow in the South, now is the time for policymakers and industry leaders to ensure that all construction jobs offer family-supporting wages, decent benefits, and safe working conditions to the essential labor the industry receives. More specifically, local solutions should focus on the following.

PRIORITIZING SAFETY. Employers should provide at least OSHA 10-hour safety training for all employees and provide ongoing health and safety training throughout the year. Contractors must also ensure that all workers receive proper safety equipment, rest breaks, and workers' compensation. Workers should also have an anonymous system to address safety concerns with their direct employer, or with the general contractor and developer, without fear of retaliation.

GENERATING INVESTMENTS IN TRAINING. Employers must see training as a necessary investment that helps (a) ensure workers are able to produce a quality finished product, (b) prevent accidents, and (c) provide opportunities to advance in the industry. Collaborations and partnerships among construction employers and associations, education providers, and local governments can help create training pipelines where jobseekers learn the skills they need to fill labor shortages in the industry. Formal training can play a key role in improving the quality of construction jobs, and help offset the severe construction labor shortages experienced by construction employers throughout the South.

QUALITY IN SUBCONTRACTING. Developers and general contractors should take into account working conditions, including worksite safety, rest breaks, wages, training, and benefits when hiring subcontractors. Rather than simply considering price, developers should give preferential status to bidders that demonstrate a track record in providing fair pay and benefits along with a strong safety program.

THE ROLE OF LOCAL OFFICIALS

While some of the issues confronting the construction industry are regulated principally at the federal and

state, local officials have significant opportunities to advance these priorities through policies and programs that will shift conditions.

GUARANTEE SAFE WORKING CONDITIONS. To address the disproportionately high fatality and injury rates in the construction industry, local officials may adopt requirements for inclusion in public construction contracts that require safety training for supervisors and workers. They can also work at the state level to strengthen requirements for rest breaks, safety training, and workers compensation and medical care for construction workers.

ENSURE HONEST PAY FOR HONEST WORK. Wage theft, payroll tax fraud, and low wages threaten the construction industry by hurting working families and undercutting construction businesses that play by the rules. Local officials can both adopt and enforce strong wage standards. Local agencies can investigate noncompliance with and enforce laws governing wages and the payment of payroll taxes, as well as provide protection from retaliation for workers who report violations.

CREATE GOOD JOBS WITH A CAREER PATHWAY. Most construction jobs lack employment benefits or opportunities for advancement, and today, few young people see the industry as desirable place to seek employment. A basic benefits package should be offered to the vast majority of construction workers rather than to a small minority.

IMPROVE ENFORCEMENT OF EXISTING POLICIES. Many of the employment rights issues, as well as the health and safety issues faced by construction workers are addressed by existing laws, but enforcement is often weak or non-existent. Local officials can increase funding for and improve the effectiveness of local agencies that investigate compliance with and enforce laws that protect workers from wage theft, employee misclassification, hazardous conditions, and retaliation for raising concerns about workplace issues. Policymakers should also partner with community organizations that work with low-wage construction workers to improve the efficiency and effectiveness of existing enforcement efforts.

SUCCESSFUL EFFORTS TO IMPROVE CONDITIONS

- Better Builder Program: Developed by Workers Defense Project, the program certifies real estate developers, public institutions, and companies who commit to investing in good and safe working conditions for construction workers.
- Workers Defense Project has worked with the cities of **Austin** and **Dallas** to successfully pass Rest Breaks Ordinances requiring employers to provide paid 10-minute rest breaks for every 3.5 hours of work on construction sites.
- Georgia Stand-Up successfully fought for the inclusion community-benefits language to the $1.7 billion BeltLine project, a 25-year development that will include a 22-mile transit system, 1,200 acres of green space and trails, 30,000 permanent jobs and 48,000 construction jobs, and a predicted $20 billion in private development. This includes a First Source Hiring Policy requiring the Utilization of Pre-Apprenticeship Programs and Apprenticeship Programs, and Prevailing Wage requirements.
- Most recently, Stand Up Nashville (SUN), a coalition of community and labor organizations in **Nashville**, are successfully moving efforts to guarantee transparency and contractor accountability on city-subsidized projects in light of the increase of injuries and fatalities in the region.

RESOURCES

The Partnership for Working Families and Workers' Defense Project have collaborated to produce a new major study of construction work in the South, called *Build a Better South*.

Workers Defense Project organizes construction workers and fights for safe and dignified working conditions that allow working families in Texas to escape the cycle of dangerous and dead-end jobs. With offices in **Austin, Dallas,** and **Houston**, Workers Defense Project has won policies to create hundreds of thousands of good jobs in Texas and has authored two previous studies detailing working conditions in the construction industry in Texas.

The Partnership for Working Families' network of affiliates have pioneered campaigns to improve job quality and job access in the construction sector and the Partnership has several online resources available regarding construction jobs, including the Construction Careers Handbook.

Co-authored by the Partnership for Working Families

PARTNERSHIP for Working Families

ENDING WAGE THEFT

THE PROBLEM

The economic struggles of low-wage workers are exacerbated by rampant wage theft. A recent study by the Economic Policy Institute found that just one form of wage theft – paying workers below the applicable minimum wage – affects 17 percent of low-wage workers, and estimated that US employers steal over $15 billion each year in minimum wage violations. Beyond hurting individual workers, wage theft hurts local economies, increases the poverty rate, reduces tax revenues, and puts law-abiding businesses at an unfair disadvantage. New York, for example, is deprived of nearly $1 billion in consumer spending each year due to wage theft.

Enforcement of workplace rights is severely under-resourced – the U.S. Department of Labor has only 1,000 investigators for the more than 7 million workplaces nationwide. Even in states with relatively pro-worker governments, the agencies that enforce workers' rights are too underfunded to undertake comprehensive and timely investigations. Yet workers are unable to make up for lackluster public enforcement power by taking their employers to court, hamstrung by unreliable or absent attorneys' fees provisions, challenges in collecting judgments, and pre-dispute arbitration requirements buried in the fine print of employment contracts. These "forced arbitration" clauses foreclose judicial remedies, while making it nearly impossible to achieve justice through arbitration.

THE SOLUTION

As cities enact innovative workplace protections such as earned sick leave, paid family leave, and fair workweek protections, it is more important than ever to ensure that effective enforcement delivers on those legislative promises. Policymakers can build consensus around strong wage theft prevention policies that crack down on law-breaking employers and allowing law-abiding businesses to compete in the marketplace. Even cities constrained by preemption can use innovative policies to enforce wage theft laws.

POLICY APPROACHES[2]

BETTER ENFORCEMENT SYSTEMS: Cities that have the power to enact their own minimum or living wage can create local enforcement agencies to prevent wage theft. In **San Francisco**, the Office of Labor Standards and Enforcement (OLSE) investigates wage theft claims and enforces the city's minimum wage and wage theft standards through collaboration with other city agencies – the Department of Public Health can revoke health permits from certain violators, the Office of Small Business educates business owners, and the Office of the Treasurer and Tax Collector collects from employers who fail to pay. In cities where enacting a minimum wage is preempted, there are other innovative ways to prevent wage theft. For example, in Florida, **Miami, St. Petersburg,** and **Osceola Count**y (home of Orlando) all established Wage Theft and Wage Recovery programs with mediation and administrative hearing processes to enforce state and federal wage laws.

The most effective wage theft prevention programs deputize community organizations to educate workers about their rights, investigate violations, and help workers file complaints. **Burlington, San Francisco, Seattle**, and other cities give grants to community-based organizations to provide linguistically and culturally appropriate outreach to low-wage workers who are most at risk of wage theft, including conducting know-your-rights trainings, consulting with workers about suspected violations, and resolving or referring complaints. Organizations that have gained workers' trust can make a unique contribution to enforcement by empowering workers to speak up about noncompliance.

Investigation and enforcement procedures should encourage workers to come forward by protecting the confidentiality of complaints, allowing third parties (such as worker centers) to initiate complaints, and investigating an entire workplace based on the complaint of one worker. These steps are especially important to protect undocumented workers.

Industry-specific wage theft legislation can target industries where wage theft is rampant, and may be a good approach in cities where more universal provisions are not feasible or to pilot more innovative and aggressive policies. **New York City**'s Car Wash legislation, for example, requires car washes to post a surety bond as a condition of receiving a business license.

> ***"30% of tipped workers are not paid the tipped worker minimum wage and 76% of low-wage workers who work overtime were not paid the legal overtime rate, averaging out at about eleven unpaid or underpaid overtime hours per week per worker."***
>
> **—National Employment Law Project,** "Broken Laws, Unprotected Workers"

BETTER INFORMATION: Cities can require employers to explicitly inform employees of their rights. In **Santa Fe**, failure to prominently post wage information in both English and Spanish can result in a business's license being suspended or revoked. Cities can also require employers to inform the public of wage violations. In **San Francisco** and **Washington, DC**, employers are required to inform workers of pending investigations. They are also required to post a notice to the public if they have failed to comply with a settlement or decision. And in **Houston**, any company with a record of wage theft is listed on a public online database for five years. Employers in high-violation industries could be required to pay for training, so that workers are informed about their rights and the enforcement process.

ZERO TOLERANCE FOR RETALIATION: Cities with minimum wage power should severely penalize retaliation by employers. **Santa Fe**'s ordinance states that any adverse action against a worker within 60 days of filing a wage theft complaint raises a rebuttable presumption of retaliation. Cities should also define retaliation broadly, to capture all the forms of retribution that employers use to intimidate workers, such as threatening to inform authorities about a complaining employee's immigration status or reducing weekly work hours. Retaliation protection should extend to workers who mistakenly but in good faith allege violations of law.

Even cities without the power to set wages could pass catch-all whistleblower and anti-retaliation laws. Such laws could create strong penalties for any employer who punishes a worker who attempts to exercise her legal rights on the job, inform another person of his or her rights, or speak out about any legal violation. Although Federal Law preempts cities from establishing penalties specifically for retaliating against workers for collective action, a broad anti-retaliation law can give workers protection while surviving preemption.

DAMAGES, PENALTIES, AND SANCTIONS: Workers are often unable to recover money owed to them, even after a favorable judgment. Cities can tackle this problem by mandating that employers in high-violation industries post surety bonds. Cities could also establish wage liens, which give workers a claim against employer's property until a dispute is resolved, thereby incentivizing payment from employers.

Even when employers pay back the wages owed, the cost of restitution is often too minimal to affect the employer's bottom line. Furthermore, cities often fail to pursue administrative penalties, because the cost of holding a hearing exceeds the potential revenue. Without these economic penalties, there is little incentive for employers to adhere to the anti-wage theft law.

In order to deter wage theft and encourage employee reporting, cities with minimum wage power should require employers to pay workers treble or quadruple damages. **Washington, DC**'s law allows workers to recover four times their unpaid wages. Cities can also increase the severity of their administrative penalties. DC's law allows for penalties from $50-$100 per worker per day, to be paid to the city. Cities can also impose heavier penalties for repeat violators.

Cities can also use license revocation as a way to increase sanctions. **New Brunswick** and **Princeton** have passed laws allowing refusal to grant or renew the license of a business found guilty of wage theft.

Lastly, cities can use criminal laws to increase sanctions. Thirty states have criminal penalties for unpaid wages, and thirty-eight states have a criminal theft of services provisions. In **Washington, DC**, any employer who violates the wage theft law can be found guilty of a misdemeanor and sentenced to up to 90 days and prison and a $50,000 fine.

LANDSCAPE AND RESOURCES

For more on local wage theft enforcement, contact Rachel Deutsch at the **Center for Popular Democracy**: rdeutsch@populardemocracy.org.

NOTES

1 "Employers steal billions from workers' paychecks each year," Economic Policy Institute (2017).

2 "Santa Clara County Wage Theft Report," Santa Clara County Wage Theft Coalition (2014).

3 "Winning Wage Justice: An Advocate's Guide to State and City Policies to Fight Wage Theft," National Employment Law Project (2011).

ENSURING A FAIR WORKWEEK

Stability & Opportunity for Workers

"Employers should be required to give employees advance notice of their work schedule, such as the 4 weeks notice that 39% workers currently receive."

—**Susan J. Lambert,** Schedule Unpredictability among Young Adult Workers

THE PROBLEM

Low-wage workers and their families continue to struggle, even as the US economy slowly recovers from the Great Recession of 2008. While stable, middle-income jobs were lost in significant numbers, the recovery to date has been built on the dramatic expansion of part-time, low-wage jobs. Today, about 23.5 million Americans work part time, and 5.3 million of those workers would rather be employed full-time.[1] From 2007 to 2012, the percentage of workers in involuntary part-time employment doubled for both men and women.[2]

These fast-growing part-time industries are also shifting to just-in-time scheduling practices, which amplifies already existing challenges faced by working families. Many workers today, especially those working part-time, have no input into schedules that change unpredictably and demand 24/7 availability.[3] 38% of all early career adults – and almost half of those working part-time – are given their schedules one week or less in advance, even in industries where total overall employee hours usage varies little week to week. These workers are subject to volatile work schedules that erode earning potential, push workers out of the workforce, and exacerbate inequality. Hourly workers are also increasingly expected to provide "open availability" – meaning they're willing to work whenever the store is open without any guarantees of work – either as a condition of being hired or to be eligible for full-time hours.

A just-in-time workforce experiences profound insecurity: workers cannot predict their hours or pay each day, and consequently can't make time for school, child and family care, or a second job. In addition to unpredictable scheduling, part-time workers are often inadequately trained, which hinders their access to hours and advancement. These issues have serious effects, as part-time workers in America earn less per hour than their full-time counterparts, and do not qualify for critical employer-provided benefits. Low-wage women and workers of color, especially in Black communities, are hit particularly hard by this trend.

THE SOLUTION

PREDICTABLE, STABLE SCHEDULES: Employers should be required to provide employees with schedules they can count on and reliable paychecks that make it possible for working people to plan ahead to meet their responsibilities on and off the job.

A good faith estimate of weekly work hours upon hiring allows employees to anticipate average weekly hours and income.

Advance notice of schedules allows working people to have a schedule they can count on and manage even when their schedule varies from week to week. Although 45 percent of hourly workers currently know their schedules three weeks in advance or more, a startling 41 percent of hourly workers know their schedule less than one week in advance. However, technological innovations make it easier than ever for employers to plan work schedules in advance so that hourly employees can manage the many demands on their time,

work hard, and plan a budget to pay their bills. Ordinances in **San Francisco, Seattle, New York City** and **Emeryville** now require large retail and food service employers to provide two weeks' notice of work schedules. Employers may update schedules as necessary after posting, provided that employees may decline any additional, unscheduled hours – allowing workers to make plans based on the posted schedule.

Predictability pay compensates employees at one additional hour of pay at their regular rate when accommodating their employer's last-minute scheduling changes. Predictability pay is similar to overtime pay, because it rewards employees who go above and beyond in order to be available on short notice. Predictability pay also creates an incentive for managers to plan ahead instead of determining work schedules at the last minute.

PROMOTING ACCESS TO FULL-TIME EMPLOYMENT AND CAREER GROWTH: Restoring family-sustaining jobs helps our communities thrive. Millions of Americans want to work more hours to support their families, but many employers in retail and food service prefer to maintain a large part-time workforce where no one gets enough hours to make ends meet. The unpredictable schedules many hourly workers face make it especially difficult to generate a full-time income by holding multiple part-time jobs.

Ordinances in **San Francisco, Seattle, Emeryville, New York City,** and **San Jose** now require employers to offer extra shifts to current employees before hiring additional staff. This simple commitment allows employees who want to work more hours to do so at their current job, an arrangement that is more stable for working people. Access to hours is especially important for those employees with family responsibilities and increases both productivity and retention. Job training should also be offered across frontline job classifications, increasing opportunities for promotion.

HAVING A SAY IN WORK SCHEDULES: Ensuring flexible, responsive work schedules helps create an invested, more productive workforce. Employees should be able, by law, to set reasonable limitations on their schedules so that they can stay healthy, pursue educational opportunities, and spend time with their families. A right to request specific scheduling accommodations – currently protected by law in **San Francisco, Seattle** and **Emeryville**, as well as **Vermont** and **New Hampshire** – allows employees to ask without being unfairly penalized for schedules that allow them to meet their various obligations. One-third of early career workers currently have some input in their schedules, but half have no say at all; many employees report facing retaliation for simply requesting that their employers accommodate their obligations outside of work.

Guaranteeing that every worker has the right to adequate rest least between shifts is crucial to community well-being. The practice of "clopening" (requiring an employee to close late at night and open early the next morning, often with as little as six hours in between to commute and sleep) is dangerous for hourly workers and those who share the road with them. The right to decline such shifts and to earn premium pay when an employee agrees to work them is now law in **Seattle, Emeryville** and **New York City**.

RESOURCES

For more information about this issue please visit **The Fair Workweek Initiative** at www.populardemocracy.org/fairworkweek.

NOTES

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4 UNH Today. July 23, 2013.

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LIVING WAGE ORDINANCES

THE PROBLEM

In 2014, 46.7 percent of Americans lived in poverty, largely because too many workers were paid very low wages.[1] Federal and state minimum wages are too low to lift working families out of poverty, much less into the middle class. Many cities do not have the legal authority to set higher minimum wages.

THE SOLUTION

Over the past twenty years, more than 140 cities around the country have passed living wage laws, which help ensure that public expenditures create good jobs.[2] The laws set minimum standards for the wages of private sector workers – such as janitors, bus drivers, gardeners, and cafeteria workers – who are employed by businesses that contract with the city or receive public subsidies. Living wages are a second-best alternative to higher minimum wages for all workers. But, unlike minimum wages, most cities have the authority to implement them.

Although opponents claim that the laws will cost cities significant money, rigorous academic surveys of living wages across the country show that "actual costs tended to be less than one-tenth of 1% of the overall budget."[3] In addition, living wage laws often improve the competitiveness of bidding for city contracts because they give high-road, high-quality contractors the confidence that they will not be under-bid by low-road, low-quality contractors.[4] In addition, living wage laws increase worker productivity and decrease turnover – and help create upward pressure on wage rates more broadly.

Most laws set the wage between $9 and $16 per hour. But they can also encourage the provision of health insurance, guarantee paid sick leave and vacation time, and facilitate the hiring of local residents or disadvantaged populations. In 2015, **New Orleans** passed a living wage ordinance of $10.55 for certain companies that do business with the city. If your city already has a living wage law, you should consider amending it to include best practices from around the country. It is also best practice for cities to include both contractors and subcontractors in their ordinances; cities can look to **Dallas** as a recent example.[5]

POLICY ISSUES

The following topics will likely come up when designing or revising your city's living wage legislation. Legislators can tailor their proposals to the political and economic realities in their city by adjusting the scope of coverage and the wages and benefits provided.

APPROPRIATE WAGE: Economic analysis can help cities set a living wage rate that will in fact support working families adequately, in accordance with that city's cost of living. Further, there are a variety of ways to set the living wage in law so that it is not frozen over time. Some cities (such as **Lincoln, NE** and **Cincinnati)** set their living wage at a particular percentage (usually 110 or 130) of the federal poverty guideline for a family of four. This helps remind the public that the law is merely providing workers with enough income to stay out of poverty. Other cities, including **Sacramento** and **Tucson**, set their wage rate to rise with inflation. **Dallas**, which passed their living wage ordinance of $10.37 in 2015 set it to adjust annually to meet the Massachusetts Institute of Technology's calculated living wage for a single adult in the city. **Philadelphia** has set the living wage at 150 percent of the federal minimum wage and **Washington, D.C.** at $1 more than the federal minimum wage.[6]

HEALTH INSURANCE: Under federal law, cities are prohibited from mandating that employers provide health insurance to their workers. To work around this problem, many living wage ordinances set two wage rates: one for employees who are provided with health insurance and a higher rate for those who are not. The best statutes also ensure that the insurance is adequate and affordable.

PAID SICK LEAVE & VACATION: Wage ordinances have not been enforced properly. Both public pressure and smart legislative design are crucial to ensuring

compliance.[7] Laws should include: requirements that employers notify employees of their rights and keep wage records; a private right of action for employees who are not paid properly; penalties for non-compliance, including the loss of contracts; and the establishment of robust enforcement tools within a city agency. Ideally, the agency responsible for contracting should be tasked with its enforcement because contractors want good relationships with that office. However, if the agency is resistant to the law, enforcement can be vested in a comptroller or a department of labor, consumer affairs, or workforce development.

LANDSCAPE & RESOURCES

The National Employment Law Project and the **Partnership for Working Families** have provided expert support for many living wage campaigns over the past two decades.

NOTES

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3 Jeff Chapman and Jeff Thompson, The Economic Impact of Local Living Wage Laws, Economic Policy Institute (2006) at www.epi.org/publication/bp170/.

4 Id.

5 Findell, Elizabeth. "In Our Own Backyard: Confronting Growth and Disparities in American Jails." City Hall Blog. November 10, 2015. Accessed June 14, 2016. <http://www.vera.org/sites/default/files/resources/downloads/incarceration-trends-in-our-own-backyard.pdf.>

6 See Local Living Wage Laws and Coverage, www.nelp.org/page//Justice/2011/LocalLWLawsCoverageFINAL.pdf?nocdn=1

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LOCAL AND TARGETED HIRING

"Using our local tax dollars to put people from communities in our city with higher unemployment to work just makes good sense,"

— Seattle City Councilmember Mike O'Brien.

"Jobs matter. When Black workers have done well, our communities have done well."

— Lola Smallwood Cuevas, chair, L.A. Black Worker Center Coordinating Committee.

THE PROBLEM

Economic recovery is not returning to all communities equally: the unemployment rate for White workers is down to nearly 4 percent nationally, while the unemployment rate for Black workers is more than double that. This disparity in employment is not an anomaly of our current economy, but has been the persistent reality for people of color for decades. Repeated studies show that job seekers of color are far less likely to be hired than their White counterparts, even when equally qualified.[1]

THE SOLUTION

Local and targeting hiring programs require or incentivize businesses that receive public dollars to hire workers from the local community, or from targeted populations in the community. Whether the public resources come via a contract to build a public infrastructure project, a tax break to help a business grow, or redevelopment funds to build a new commercial space, these hiring programs ensure that public resources extend their impact into the communities that would benefit the most from job opportunities.[2] Hiring programs can vary from individual contract provisions to a city-wide ordinance.[3]

Local and targeted hiring programs help job seekers overcome racial discrimination and other barriers to employment by getting businesses to expand their hiring networks. They also help companies find a steady supply of reliable, local workers. By improving employment outcomes in communities with high unemployment, targeted and local hiring can reduce employment disparities between communities and improve economic growth for a city and region overall.[4]

POLICY ISSUES

The following issues will likely come up when designing a local or targeted hiring program:

LOCAL VERSUS TARGETED HIRING: Local hiring creates hiring preferences for people who live in a specific geographic area, which can be as large as an entire city or county, or as small as specific zip codes or neighborhoods. Targeted hiring refers to hiring preferences based on a range of worker characteristics, such as veteran status, sex, race or ethnicity (where allowed), residency in a low-income neighborhood, having been formerly incarcerated, having a disability, or being long-term unemployed. It may be permissible to rely on certain characteristics, such race and sex, only in some circumstances.

FIRST SOURCE: First source referral systems can strengthen outcomes for local and targeted hiring programs by connecting employers to a pipeline of qualified, local workers. With first source referral programs, employers notify local workforce partners of a job opening. The workforce organization then promptly refers a pool of local or targeted candidates to the employer to interview and hire.

MANDATORY REQUIREMENTS, GOOD FAITH, AND STATE PREEMPTION: Many cities have some sort of local hiring preference on the books, but frequently they only state that businesses must make a "good

faith" effort to find and hire local residents. These programs often do not succeed because companies are not required to meet a goal and because there is not a strong system in place to help businesses find local workers.

For years, **San Francisco** had a non-mandatory, "good faith" local hiring standard of 50 percent, which the City's contractors consistently failed to meet. In 2010, local community organizations advocated for and won a reform that created a mandatory requirement of 20 percent local hire on publicly-funded construction projects, with a 5 percent increase every year until reaching 50 percent in 2017. The law also requires that half of all local hires come from historically disadvantaged communities, and provides specific targets for each construction trade. Collaboration among the many partners, including community-based organizations, the building trades, pre-apprenticeship and other workforce training programs, the City, contractors, and others, has been key to the program's success.[5] Five years into implementation, the City has met its goal each year, proving that ambitious targets can be met if all parties are brought on board.[6]

Some cities are pre-empted by their states from passing mandatory local or targeted hiring requirements. However, under almost any legal framework, some version of targeted hiring or outreach requirements can be implemented.

CONSTRUCTION JOBS VS. PERMANENT JOBS. Because the construction industry offers a path to long-term middle class careers for workers without college degrees, it is often the focus of local and targeted hiring efforts. The complexity of hiring and training systems in the construction industry means that training and employment programs need to be developed and tailored with that industry in mind.

However, non-construction work can also offer excellent opportunities for local and targeted hiring programs. Cities can target jobs with service contractors receiving public contracts, as well as a wide range of permanent jobs in subsidized development projects. When coupled with job quality standards like living wage requirements, these policies can help place local and targeted workers in quality jobs. **East Palo Alto** has a welldeveloped local hiring program for permanent jobs, which has been replicated in numerous community benefits agreements.

ENFORCEMENT, COMMUNITY INVOLVEMENT, AND FUNDING: Enforcement is crucial. Best practices in monitoring and enforcement include an oversight committee that meets regularly and includes community partners, regular reporting of progress in meeting the goals of the program, and mechanisms such as fines or clawbacks for businesses that do not comply.

Funding to support job training and placement programs is also important so that local residents are ready for the jobs that will become available to them. Support for quality pre-apprenticeship programs in the construction industry—with outreach to targeted populations—is essential.

LOCAL HIRING ON TRANSPORTATION PROJECTS: Until recently, projects that used federal transportation dollars were not allowed to have local hiring targets. However, after years of advocacy by groups in **Los Angeles** and elsewhere, the U.S. Department of Transportation created a local hiring pilot in 2015 and is proposing a permanent change in its rules to allow for local hiring.[7]

LANDSCAPE AND RESOURCES

The Partnership for Working Families and **the Community Benefits Law Center** provide resources and promote local and targeted hiring for both construction and permanent jobs nationally. **The Law Offices of Julian Gross** offers good information on the website and can provide legal assistance.

NOTES

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5 Brightline Defense Project, *Putting Local Hire to Work*, http://brightlinedefense.org/pic/assets/advocacy/advocacy201203052744a.pdf

6 http://emeraldcities.org/media/news/san-franciscos-5-year-old-local-hire-policy-a-huge-success

7 U.S. Department of Transportation, "U.S. Transportation Department Proposes Initiatives to Give Local Workers a Boost in Federal Investments," https://www.transportation.gov/briefing-room/us-transportation-department-proposes-initiatives-give-local-workers-boost-federal.

Co-authored by Julian Gross and PolicyLink

PolicyLink

PAID SICK LEAVE

"My boss told me that I no longer had my job at the restaurant. I was in shock. Getting fired was devastating."

—Elose Arestil, dishwasher in Miami, after being injured on the job.[1]

"I had to prioritize my family over work, and I lost my job."

—Ai Elo, waitress in New York City, after being fired be- cause she stayed home to take care of her ill brother.[2]

THE PROBLEM

More than 40 million American workers get no paid sick leave.[3] Most of these workers are in service industries like restaurants, health care, and retail – so the problem is particularly acute in cities, where these jobs cluster. Lack of paid sick leave disproportionately burdens minorities and low-wage workers, including the vast majority of food service workers.[4] When they are sick, these employees either have to show up for work – which threatens their health,[5] the health of their co-workers, and of the customers they serve – or stay home and lose valuable pay and risk termination. Because many working parents cannot stay home to take care of their sick children, those children are sent to school, which harms them and other kids. The United States is one of twenty-two rich countries in the world without a national law guaranteeing workers receive either paid sick days or paid sick leave.[6]

THE SOLUTION

While the best solution would be federal law, efforts in Congress to pass the Healthy Families Act – which would guarantee up to seven paid sick days a year for workers at companies with at least 15 employees – have so far been unsuccessful.[7] Without federal action, cities are taking the lead on the issue. Paid sick leave laws have taken effect in **San Francisco** (2006),[7] **Washington D.C.** (2008), and **Seattle** (2011). Voters passed a law in **Milwaukee** (2008), but Governor Scott Walker and the legislature later outlawed local paid sick leave laws. In 2011, Connecticut became the first state to pass a paid sick leave law. Broad-based campaigns – supported by unions and advocacy organizations committed to the wellbeing of women, children, immigrants, and workers – are active in dozens of cities and states around the country.[9] Paid sick leave is attractive for city-level reform because many cities are permitted to exercise "police power" and pass legislation protecting the "health, safety, morals, and general welfare of the public." Furthermore, in most cases there are no preemption issues.[10] At the time of writing, the **Los Angeles** City Council is considering a proposed law that would allow **Los Angeles** workers to earn at least six paid sick leave days annually, twice the state minimum.[11] The ordinance is in the process of being drafted and is intended to take effect by July 1st, 2016. Mayor Garcetti has thrown his support behind this law and the city council, and is expected to sign the ordinance by May 1st, 2016.[12]

POLICY ISSUES

The following topics will likely come up when designing your city's paid sick leave legislation. Legislators can tailor proposals to the political realities in their city.

COVERAGE: The scope of coverage is a central question in all campaigns. Advocates have sought to broaden coverage to include as many workers as possible; opponents have sought to carve out small businesses or particular industries. **San Francisco's** law is broadest, covering

any worker – part or full time – who works within the city for an employer. In order to win passage, advocates in **Washington, D.C.** had to accept an exclusion of restaurant waiters, which is particularly problematic given the public health consequences of such employees working while ill. In **Connecticut**, advocates had to agree to a carve-out for businesses with fewer than 50 employees, manufacturers, some non-profits, and firms that employ temporary workers.

NUMBER OF DAYS: Many paid sick bills start by requiring 10 days of paid sick leave for all workers, falling back to fewer days as a compromise to win passage. A number of bills provide two tiers – 9 days for most employees, 5 days for employees of small businesses – to address opponents' claims that small businesses cannot afford to provide such benefits. The rate at which the leave accrues (typically 1 hour leave for every 30 or 40 hours worked), the date on which it begins to accrue (at start of employment or later), and the length of a probation period (immediate use of benefit or waiting period to use), are all likely to be points of contention. Data from a **San Francisco** survey is useful to allay employer concerns over the cost of paid sick leave: "despite the availability of either five or nine sick days under the [Paid Sick Leave Ordinance], the typical worker with access used only three paid sick days in the previous year, and one-quarter of employees with access used zero paid sick days."[13]

USAGE: Most laws and proposals permit workers to take time off to care for themselves or for a sick family member or to seek assistance related to domestic violence. There are slight variations in the definition of a "family member" across the proposals, but most define it expansively to include domestic partners and people related through blood and marriage. Some proposals would permit time off to get routine/ preventive medical care.

ENFORCEMENT: It is important to ensure that any paid sick law includes enforcement provisions so that workers are actually able to use their leave. Legislation should include: requirements that employers notify their employees of their rights and keep records of the leave accrued and taken by employees; a private right of action so that employees can sue (in court or through an agency) if their rights are violated; penalties for non-compliance by employers; and the establishment of investigation and enforcement tools within a city agency. If a city does not have a labor bureau, enforcement can sometimes be vested in a department of health, consumer affairs, business development/ licensing, or work- force development.

LANDSCAPE AND RESOURCES

Family Values at Work is a consortium of 24 state and local coalitions pushing for paid sick leave. The **National Partnership for Women and Families** is leading the campaign for a national paid sick leave law and provides support on local campaigns. The **Institute for Women's Policy Research** has extensive research on the costs and benefits of paid sick leave policies. The **Center for Popular Democracy**, the **Leadership Center for the Common Good**, and the **Working Families Party** provide legal, strategy, and organizing support to local campaigns. **A Better Balance** advocates for a range of policies that advance the rights of working families and provides legal support on campaigns.

NOTES

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9 For a list of active campaigns, see http://familyvaluesatwork.org/in- your-state .

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PROHIBITING JOB DISCRIMINATION BASED ON CREDIT HISTORY

"Among low- and middle-income households carrying credit card debt, 1 in 4 households experiencing unemployment report that a prospective employer asked to check their credit as part of a job application."

—**Amy Traub,** Discredited: How Employment Credit Checks Keep Qualified Workers out of a Job (2013)

THE PROBLEM

When employers conduct credit checks as part of their hiring, retention, or promotion process, personal credit history becomes a barrier to employment. As a result, qualified job seekers are turned away from jobs. The practice discriminates against people of color, who are more likely to have poor credit as a result of predatory lending that continues to target communities of color, as well as the enduring impact of racial discrimination in employment, lending, education, and housing.[1] By evaluating prospective employees based on credit, employment credit checks can further extend this discrimination. People with disabilities, who are more likely to have medical debt, are also disproportionately harmed.[2] But the problem isn't limited to these communities: Americans from all walks of life whose credit is damaged as a result of medical debt, student loans, a layoff, divorce, identity theft, simple error, or a myriad other reasons, are shut out of jobs – despite a lack of evidence connecting someone's credit history with their job performance.[3]

Yet because for-profit credit reporting companies market credit checks as a tool to assess employee integrity and reliability, nearly half of all employers now run credit checks on new job applicants.[4] Credit checks may be ordered for jobs as diverse as doing maintenance work, offering telephone tech support, working in retail, or selling frozen yogurt, as well as many financial posts. Among low- and middle-income households carrying credit card debt, 1 in 4 households experiencing unemployment report that a prospective employer asked to check their credit as part of a job application.[5] This number likely underrepresents the full scope of the problem: while the federal Fair Credit Reporting Act requires employers to notify job applicants if their credit history played any role in an employment decision, the law is difficult to enforce and many job seekers never find out they were passed over because of their credit.

THE SOLUTION

The Fair Credit Reporting Act permits employers to conduct employment credit checks but also allows states and cities to establish stronger protections. So far ten states have restricted the use of personal credit information in employment. Unfortunately, as a result of industry lobbying, these laws include numerous exemptions that undermine the laws' efficacy. These exemptions allow credit checks for broad general categories or specific job positions, and are not substantiated by evidence or research. In 2015 **New York City** passed the nation's strongest law restricting employment credit checks. While New York's law still contains a number of unjustified exemptions, these exclusions are narrower than in many other credit check laws, and New York's public outreach effort – including ads on subways and buses, informational brochures in ten languages, and free trainings on the law for jobseekers, workers, and employers – is exemplary.

POLICY ISSUES

Credit reports are often sold as part of an overall "background check" bundled with searches of public records (such as past addresses, liens, or bankruptcies) and criminal records. However, these checks can also be disaggregated – it is possible for employers to purchase a public records search or criminal background check without inquiring into personal credit history.

Cities that are considering banning credit checks by employers should ensure that the following exemptions are closed.

HANDLING CASH OR GOODS: A number of state laws include exemptions permitting credit checks for employees that handle cash or have access to valuable property. These exemptions are based on the mistaken premise that reviewing a job applicant's personal credit report can predict whether someone is likely to steal. Since the recession began, millions of Americans have been laid off from their jobs, seen their home values plummet to less than their mortgage debt, and found their savings and retirement accounts decimated—all of which can affect credit history. These factors lie outside an individual's control and have no reflection on someone's fitness for work.

ACCESS TO FINANCIAL INFORMATION OR EMPLOYEES OF FINANCIAL INSTITUTIONS: The incorrect rationale for checking credit when hiring for positions with access to financial or other confidential information is the same as for employees who handle cash.

MANAGEMENT POSITIONS: Permitting credit checks for management or supervisory positions puts a ceiling on the advancement of people struggling to pay their bills, regardless of their qualifications. This exemption traps workers on the bottom rungs of the job ladder, no matter how skilled they may be.

LAW ENFORCEMENT POSITIONS: Many police departments conduct credit checks and reportedly disqualify candidates with poor credit. This is particularly dangerous because using a faulty screening tool such as credit history may provide a false sense of security to law enforcement agencies if they erroneously believe a credit check will help to prevent them from hiring officers vulnerable to corruption. In addition, racial disparities in credit mean that the use of employment credit checks may make it more difficult for law enforcement agencies to hire and promote a diverse police force.

BROAD STANDARDS-BASED EXCEPTIONS: The worst categories of exceptions are those that permit credit checks based on broad standards, such as "relevance", "fiduciary duty" or "substantially job related." These exceptions are overly expansive and leave many workers unprotected from the discriminatory impact of employment credit checks.

LANDSCAPE AND RESOURCES

For more information on banning credit checks, visit **Demos** the **New Economy Project**; the **NAACP Legal Defense Fund,** the **National Council of La Raza, the National Employment Law Project,** the **Lawyers Committee for Civil Rights Under Law**; as well as consumer groups such as the **National Consumer Law Center, USPIRG** and state PIRGs.

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Co-authored by Demos

Dēmos
AN EQUAL SAY AND AN EQUAL CHANCE FOR ALL

PROTECTING WORKERS IN THE ON-DEMAND ECONOMY

THE PROBLEM

With the significant growth of on-demand/ freelance/ independent/ contingent/"gig" work (sometimes identified with the so-called "sharing economy"), more and more workers—from freelance graphic designers and Uber drivers to construction day laborers—are lacking the legal protections provided to traditional employees. There can be real value for workers in the flexibility offered by independent work and efficiency for customers and the overall economy. But these benefits should not come from taking advantage of workers. Under federal labor law, a diverse group of workers including taxicab lessees, eBay dealers, owner-operator truckers, Xerox service repairmen, freelance photographers and software designers lack the right to organize into unions[1]. In addition, independent contractors and freelancers are omitted from other federal workforce measures that prohibit discrimination and state and local laws that guarantee overtime pay, paid sick days, or other workplace protections.

THEFT-OF-PAYMENT AND DELAYED PAYMENT. Freelancers and independent contractors also face persistent challenges in receiving fair and prompt payment. According to a Freelancers Union survey, 40% of freelancers in the U.S. had trouble getting paid in the last 12 months, and 81% have had trouble at some point during their careers. This problem is even worse for workers like construction day laborers, who almost always work without a contract.

MISCLASSIFICATION. The lack of protections for independent contractors in the U.S. gives employers an incentive to misclassify their workers. If classified as independent contractors, employers avoid substantial legal obligations and liability. This misclassification can lead to the loss of billions of dollars of revenue in evaded local, state, and federal taxes and employer contributions. Misclassified workers are denied pensions, unemployment insurance and tax contributions.

ENFORCEMENT: Independent workers face extreme difficulties in enforcing their rights. They cannot go to the Department of Labor. They cannot bargain collectively, even where there are many on-demand workers with identical relationships to the same company. Their only real option is to go through the court system, which is so expensive and slow that it often makes little sense. Moreover, gig work is often not covered by a written contract.

THE SOLUTION

Because the on-demand economy is relatively new, there is important work to be done at the local level designing and refining best practices. The following strategies seek to begin that process.

COLLECTIVE BARGAINING FOR INDEPENDENT CONTRACTORS ON SIMILAR CONTRACTS. Many independent workers perform a substantial portion of their work for a single company, often an "app"-based company, and that company will engage many gig-workers under essentially the same contract. In these cases, the company is in a position to dictate terms and conditions, with little room for negotiation. Workers have neither the individual flexibility to negotiate terms that freelancers have often had, nor the collective ability to negotiate about the overall terms of the contract. Cities can address this by allowing on-demand workers to bargain collectively.

Such laws would not be pre-empted by the National Labor Relations Act (NLRA), since independent workers are not covered by it (i.e. the law would not seek to define independent workers as traditional employees, but instead provide an alternative system for bargaining, focusing specifically on those workers who fall outside the NLRA). If carefully legislated in a sector-specific

way focusing on those areas in which local government has strong existing regulatory authority, such legislation should also survive anti-trust challenges. It would be a violation of such laws to cancel a worker's contract, or intentionally reduce his or her flow of work, for exercising this right. In **Seattle**, advocates and elected officials are advancing legislation that would allow taxi and for-hire drivers, including those working for companies such as Uber and Lyft, to choose a nonprofit organization to represent them in bargaining negotiations with ride-share companies over pay and working conditions.

PROMOTE THE FAIR AND PROMPT PAYMENT OF FREELANCE/CONTINGENT WORKERS. The Freelancer's Union is leading the way with a campaign, starting in **New York City**, for the passage of laws to end unfair payment practices. Such laws can:

- Mandate that freelancers' contracts include basic minimum provisions regarding timely payment, security deposits, etc., and make the failure to comply a violation of fair trade practices.
- Require that freelance work (for employers over a certain size) be governed by a written contract that would contain these basic minimum provisions, as well as a simple enumeration of the tasks and payment, to simplify compliance and enforcement.
- Provide a local government agency the authority to investigate and enforce these provisions and to create and administer a mediation/arbitration procedure to help resolve claims. Giving freelancers an alternative to small claims court and providing for triple damages and attorney's fees will help ensure compliance. Clarifying the standing of worker advocacy organizations to bring claims on behalf of freelance workers also helps to ensure strong enforcement.

EXTEND ANTI-DISCRIMINATION & WORKPLACE PROTECTIONS TO GIG AND FREELANCE WORKERS Independent contractors are currently excluded from most city, state, and federal civil rights and workplace protections. This can be easily remedied by cities that have such laws by extending them to cover contingent workers.

UTILIZE BUSINESS LICENSING TO PROTECT GIG WORKERS FROM ABUSE, INCLUDING MISCLASSIFICATION. Around the country, cities are increasingly using business licensing to address wage theft. Even where cities have limited legal authority, they can deny license applications or renewals to companies that are guilty of persistent violations of state and federal laws. Local agencies could review a company's compliance with relevant laws when considering a license application or renewal.

The **San Francisco** Office of Labor Standards works to ensure that employers in the city are complying with local, state, and federal labor and employment laws. It works in partnership with community-based organizations and through affirmative outreach and investigations by its staff in strategic industries.

ESTABLISH A HEALTH AND WELFARE FUND FOR TAXI AND FOR-HIRE VEHICLE DRIVERS. A small surcharge on taxi and for-hire rides (including those through Uber and Lyft), established by local law, could provide crucial benefits for workers, including modest disability payments and health, dental, and vision benefits.

MATERIALS AND RESOURCES

For more information protecting workers in the gig economy, see the **National Employment Law Project**'s report "Rights on Demand: Ensuring Workplace Standards and Worker Security in the On-Demand Economy[2]" and **Local Progress**' policy brief "Ending Wage Theft[3]" on the San Francisco Office of Labor Standards, and visit the **Freelancer's Union** webpage.[4]

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Co-authored by NYC Councilmember Brad Lander

RESPONSIBLE BANKING AND ACCESS TO CREDIT

THE PROBLEM

The state of lending in America is stagnant and low.[1] The number of home purchase loans in 2014 was half the number in 2006. Moreover, Black, Latino, and low- and moderate-income populations are obtaining a smaller share of loans. African Americans took out 8.7% of all home-purchase loans in 2006 but only 5.2% in 2014. Low- and moderate-income borrowers took out 34% of home-purchase loans in 2011 but just 27 percent in 2014.[2]

Racial disparities in access to credit have been particularly severe in cities. For example, in a recent report on lending in **Baltimore**, the National Community Reinvestment Coalition (NCRC) found that race was the most consistently significant predictor of mortgage lending patterns in the city. The percentage of white and black residents of a neighborhood were both significantly correlated – positively and negatively -- with the number of loans approved in Baltimore between 2011 and 2013.[3]

THE SOLUTION

In response to redlining and the denial of banking services to working-class communities and communities of color, advocates worked with and supported concerned lawmakers to pass the Community Reinvestment Act (CRA) in 1977. CRA requires banks to serve all communities, particularly low- and moderate-income neighborhoods, consistent with safety and soundness. The law is implemented through an examination process. CRA examiners scrutinize the level of loans, investments, and services to low- and moderate-income borrowers and communities and then rate banks approximately once every two or three years.[4] CRA has boosted lending to low- and moderate-income communities. Since 1996, banks have issued more than $900 billion small business loans and almost $800 billion in community development loans in low- and moderate-income communities.

While CRA has been tremendously beneficial overall, its reach into inner-city neighborhoods and rural communities has been constrained, especially in terms of reinvestment from large banks. CRA exams for large banks often consider performance in 10 to 20 states. The exams rate performance in lending, investing, and offering services on a statewide level and on a metropolitan-wide level. The exams do not rate performance in individual cities or neighborhoods in the cities. Rural communities also tend to receive little weight on exams.

In order to compensate for the gaps in CRA examination, cities have passed responsible banking ordinances (RBOs). **Cleveland** and **Philadelphia** were among the pioneers in passing RBOs. Depending on their size, cities deposit hundreds of millions or billions of dollars in banks. In return for offering the business opportunity of receiving municipal deposits, cities like **Cleveland** and **Philadelphia** require banks to demonstrate that they are serving low-income neighborhoods and those with high Black and Latino populations. Cities look at the publicly available data on bank lending and use their data analysis as one criteria for determining which banks will receive municipal deposits. **Cleveland** and **Philadelphia** also required banks to submit community reinvestment plans specifying future lending and investment goals in underserved neighborhoods.

The increased accountability for banks receiving municipal deposits improved their performance. A report commissioned by the City of **Philadelphia** found that banks receiving deposits (depositories) often provide more credit to a diverse set of borrowers than other lenders. For example, in 2013, depositories issued 21 percent of their home loans to African Americans compared to 15 percent for other lenders. Likewise, depositories made 56 percent of their loans to low- and moderate-income borrowers, compared to 52 percent for other lenders.[5]

The City of **Cleveland** reports that while more bank branches closed than opened across the United States, the number of bank branches in the City of **Cleveland** has remained stable. In particular, banks that receive municipal deposits have opened branches in low- and moderate-income neighborhoods in recent years.[6]

POLICY AND IMPLEMENTATION ISSUES

Inspired by **Cleveland and Philadelphia, about a dozen cities, including Boston, Los Angeles, Pittsburgh and San Jose, have enacted RBOs**. NCRC developed a model RBO bill that helped advocates and elected officials in the cities design and pass bills. However, momentum has been temporarily stalled as a result of a successful court case challenge to an RBO by banks in New York City. In the summer of 2015, Judge Katherine Polk Failla of the Federal District Court in Manhattan ruled that New York City's RBO was preempted by federal law. The judge decreed that the federal government, not the city, regulates banks. New York City, therefore, cannot compel banks to submit data or have their performance in city neighborhoods scrutinized as a condition of receiving municipal deposits.

NCRC regards the developments in New York City as a challenge that nonetheless can be overcome so that RBOs can continue to serve as a positive accountability tool in cities across the country. In an effort to bring new momentum to RBO efforts, NCRC has created a new model bill, which takes a different approach than the New York City ordinance.

The new NCRC model bill establishes a community reinvestment committee similar to those in Cleveland and Philadelphia. The community reinvestment committee would commission studies using publicly available data on bank performance in neighborhoods. The committee would then invite public comment on bank performance and would hold hearings regarding the extent to which lending institutions are meeting credit and capital needs in neighborhoods. NCRC believes that this additional level of public accountability would increase responsible bank lending, investing, and services in traditionally underserved communities. NCRC also recommends that city treasurers and financial departments use publicly available data to further understand CRA performance of banks interested in receiving municipal deposits.

RBOs are local accountability mechanisms for increasing responsible lending, investing, and services in minority and working-class neighborhoods.

LANDSCAPE AND RESOURCES

The National Community Reinvestment Coalition has both a model RBO bill and experience across the country providing technical assistance to local elected officials and community organizations. **The Association for Neighborhood and Housing Development** offers background on New York's experience working on their RBO. The **Pittsburgh Community Reinvestment Group** has experience passing an RBO and also working with school board and other agencies as they consider which banks should receive deposits.

NOTES

1 According to the Federal Reserve, home purchase originations declined from 6.7 million in 2006 to 3.2 million in 2014, Table 1, page 32, see The 2014 Home Mortgage Disclosure Act Data by Neil Bhutta, Jack Popper, and Daniel R. Ringo via http://www.federalreserve.gov/pubs/bulletin/2015/pdf/2014_HMDA.pdf.

2 Bhutta, et al, Table 2, page 33.

3 See NCRC, Home Mortgage and Small Business Lending in Baltimore and Surrounding Areas, http://www.ncrc.org/images/ncrc_baltimore_lending_analysis_web.pdf

4 Banks with assets above $250 million are examined about once every two or three years; banks with assets under $250 million are examined once every four or five years.

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Co-authored by National Community Reinvestment Coalition

SMALL BUSINESS SUPPORT

THE PROBLEM

Locally owned businesses play a central role in healthy communities, and are among the best engines that cities and towns have for advancing economic opportunity. Small business ownership has been a pathway to the middle class for generations of Americans, and continues to be a crucial tool for building wealth and community self-determination. This is something many people understand intuitively, and it is also borne out by research that finds that the presence of locally owned businesses is linked to higher rates of job creation, less income inequality, and stronger social networks.[1]

Despite these benefits, in many communities, small businesses are disappearing. Between 1997 and 2012, the number of independent retailers fell by about 108,000 and small manufacturers declined by 70,000.[2] Even more alarming than the overall decline in small businesses is the fact that it appears to have become much harder to launch one: The number of new firms created each year has fallen by nearly half since the 1970s, a trend that economists say is slowing job growth.

Contrary to popular perception, this decline isn't because local businesses aren't competitive. In many cases, it's because public policy and concentrated market power are working against them. Misguided zoning policies, soaring real estate costs, and financing terms that incentivize landlords to rent to chains[4] are making it harder for local businesses to find suitable space. Banking consolidation and the decline of local financial institutions has left more entrepreneurs struggling to obtain the capital they need, a barrier that is especially acute for Black, Latinx, and women entrepreneurs.[5] Economic development subsidies and tax incentives further skew the playing field by disproportionately flowing to big corporations.[6]

THE SOLUTION

As policymakers begin to recognize these barriers, some are taking action to ensure that their communities are places where local businesses can thrive. Here is a sampling of the strategies they are using.

GET ZONING RIGHT FOR SMALL BUSINESSES. Rather than favoring strip malls and large-format development, zoning should support multi-story, pedestrian-oriented districts that include a mix of small and large commercial spaces, and that preserve historic buildings. This type of varied building stock offers the best habitat for local businesses, and research has found that neighborhoods with a range of building types and ages have more startups per square foot.[6]

SET ASIDE SPACE FOR LOCAL BUSINESSES IN NEW DEVELOPMENT. Cities can require development projects to reserve a portion of their first-floor space for small storefronts and for locally owned businesses as a condition of permitting, as **Austin, New York**, and other cities have done. Because of financing incentives and national relationships, new development is often oriented to the needs of large chains; set asides can help close the gap.

ADOPT A BUSINESS DIVERSITY ORDINANCE. A Business Diversity Ordinance can ensure that independent, neighborhood-serving businesses don't get crowded out by chains. Municipalities around the country, from **Fredericksburg,** Texas, to **Jersey City**, have used this tool effectively. San Francisco's 12-year-old policy is one of the most comprehensive. It requires a "formula" business to apply for a special use permit and meet criteria in order to locate in any of the city's neighborhood commercial districts.[7]

FACILITATE ADAPTIVE REUSE OF VACANT BUILDINGS. Cities can establish an Adaptive Reuse Program to help local entrepreneurs turn vacant historic buildings into new businesses. In **Phoenix**, for instance, the program offers permit-fee waivers and a faster timeline for eligible projects. In **Anchorage**, Alaska, a land trust works with local entrepreneurs to repurpose derelict commercial properties.

REORIENT ECONOMIC DEVELOPMENT INCENTIVES. Economic development incentive programs disproportionately favor big companies, and what's more, they often don't work. Instead of giving public dollars to big businesses, cities should redirect these resources to foster local businesses, as some cities, like **Grand Rapids,** Mich., are doing. Another model can be found in **Portland**, where the city has several initiatives to accelerate the growth of minority-owned businesses.

OPEN A SMALL BUSINESS OFFICE. Cities should create a position within city government to guide business owners through local permitting requirements, and to serve as a liaison between small businesses and policymakers. Models include a Small Business Navigator office such as those in **Montgomery County**, Md., and **Minneapolis**, or a Small Business Commission, such as the one in **San Francisco**.

GIVE PREFERENCE TO LOCAL BUSINESSES IN CITY PURCHASING. Cities should establish a preference for locally owned businesses in city purchasing, and include clear definitions, goal-setting, and reporting to ensure that their purchasing doubles as economic development, as **Cleveland** has done. Cities can also establish a preference for local businesses when leasing city-owned commercial space, as **Seattle** is doing with its King Street Station.

EXPAND ACCESS TO CAPITAL. Community banks supply a majority of small business loans. As their numbers have plummeted in the last decade, so too has lending to small businesses. To strengthen and expand these institutions, **Oakland, Santa Fe,** and other cities are exploring setting up a public partnership bank, modeled on the Bank of North Dakota. Another helpful approach is to establish a one-stop, single-application portal for local entrepreneurs seeking loans, as **Philadelphia** has done with its Capital Consortium.

LANDSCAPE & RESOURCES

For a review of the research on the importance and benefits of local business ownership, see the **Institute for Local Self-Reliance**'s resource page, "Key Studies: Why Local Matters."[10] For more information about how the built environment can support locally owned businesses, see the ILSR report, "Affordable Space."[11] Detail about the decline of local businesses can be found in the ILSR report, "Monopoly Power and the Decline of Small Business."[12] Also see the ILSR article "Access to Capital for Local Businesses"[13] for information on the small business credit crunch; "How San Francisco is Dealing With Chains,"[14] for a look at one city's business diversity policy; and "Procurement Can Be a Powerful Tool for Local Economies, but Takes More Than a Policy Change to Work"[15] for research on effective local business purchasing policies.

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Co-authored by the Insitute for Local Self-Reliance

ILSR
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ABORTION ACCESS

"Anti-choice advocates, having had limited success pushing extreme abortion bans at the state and federal levels, are increasingly turning their attention to localities... Activists should be prepared to fight back against these dangerous restrictions and to seize the opportunity to demonstrate how extreme and out-of-choice are opponents are."

—"Local Attacks on Women's Health," **National Institute for Reproductive Health.**

THE PROBLEM

Abortion is a safe, legal, and commonplace medical procedure.[1] Yet, in the past several years, politicians on the local[2] and state level have taken unprecedented action to restrict access to the procedure, using multiple strategies to make abortion difficult, if not impossible, for many women to access.[3] Depending on the law, these policies have led to the unnecessary closing of well-regulated and safe abortion clinics, made abortion care more expensive for patients by banning insurance coverage, and placed unnecessary regulations on the procedure itself.

THE SOLUTION

Officials at the local level have the opportunity to take measures to protect and expand reproductive rights, as well as begin to turn the tide of harmful legislation, by acting in support of women's health.

POLICY ISSUES

PROVIDE LOCAL FUNDING OF ABORTION: Many women lack insurance coverage of abortion due to state and federal bans on abortion coverage, while others are hesitant to use their insurance to cover the cost of the procedure due to privacy concerns.4 As a result, the cost of an abortion procedure can be a major obstacle, particularly for young and/or low-income women. In Texas, the **Travis County** Board of Commissioners provided abortion coverage for low-income residents at three abortion clinics using funding from local sources of revenue until a law passed by the Texas Legislature put a stop to the practice.5 Another model is to allocate funding to cover the cost of abortion for women in the city's foster care system. County or city officials could also set aside funding in the local hospital's budget annually to offer a limited number of subsidized abortions to residents.

PROTECT PATIENT ACCESS TO ABORTION CLINICS: In the summer of 2016, the Supreme Court struck down Texas's HB-2, reaffirming that it is unconstitutional for cities and states to pass laws that present substantial obstacles in the path of women seeking abortions, such as hospital admitting privileges or surgical center requirements for clinics.[6]

By physically obstructing access or excessively intimidating patients, anti-choice demonstrators can make visiting a clinic a hostile and upsetting experience, and can even prevent women from gaining entry. While the free speech of protesters must be protected, communities can take important measures to ensure that anti-choice groups do not present substantial obstacles to women seeking access to abortion. In **New York**, NY, a clinic access law strengthens penalties for protesters who harass or block patients, providers, or volunteers within 15 feet of the clinic.[7] The **Pittsburgh** City Council enacted a buffer zone ordinance that establishes a 15-

foot zone around the clinic in which no one may congregate, patrol, demonstrate, or picket.[8]

Anti-choice groups also are known to set up crisis pregnancy centers (CPCs), organizations that often represent themselves as full-service reproductive health centers but instead use manipulative and deceptive tactics to dissuade women from choosing abortion. In **New York**, the city council passed an ordinance requiring CPCs to keep women's personal information confidential and also requiring signage indicating whether or not a licensed medical provider is on staff.[9] In **San Francisco**, the Board of Supervisors passed an ordinance that prevented CPCs from making misleading statements or posting deceptive advertisements about their services.[10]

ENSURE LOCAL ZONING CODES TREAT ABORTION PROVIDERS FAIRLY: In some cities, anti-choice groups have used local zoning regulations as a way to block the establishment of an abortion clinic in their community or close down existing clinics. This strategy forced the shutdown of a clinic in **Fairfax**, VA, which needed to relocate due to passage of a targeted regulation of abortion providers (TRAP) law on the state level. TRAP regulations require abortion providers have admitting privileges, a medically unnecessary policy that often results in the closure of clinics because hospitals are unwilling to partner with them. In response, the City Council changed the zoning code, leaving the abortion clinic unable to secure a new location. On the other hand, a similar attempt was defeated in **Manassas**, Virginia a few months later. Instead of using zoning codes to attack providers, the Manassas City Council can modify their zoning codes to ensure that abortion providers are treated fairly within their borders. Zoning codes can require treating abortion clinics in the same manner as medical offices, as most abortions are routinely and safely provided in office-based settings. City councils can also require that anyone contracting with the city or receiving city funding not discriminate in their transfer agreement based on the services provided by the clinic.

PASS A LOCAL RESOLUTION SUPPORTING REPRODUCTIVE RIGHTS ON THE STATE AND FEDERAL LEVELS: Demonstrating that there is broad support for abortion coverage makes it easier for progressive policymakers on the state and federal level to reverse bans on abortion coverage. In 2017, **Delaware** became the first state in the nation to write the holding of the Supreme Court's landmark decision in Roe v. Wade into its laws. The Delaware law provides access to abortions for women even in the event of a change at the federal level or a repeal of Roe v. Wade.[12] **Seattle**, WA passed a resolution in support of comprehensive reproductive health care coverage that includes abortion. Their support provided an opportunity for Seattle's Congressman to make explicit his support of federal coverage of abortion to his constituents. In Philadelphia, PA, the Board of Health passed a similar resolution, using their expertise to make the case that abortion coverage is a vital public health issue. In December 2015, the Salt Lake City Mayor's Office of Diversity and Human Rights and the Salt Lake City Human Rights Commission named the Planned Parenthood Association of Utah a 2015 Human Rights Award recipient, following a statewide funding cut to the organization.11 In Oakland, CA, the City Council passed a resolution opposing racist sex-selective abortion bans, such as those included in the federal bill known as "PRENDA."[13]

LANDSCAPE AND RESOURCES

The **National Institute for Reproductive Health** provides funding and technical assistance to organizations and advocates working to advance reproductive health, rights and justice on the local level. The **All* Above All** campaign provides support to organizations and individuals working to lift the bans that deny abortion coverage. The **National Abortion Federation** and **Planned Parenthood Action Fund** provide information and support for abortion access initiatives, particularly related to safe clinic access and buffer zones.

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Co-authored by

NATIONAL INSTITUTE FOR REPRODUCTIVE HEALTH

ADDRESSING VIOLENCE AGAINST WOMEN & GIRLS

"And finally, to girls everywhere, I am with you. On nights when you feel alone, I am with you. When people doubt you or dismiss you, I am with you. I fought everyday for you. So never stop fighting."

— Stanford Survivor

"Our culture continues to ask the wrong questions: What were you wearing? Why were you there? What did you say? How much did you have to drink? Instead of asking: Why did he think he had a license to rape?"

— Joe Biden

THE PROBLEM

In localities and college campuses throughout the United States, survivors of sexual and domestic assault are put at a legal disadvantage because laws are not written in a way that corresponds with the emotional and physical ramifications of gender-based violence. In the face of state and federal gridlock, municipal leaders have the power to make a difference. According to recent studies by the National Alliance to End Sexual Assault, nearly 1 in 5 women survive a sexual assault sometime during their life. The National Network to End Domestic Violence found that 1 in 3 women have experienced either sexual or domestic abuse in the United States. While those statistics are staggering, laws written to provide protections from gender-based violence have stalled in many legislatures. Municipalities have the ability address gender-based violence and put pressure on state governments to enact real reform.

SOLUTIONS

When children are provided with education about healthy relationships, especially when they do not have good role models at home, they are better positioned to successfully avoid violence as adults. In order to protect victims, especially those on college campuses, affirmative consent laws remove the ambiguity that many assailants take advantage of. And the circumstances a survivor faces can be addressed by removing the barriers associated with prosecuting a physical or sexual assault.

The Rape, Abuse and Incest National Network have developed recommendations for how municipalities can deter gender-based violence. These reforms address the unique circumstances associated with gender-based violence while taking into account the legal authority of most municipalities:

ENCOURAGING K-12 EDUCATION ON SEXUAL ASSAULT: Known as Erin's Law, county and local municipalities can pass resolutions that encourage or require school district to address sexual assault by: 1) Teaching students in grades pre-K –12th grade age-appropriate techniques to recognize child sexual abuse and tell a trusted adult, 2) Training all school personnel about recognizing child sexual abuse, 3) Educating parents & guardians about the warning signs of child sexual abuse, plus needed assistance, referral or resource information to support sexually abused children and their families. Erin's Law has currently been passed in 26 states and resolutions have passed in **Dowingtown** and **Honey Brook**.

EMPLOYER-PROVIDED LEAVE FOR SURVIVORS: Referred to as "Safe Days," employer-provided leave can either be paid or unpaid. If a survivor needs to get to court and or move, "Safe Days" secure his or her ability to maintain employment while dealing with the ramifications of an assault. Circumstances that are specific to

an assault may warrant that a survivor needs to avoid his or her place of employment -- especially if their assailant is aware of where they work. Employer-provided leave can give survivors the security necessary to avoid their assailant.

RESTRICTING THE EVICTION OF SURVIVORS: In many cases, survivors of either sexual or domestic violence are afraid of their losing their housing while filing charges against their assailant. Landlords may file eviction proceedings against tenants in the case of domestic disturbance or unpaid rent by exercising a nuisance clause in the lease. Municipalities can thwart eviction of survivors by passing laws like those that provide for a responsible way for a survivor to stay in their home. Dowingtown and Honey Brook mirrored changes in Pennsylvania state law in 2014.

SUPPORT AFFIRMATIVE CONSENT: Often called "Yes Means Yes," affirmative consent laws take the ambiguity out of an assault by providing all parties a clear understanding of what warrants consent. Many sexual assaults are not prosecuted or reported because the circumstances do not meet the outdated and unsafe threshold required in "No Means No." While many assaults happen with or around alcohol, these laws makes sexual contact illegal for individuals who lack the capacity to consent.

STAKEHOLDER COLLABORATION: Many counties or municipalities have crisis centers and domestic violence shelters. One useful mechanism for combating gender-based violence is a sexual and domestic assault committee that brings law enforcement, prosecutors, advocates, survivors, and policy makers to the same table. Most effective is to host a sexual and domestic assault committee at the crisis center or local equivalent.

LANDSCAPE AND RESOURCES

The Rape, Abuse and Incest National Network provides policy recommendations that deal with sexual violence and sex abuse education training. **The National Network to End Domestic Violence** updates stakeholders on policy proposals being pushed that support and protect survivors.

CIVIL ASSET FORFEITURE

THE PROBLEM

Under civil asset forfeiture practices, local law enforcement can seize citizens' homes, cars, cash, and other property if they merely suspect that the property concerned is in any way connected to a crime or criminal activity, creating a perverse incentive for law enforcement officers. Asset forfeiture laws vary state by state[1], and in most states, law enforcement is allowed to keep a large portion, or all, of the forfeited property. One way in which they can do this is by participating in the "Equitable Sharing Program" designed by the federal Department of Justice. This is a legal loophole that gives state and local law enforcement the option of prosecuting some asset forfeiture cases under federal law and allows local law enforcement departments to keep up to 80 percent of seized property.[2]

Evidentiary standards for acquiring property are low, allowing law enforcement to seize and withhold property without necessarily proving any absolute connections between the property and the crime in question. Asset forfeiture laws provide local law enforcement with financial incentive to take advantage of people and "police for profit," padding their department budgets with capital taken from, often innocent, individuals.[3] This process threatens citizens' constitutional rights to due process and property, and when abused by local law enforcement, undermines that law enforcement department's ability to protect and serve in their intended capacities.

Furthermore, these practices have a disproportionately negative impact on communities of color. In 2015, the Washington Post reported that **Philadelphia**'s District Attorney's Office seized more than $2.2 million annually. The Institute for Justice drew a parallel between the city's forfeiture policies and the practice of "stop-and-frisk," noting that both policies disproportionately affect young African American and Latino men.[5] In 2015, African Americans made up 44 percent of Philadelphia's population, yet accounted for two-thirds of all forfeiture cases.[6] The intended purpose of most asset forfeiture laws is to fight large-scale drug operations and organized crime by stopping some of their cash flow. However, the ACLU found that in Philadelphia, the average amount of cash seized under civil forfeiture laws was $192, and only 1 in 10 amounts are greater than $1000.[7]

THE SOLUTION

In order to prevent police from "policing for profit," states and local government must first eliminate police forces' financial incentives for civil forfeiture, and improve property rights and protections for residents. Second, law enforcement agencies must be held to a high standard of operating under a strict burden of proof to justify any acquisition and withholding of property. In 2012 the ACLU settled a class action lawsuit against **Shelby County and Tenaha** (TX) Police Department ending the "interdiction program"[8] in Shelby County. As a result of the settlement, Shelby County police are being held more accountable at traffic stops in Tenaha. Among the reforms following this suit, no property may be seized during a search unless the officer first gives the driver a reason for why it should be taken, and all property improperly seized must be returned within 30 business days.[9]

A bipartisan bill was proposed in the **Pennsylvania** State Legislature that would require all cash seized through forfeiture to go to the state's general fund rather than the District Attorney's Office. It would also require that a person be convicted of a crime before law enforcement officials could permanently keep seized property.[10] The bill has passed the state Senate, but with alterations

that the Pennsylvania ACLU claims "fail to reform the practice of civil asset forfeiture in any way."[11] While the final legislation in Pennsylvania may not be ideal, the language in the initial bill is a model for civil asset forfeiture law reform.

In **Washington, DC**, The Civil Asset Forfeiture Amendment Act of 2014, bans adoption of seized property by the Federal Government through equitable sharing, and requires that property seized from joint task forces between local law enforcement and federal law enforcement will be directed to the city's general fund.[12] This makes DC a strong, progressive model for cities. Additionally, the DOJ has made a legal requirement, with a few exceptions that local law enforcement agencies that continue to participate and profit from equitable sharing must spend the money on law enforcement purposes only. State and local governments should make it a legal requirement that any assets seized through forfeiture must be directed to the state and city general fund.

Because the delegation of civil forfeiture power to local law enforcement departments is primarily based in state law, best practice recommendations are primarily for the states.

Best practices for state and local law enforcement agencies with forfeiture powers:

- Mandate the tracking and reporting of forfeiture activity, including the type and value of property seized and every purchase made with forfeiture revenue.
- Law enforcement, operating under a strict burden of proof, should be required to demonstrate a clear and strong connection between property being seized and the criminal activity of the property owner. If they cannot demonstrate this, the property must be returned in a timely manner. Under civil forfeiture laws, there is no need for a criminal conviction in order for law enforcement to seize property.
- Citizens must be given prompt post-seizure hearings in which they are given the opportunity to ask a judge to return their property.
- Civil forfeiture revenue should flow into the city or county general fund, or another fund, such as education.
- Lawmakers must introduce legitimate protections in line with existing Constitutional securities for property owners. State and local law enforcement should have to prove that the owner consented to or had knowledge of the crime that led to the seizure of their property.

LANDSCAPE AND RESOURCES

The **Justice Institute's** "Policing for Profit" toolkit, published in 2015, was the main source of information for this brief. The **ACLU** has also done work on asset forfeiture.

NOTES

1 The Institute for Justice, in their *Policing for Profit: The Abuse of Civil Asset Forfeiture* (2nd ed.) toolkit, gave each state a grade on their civil forfeiture laws based on the incentives they gave to law enforcement to "police for profit" and what protections they afford to property owners. (See Endnote 4 for full citation of toolkit).

2 In 2015, New Mexico ended all state participation in the Equitable Sharing Program, checking New Mexico local law enforcement departments' abilities to abuse their power. New Mexico's progressive actions are a model for other states.

3 Carpenter, Ph.D., D. M., Knepper, L., Erickson, A. C., & McDonald, J. (2015). *Policing for Profit: The Abuse of Civil Asset Forfeiture* (2nd ed.). N.p.: The Institute for Justice.

4 Christopher Ingraham, *How Philadelphia Seizes Millions in 'Pocket Change' from some of the City's Poorest Residents*, Washington Post (2015).

5 Sibilla, N. (2012, November 30). Seize First, Ask Questions Later: Philadelphia Police Take Over $6 Million a Year in Civil Asset Forfeiture. In *Institute for Justice*.

6 Ingraham, C. *'Pocket Change'* The Washington Post

7 Ibid

8 Mukherjee, E. (2012, August 9). Settlement Means No More Highway Robbery in Tenaha, Texas. In *ACLU American Civil Liberties Union*.

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10 Otterbein, H. (2015, June 3). This Bill Would Transform Civil Asset Forfeiture in Pa. In *Philadelphia Magazine* (online).

11 ACLU of PA: State Senate Bill Fails to Reform Civil Asset Forfeiture," *ACLU*, April 26, 2017.

12 Sibilla, N. (2014, December 3). Washington, D.C. Council Votes to Reform City's Civil Forfeiture Laws, Ban Policing for Profit. In *Forbes*.

ENSURING RACIAL EQUITY IN PUBLIC CONTRACTING

"We have to build a city that creates opportunity in a way that reflects the diversity of our city."

—Cincinnati mayor **John Cranley,** on supporting a Department of Economic Inclusion.

"For Memphis to grow, we have to place some level of priority on the inclusion and growth of minority- and women-owned businesses"

—Darrell Cobbins, president and CEO of Universal Commercial, a Black-owned business in Memphis.

THE PROBLEM

Businesses owned by people of color create jobs and build wealth in communities of color. Yet despite rapid growth of entrepreneurship among people of color – and women of color in particular – these businesses face significant barriers to growth and success. Government spending on construction, goods, and services is a potential opportunity to advance economic inclusion, but municipalities often under-contract with businesses owned by people of color. In **Shelby County**, TN, for example, only 6 percent of county contracts went to Black-owned companies[1], despite the fact that the county itself is 53 percent Black, and **Memphis**, the largest city in the county, has the second highest rate in the country of Black-owned businesses, at 56 percent.[2]

There are many reasons local governments have so often failed to provide fair contracting opportunities to businesses owned by people of color. They range from outright corruption and nepotism, to banal bureaucratic processes that smaller, understaffed, and overworked businesses do not have the time or ability to navigate which is especially pertinent because the vast majority of businesses owned by people of color are small businesses. These issues are compounded by legal hurdles that make race-conscious laws and ordinances, even though aimed to benefit minority business interests, subject to constitutional challenges.

THE SOLUTION

Municipalities can leverage their contracting and procurement power to increase racial equity within their local business community. This brief focuses specifically on public contracting with businesses owned by people of color, recognizing the unique historic, structural, and legal considerations that affect these communities.

POLICY ISSUES

Key strategies that elected officials can support to advance racial equity in public contracting are:

BUILD UP THE NUMBER AND CAPACITY OF ELIGIBLE MBES & DBES: Minority Business Enterprises (MBEs) are businesses that are certified to be at least 51 percent owned, operated, and controlled by people who are Asian, Black, Latino, and/or Native American.[3] While most businesses owned by people of color are eligible to become certified MBEs, many are not certified because they don't know about it or the process is too onerous. Based on a recommendation from Mayor John Cranley's Economic Inclusion Advisory Council, the City of **Cincinnati** created the Department of Economic Inclusion in 2015 to support more businesses owned by people of color and women becoming certified and winning contracts with the city.[4]

The U.S. Department of Transportation requires all transportation agencies to operate a program for Disad-

vantaged Business Enterprises (DBEs), which includes people of color, women, and others who are considered economically disadvantaged.[5] In **New Orleans**, the Regional Transit Authority commissioners, after determining they were underutilizing companies owned by people of color in their contracts, revamped their bidding and provided increased support for businesses to navigate the process to be certified as DBEs and build up their capacity to pursue contracting opportunities. DBE participation in contracts increased from an average of 11 percent to 31 percent within a year, resulting in over $17 million of additional capital going to these businesses.[6]

INCREASE ACCESS TO CAPITAL: Undercapitalization is a major problem for businesses owned by people of color, which impedes a firm's capacity for contract mobilization, equipment purchase, making payroll, and timely payment of taxes. Lack of access to mainstream capital is a challenge disproportionately experienced among business owners of color.[7] Procurement strategies that provide at least some payment to small businesses up-front and city programs to help with bonding and insurance for construction contractors can help increase access to capital and support these businesses. In **Rhode Island**, the Department of Transportation implemented a low-interest loan program exclusively for firms owned by people of color to increase their ability to bid on highway infrastructure contracts. This program not only increased the total investment going to DBEs, but also promoted activity by minority owned firms in business areas in which the state had previously not had any certified DBEs.[8]

LEGAL CONSIDERATIONS: Goals for inclusion have been a part of government contracting practices since the early 1960's. However, powerful business interests have argued in federal courts across the nation that racial equity in government contracting does not serve a compelling government interest, and the courts have applied strict scrutiny and narrow-tailoring legal notions to programs and policies that increase government contracting with businesses owned by people of color. To overcome these legal challenges, municipalities must be able to prove their ordinances are remedying the effects of discrimination that result in real economic or physical harm to minorities.[9] Tools such as disparity studies—which measure the level of utilization of MBEs and Women's Business Enterprises on public contracts and compares these rates to the number and capacity of these firms in related industries—can help municipalities meet their legal burden of proof. **Shelby County, Cincinnati**, and many other municipalities have used disparity studies to document where race- and gender-conscious programs are needed to address inequities in contracting.

Some cities and states are required to operate race-neutral programs to achieve racial and gender inclusion in contracting.[10] Race-neutral strategies include practices such as matchmaker sessions to connect prime contractors to subcontractors from disadvantaged backgrounds and advisory committees to provide programmatic recommendations. While these programs can help increase business opportunities for firms owned by people of color, they are likely to have less strong outcomes than racially-targeted policies and programs.

LANDSCAPE AND RESOURCES

The **National Minority Supplier Development Council** advances opportunities for businesses owned by people of color and is the primary certifier of MBEs, with 24 regional council nationwide. **The U.S. Department of Commerce Minority Business Development Agency** provides helpful resources and research on businesses owned by people of color. The **Local & Regional Government Alliance on Race & Equity** offers online resources on equity in contracting.[11] The **Emerald Cities Collaborative** has affiliates around the country that are advancing equitable contracting and hiring practices, particularly in green infrastructure projects.

NOTES

1 National Minority Supplier Development Council, http://www.nmsdc.org/mbes/mbe-certification/.

2 Oscar Perry Abello, "Cincinnati Hopes More Minority-Owned Businesses Will Get a Piece of City Projects," Next City, https://nextcity.org/daily/entry/cincinnati-small-business-minority-owned-business.

3 U.S. Department of Transportation, https://www.transportation.gov/osdbu/disadvantaged-business-enterprise/definition-disadvantaged-business-enterprise

4 PolicyLink, "New Orleans Fast-Tracks Equitable Transit Investment," *America's Tomorrow*, June 6, 2013, https://www.policylink.org/sites/default/files/americas-tomorrow-june62013.pdf.

5 Fairlie, Robert W. and Alicia M. Robb, *Disparities in Capital Access between Minority and Non-Minority-Owned Businesses: The Troubling Reality of Capital Limitations Faced by MBEs*, Minority Business Development Agency, http://www.mbda.gov/sites/default/files/DisparitiesinCapitalAccessReport.pdf.

6 This includes states under the jurisdiction of the Ninth Circuit Court of Appeals (Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington).

7 See: http://racialequityalliance.org/category/contracting-equity/.

Co-authored by Judith Dangerfield

PolicyLink

FAIR-CHANCE HIRING FOR WORKERS WITH CRIMINAL RECORDS

THE PROBLEM

Nearly one in three adults in the United States—or 70 million people—have some type of criminal record that will show up on a routine background check for employment.[1]

As background check screening becomes more common in employment, the stigma of having a criminal record creates a challenging barrier for many jobseekers—even years after the offense. Men with records accounted for approximately 34 percent of the nonworking men of prime working age, in one survey.[2] The existence of a criminal record reduces the likelihood of a job callback by 50 percent among equally qualified applicants,[3] which is even more pronounced for Latino and Black applicants.[4] 17% of whites with a criminal record get a call back on a job interview, down from 34% without a record, while only 5% of black applicants with a record receive call backs from employers, down from 14%.[5] These statistics demonstrate the severe disadvantage facing those with a criminal record, particularly people of color who already face racial discrimination in the job market.

The widespread, excessive use of background checks thus exacerbates racial and economic inequality. Furthermore, the prejudice created by these unfair practices lowers the employment rate nationwide by over 1.5 percentage points and costs the nation over $57 billion a year in lost output.[6]

THE SOLUTION

Providing pathways to employment for people with criminal records can dramatically improve people's lives, increase public safety, and generate measurable economic returns in local communities.[7] One of the most promising hiring reforms, gaining bipartisan support and national attention, is "fair chance" hiring. One component of a fair-chance policy is to "ban the box" that asks about convictions on a job application. The "box" discourages people from applying and artificially narrows the pool of qualified workers.[8] Too often, employers automatically reject applications with the checked box, regardless of the applicant's qualifications. Ban the Box or Fair Chance initiatives provide applicants a fair chance by removing conviction history questions on a job or housing application and delay the background check inquiry until later in the hiring/approval.

In addition to banning the box, fair-chance hiring integrates federal best practice guidelines on the use of arrest and conviction records in employment decisions, including evaluating conviction job-relatedness, the time passed since the offense, and rehabilitation.[9] In addition, employers should provide applicants with the opportunity to dispute the accuracy or relevance of any records.

Fair-chance hiring policies help to lift the stigma of a record and allow a person's skills and qualifications to come first. Referring to federal guidelines, researchers found that such "laws give jobseekers the chance to make contact with prospective employers—contact that this study suggests is crucial to the hiring process" because it presents the "opportunity to overcome negative stereotypes and reveal positively valued traits."[10]

Where local entities have tracked hiring, they have found a measurable impact. In **Durham County, North Carolina,** the number of applicants with criminal records recommended for hire nearly tripled in the two years since its fair hiring policy passed. On average, 96.8 percent of those with records recommended for hire ultimately received the job.[11]

After **Minneapolis** implemented its policy, the city found that removing the conviction disclosure box from initial applications and postponing background checks

until a conditional offer of employment decreased the amount of transactional work for staff, did not slow down the hiring process, and resulted in more than half of applicants with convictions being hired.[12]

The movement for policies to dismantle barriers to employment for workers with records has gained significant traction across the political spectrum. As of April 2016, there were over 100 cities and counties and 23 states that have adopted policies to delay conviction history inquiries in hiring.[13] In 2015, Former President Obama announced that federal agencies would adopt ban-the-box and in April 2016, the White House launched the Fair Chance Business Pledge, garnering pledges from major corporations.[14]

Fair hiring initiatives are increasingly facing legal hurdles in the form of state government pre-emption measures. Arkansas and Tennessee have both enacted state laws that limit the ability of local governments to pass laws protecting classes of individuals, in this case those with a criminal history, from anti-bias laws.[15] Indiana and Texas have both introduced and passed legislation that would ban municipalities from passing their own "Ban the Box" laws.[16]

To proactively avoid these issues, legislation should be drafted with care, and ideally with bipartisan and industry support, and should include exceptions for sensitive employers such as schools, hospitals, and security companies which will engender less opposition.

POLICY ISSUES

To craft a fair-chance policy, including ban-the-box, here are key principles.[17]

AVOID STIGMATIZING LANGUAGE such as "ex-offenders" or "ex-felons." Use terms that lead with "people," such as "people with records."[18] A background check may be unnecessary for a job position because most jobs do not entail safety risks. Even if a background check is legally mandated, it is unnecessary to exempt a position from the majority of these best practices. If a background check is necessary, only consider those convictions with a direct relationship to job duties and responsibilities and consider the length of time since the offense. Avoid consideration of records of arrest not followed by a valid conviction, sealed, expunged, or old offenses.

DON'T INQUIRE ABOUT CONVICTION HISTORY UNTIL A CONDITIONAL OFFER HAS BEEN MADE.[19] The most effective policy is to delay all conviction inquiries, oral or written, until after a conditional offer of employment. Avoid provisions that bypass the policy through "voluntary disclosure" of record information from the applicant or that use self-disclosure of this information as a misguided "truth test." If a job applicant is rejected because of a record, inform the applicant. Provide the applicant with written notice of the specific job-related item in the report and a copy of the report.

PROVIDE THE APPLICANT THE RIGHT AND SUFFICIENT TIME to submit evidence of mitigation or rehabilitation before a final decision. Hold the position open until the review is complete.

EXPAND THE FAIR-CHANCE POLICY TO PRIVATE EMPLOYERS. To maximize the impact of the fair-chance policy, apply the policy to government contractors and private employers. Localities that have done so include New York City, Austin, Buffalo, and San Francisco among others.[20] Several of these cities have required that private employees perform background checks only for some positions, only after a conditional offer, and give applicants various rights regarding appeals, complaints, and notices of denial.[21]

COMBINE DATA COLLECTION AND EFFECTIVE ENFORCEMENT. At a minimum, a government agency should process complaints and audit compliance. Strong penalties for employers and incentives for complainants, such as directing the penalty funds to complainants, or making available significant monetary remedies, will incentivize private employers to comply and jobseekers to come forward. With government contractors, the contract should be rescindable without compliance. Data collection to track disqualifications and hiring will also support enforcement. Plus, agency-directed investigations can direct resources to high-impact cases.[22]

LANDSCAPE AND RESOURCES

For more information, visit the National Employment Law Project's fair-chance hiring campaign page.[23] Two resources are the Ban the Box State and Local Guide,[24] which documents policies across the country, and the Fair Chance – Ban the Box Toolkit,[25] which is a comprehensive resource for advocates.

The grassroots organization, All of Us or None, coined the phrase "ban the box" and sparked the movement to remove the check-box. Ban-the-box resources are available on its website.[26]

INTERACTIVE CITATIONS AVAILABLE ONLINE AT WWW.LOCALPROGRESS.ORG/NOTES

Co-authored by the National Employment Law Project

NELP NATIONAL EMPLOYMENT LAW PROJECT

LANGUAGE ACCESS

"People's lives are at risk when they can't understand the medication that is supposed to save their lives. I wonder why pharmacies seem so hesitant to translate labels."

—Carlos M., on having to translate for his elderly mother because of the lack of language access at the pharmacy.

THE PROBLEM

Over 25 million people in the United States are limited English proficient (LEP), which means that they are unable to read, write, or speak English well. Although federal civil rights laws require that most public and many private institutions provide interpretation and translation services to LEP individuals, often they do not.[1] As a result, it is difficult and sometimes impossible for millions of people to get and hold jobs, feed their families, vote in an election, be on a jury, make doctors' appointments, take medication, use the courts, receive an education, get and keep a home—basically, participate in all of the ordinary and extraordinary features of American life—because they do not speak English.[2] Under the 2001 Supreme Court decision of Alexander v. Sandoval, private litigants no longer have a right to bring the kinds of disparate impact discrimination suits that were previously the vehicle for enforcing language access claims.[3]

THE SOLUTION

Local governments around the country have responded to language barriers and the weakening of federal enforcement by enacting stronger local language access policies, requiring city agencies, health care entities, and other service providers to ensure that interpretation and translation services are made available free of charge to LEP residents.

One important category of local language access laws apply to city agencies themselves, and ensure that key public-serving local agencies are linguistically accessible. The cities of **San Francisco**, 2001 and 2009;[4] **Oakland**, 2001;[5] and **Washington, DC,** 2004[6] all have statutes requiring city agencies to provide comprehensive language assistance services to LEP residents at no cost. **New York City** enacted a language access ordinance covering human services in 2003 and a mayoral executive order covering other city agencies in 2008.[7] The city of **Chicago** has created of an Office of New Americans, which is responsible for the creation of a centralized language access policy.[8]

Following the release of studies documenting the gross lack of language access in chain pharmacies, as well as an Attorney General's investigation, **New York City** passed legislation requiring chain pharmacies to provide interpretation and translation services to LEP patients.[9]

Although language access policies have traditionally been pursued in the historic immigrant-receiving cities and states, the demographics of the country are shifting rapidly, making language access relevant and important in many more parts of the country. For example, the southeast and southwest now have the highest rate of growth in the LEP population. In some states (**Connecticut, Rhode Island**), nearly one out of every ten residents is LEP, the majority concentrated in cities.

POLICY ISSUES

The following topics will likely come up when designing language access legislation for your city.

CONTENT: A basic language access policy has the following components: (1) interpretation (conversion of language during oral communication); (2) translation (conversion of language in written communication); (3)

notification to LEP individuals of their rights to free language services; (4) strong enforcement mechanisms; and (5) the creation of a language access plan/policy within the regulated entity. Both interpretation and translation services are required to ensure that LEP individuals are able to access the full range of city or health services, such as application materials, hotlines, counseling services, and consent forms. It is essential that these services be provided free of charge. Notification typically takes place through posted signs and multilingual taglines on printed materials.

COVERAGE: Language access policies for government agencies frequently focus on those agencies that provide direct service to the public – e.g. human services, police, housing, or transportation. San Francisco's ordinance further separates agencies into "Tier 1" and "Tier 2" agencies, with the former having enhanced notification, translation and staffing requirements. Some policies, such as the ordinance in **Washington, DC**, also impose language access requirements on sub-contracted entities. With respect to pharmacies, **New York City** opted to cover only chain pharmacies (groups of four or more establishments). Additional options for cover-age could include mail order pharmacies and independent pharmacies.

LANGUAGES: Most language access policies in both the government and health care sectors tend to require that interpretation services be provided to LEP persons regardless of language spoken: If an agency or health care provider does not have bilingual staff, telephone or in-person translation services are readily available.[10] Translation is more complicated because of the need to balance time and cost with access. Some city policies, such as the NYC executive order, provide for translation in the top LEP languages spoken in city, whereas others set a population threshold above which translation should occur (e.g. **Oakland** sets a threshold of 10,000 or above).[11]

ENFORCEMENT: Enforcement strategies for violations of language access laws include imposition of fines and the creation of private rights of action. Oversight is a critical factor in the successful implementation of language access policies for municipal agencies.

"I truly believe that the Language Access Act of 2004 is a clear demonstration of the successful efforts of the Mayor's administration, District Council, and the LEP population working together to formulate and implement an innovative and groundbreaking plan. This plan... will ensure that all District of Columbia residents, including those who are limited English proficient, shall be able to access the services and programs that are available to them." – Kenneth Saunders, former Director of the DC Office of Human Rights, on the DC Language Access Act

LANDSCAPE AND RESOURCES

Migration Policy Institute has robust data on LEP populations and trends, as well as research and reports relevant to language access. The **National Health Law Program** has comprehensive backgrounders and legal briefs on language access in a variety of health settings.

NOTES

1 Make the Road New York & New York Lawyers for the Public Interest, Bad Medicine (August 2008), available at http://www.nylpi.org/wp-content/uploads/bsk-pdf-manager/106_HEALTH_-_BAD_MEDICINE_-_REPORT_ON_NYC_PHARMACIES.PDF

2 American University Washington College of Law and DC Language Access Coalition, Access Denied (2012)

3 Alexander v. Sandoval, 532 U.S. 275 (2001)

4 San Francisco Ordinance No. 202-09 (2009), available at: http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances09/o0202-09.pdf . Given the changing demographics of San Francisco, and the increasing linguistic diversity, the San Francisco ordinance was amended in 2009. The original 2001 law was the first of its kind in the country.

5 Oakland Ord. No. 12324 (2001), available at: http://clerkwebsvr1.oaklandnet.com/attachments/21961.pdf

6 DC Language Access Act, District of Columbia Act 15-414 (2004), available at: http://www.lep.gov/resources/2008_Conference_Materials/DCLanguageAccessActof2004.pdf

7 New York City Local Law 73, Equal Access to Human Services (2003), available at http://www.nyc.gov/html/imm/downloads/pdf/ll-73.pdf and New York City Executive Order 120 (2008), available at http://www.nyc.gov/html/om/pdf/2008/pr282-08_eo_120.pdf

8 Press Release, City of Chicago Mayor's Office (July 19, 2011), available at http://bit.ly/SWZHjX

9 Language Access in Pharmacies Act, NYC Administrative Code Section 20-620 (2009).

10 See, e.g., Language Scientific, a company that provides competent translation and phone interpretation services for both government agencies and medical settings: http://www.languagescientific.com/ . Language Scientific is only one example of the literally hundreds of companies, including local and MBWE businesses, in this sector: http://www.commonsenseadvisory.com.

11 It is important to target policies based on the languages spoken by the LEP population, and not the general population, as there may be sizable populations where a language other than English is spoken at home, but community members also speak English well.

Co-authored by the National Immigration Law Center

LGBT CIVIL RIGHTS

THE PROBLEM

Lesbian, gay, bisexual, and transgender people continue to face significant legal barriers to equality in the United States. LGBT individuals are more likely to be victims of hate crimes than any other group and hate-crime murders against LGBT individuals reached an all-time high in 2015.[1]

While the LGBT movement achieved significant gains under the Obama administration, far too many jurisdictions still allow discrimination in employment, housing, and places of public accommodation; fail to extend domestic partner benefits to same-sex couples; and lack pro-equality policies, including anti-bullying policies, in schools. Bullying affects children in tragic ways, with nearly one in four LGB teenagers and forty percent of transgender individuals attempting suicide.[2] Progress made at the federal level to combat discrimination and harassment of LGBT students is at risk under the current administration, as the Department of Justice has revoked importance guidance documents that protected transgender students.[3]

Municipalities are expanding legal protections for LGBT individuals, and there is ample room for continued leadership at the local level.[4]

THE SOLUTION

Local governments possess a wide range of options to protect LGBT rights and further the goals of inclusion and acceptance. Among these options are: (1) adopting equal municipal employment practices, (2) prohibiting discrimination by private sector employers and businesses, (3) providing domestic-partner benefits for same-sex couples, (4) establishing anti bullying and other inclusionary protocols in schools, and (5) fostering meaningful community engagement on LGBT issues. The authority of municipalities to pass legislation in these areas often depends on their home rule powers.[5]

POLICY ISSUES

MUNICIPAL EMPLOYMENT PRACTICES: One of the most effective ways that municipalities can protect LGBT rights is by treating their employees equally regardless of sexual orientation or gender identity. By local ordinance, over 200 municipalities, including cities like **Indianapolis, St. Louis,** and **Memphis**, prohibit discrimination by government offices in hiring, promotion, job assignment, and other employment practices.[6]

Local governments are also enacting provisions extending domestic partner benefits to their workers. Many cities and counties, such as **San Antonio**, extend benefits like health insurance to the significant others of all their employees, regardless of sexual orientation.[7] Other cities, like **Los Angeles** and **Minneapolis**, have mandated that all private employers contracting with the local government must similarly extend benefits to same-sex couples.[8]

PROHIBITIONS ON DISCRIMINATION IN THE PRIVATE SECTOR: Many local governments require private businesses to treat their employees and customers equally in employment and the provision of housing and public accommodation. Two Hundred and twenty five municipalities and counties in every region of the country have enacted ordinances, prohibiting discrimination on the basis of sexual orientation. These include **Atlanta, Baltimore, Chicago, Fort Worth, New York City, Salt Lake City,** and little **Susquehanna Township, PA**. Nearly all of these also prohibit discrimination on the basis of gender identity. Case law suggests that municipal anti-discrimination ordinances can be extended to cover all non-ministerial employees.[9]

Many municipalities are also tackling discrimination in the workplace itself, and broadening anti-harass-

ment and discrimination laws to cover LGBT individuals. In 2016, **New York City** implemented one of the nation's strongest protections for transgender and non-conforming communities. The bill classifies as discrimination, among other things, dress codes that impose different requirements based on gender or sex and the failure to provide employee health benefits that cover gender-affirming care.[10]

YOUTH EDUCATION AND ANTI-BULLYING POLICIES: In an effort to protect children, school districts and local governments are enacting strict new anti-bullying provisions that specifically address sexual orientation and gender identity. Often, like in **Tehachapi, CA**, these provisions are adopted after the death of a student who was a victim of bullying.[11] Many municipalities, including **Charlotte, Dallas, Fort Worth, Johnstown, NY,** and **Oklahoma City**, have forbidden bullying by students or teachers based on sexual orientation or gender identity.[12] In many districts, violation of the policy can lead to expulsion. Some districts have gone a step further and taken effort to foster an affirmative sense of inclusion. **Broward County**, FL schools recognized October as LGBT History Month;[13] teachers and principals have supported the creation of Gay-Straight Alliance chapters in the high schools of Pittsburgh suburbs;[14] and many school districts are training teachers and educating students about diverse family arrangements and ways to support LGBT students.[15]

COMMUNITY ENGAGEMENT: By adopting public policy resolutions, local governments further the goal of inclusion. These resolutions serve to affirm that local governments officially condemn prejudice based on sexual orientation and intend to treat LGBT individuals as full and equal citizens.[16]

Some cities, like **Chicago** and **Minneapolis**, have created advisory councils or task forces designed to educate the city council and conduct outreach into the community.[17] Outreach efforts focus on education by providing workshops and presentations to schools, religious institutions, youth agencies, and community groups. Other cities, like **New York City**, task their human rights commissions not only with these duties but also with the power to investigate and punish violations of anti-discrimination law.[18]

LANDSCAPE AND RESOURCES

Human Rights Campaign is a national organization that tracks municipal legislation, publishes the comprehensive Municipal Equality Index, and advocates for an end to sexual orientation and gender identity discrimination. **The Transgender Law and Policy Institute** maintains a list of state and local laws on gender identity and provides legal, medical, and social science resources to advocates. **The Sylvia Rivera Law Project** addresses the particular problems faced by low-income transgender individuals and transgender people of color. **Movement Advancement Project** maintains a map and data on the percentage of workers legally required to be treated equally regardless of sexual orientation or gender identity in the private sector.[19] **Equality Florida** organizes, lobbies, and educates on behalf of the LGBT community in the Sunshine State. **The Center for Popular Democracy** provides legal, strategy, and organizing support to local campaigns on these issues.

NOTES

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3 Sandhya Somashekar, *Trump Administration Rolls Back Protections for Transgender Students,* Washington Post (2017).
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5 Josh Goodman, Republican Legislatures Move to Preempt Local Government (2012).
6 Human Rights Campaign, Cities and Counties with Non-Discrimination Ordinances that Include Gender Identity (2013).
7 City of San Antonio, Human Resources Department, Civilian Employees Eligibility,
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17 Chicago Committee on Human Relations, Amendment of Titles 2 and 5 (2002).
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Co-authored by the Center for American Progress

Center for American Progress

LIMITING LOCAL ENTANGLEMENT WITH FEDERAL IMMIGRATION AUTHORITIES

"My first encounter with the police was in 2007. I was driving my car and I was asked to stop because my license plate was expired. My record was clean so I was expecting a warning but after many questions about my personal information I was told that I was under arrest because of my migratory status. I was taken to Fairfax County jail and then to Hampton Roads detention where I was detained for 4 months before being deported to my country."

—**Elizabeth,** from Virginia[5]

THE PROBLEM

Municipalities around the country are unnecessarily spending precious resources to hold individuals in custody in their local jails subject to "immigration detainers." These detainers are requests from Federal Immigration and Customs Enforcement (ICE) to local law enforcement asking that an individual with potentially questionable immigration status be held by local authorities for 48 hours beyond the point at which his or her criminal case has been closed. Often these individuals have committed no crime (the case is dismissed) or they have committed a very low-level or status-based crime (driving without a license). Often, a single encounter with the criminal justice system can lead to deportation of a community member, a process that has been exacerbated by the Priority Enforcement Program (PEP), which enables fingerprint sharing between the FBI and ICE when individuals are booked into local jails.[1]

The impact on communities is immense. Entanglement of local law enforcement with immigration authorities erodes trust between immigrant communities and the police, causing families to be less likely to report crime or cooperate in police investigations. Cities, strapped for revenue, spend literally millions of dollars holding immigrants for ICE after the resolution of criminal charges. Local agencies can also be held liable for constitutional violations by voluntarily holding individuals at ICE's request.[2]

THE SOLUTION

Municipalities around the country have responded to the human and economic impact of immigration detainers by enacting innovative "detainer discretion" policies, which direct local law enforcement to refuse to honor detainers under certain circumstances. Because immigration detainers are by their nature "requests" and local officials are not required to honor them, municipal detainer policies help to ensure that local criminal justice resources are conserved for their intended purpose and that immigrant communities are protected.[3]

POLICY ISSUES: More than 360 cities and counties as well as 2 states have now adopted detainer discretion policies.[4] Several key issues arise in the context of developing detainer policies:

COVERAGE: The gold standard for detainer policies is to draw a bright line between the criminal justice process and the civil immigration process and not honor any detainers. Some places, such as California, have opted to honor detainers in only a subset of cases, such as when the individual has been convicted of a serious or violent offense. The policies in New York City and the statewide policy in Connecticut also exclude from coverage individuals who are in federal gang or

terrorism databases.

One way to expand the scope of coverage for detainer policies is to honor only recent convictions. For example, in Washington, DC, detainers are honored for convictions for "dangerous crimes" and "crimes of violence" (as defined in the DC Code) within 10 years of the detainer request.

A final issue with respect to coverage is which agencies or entities within the city are covered. In cities where the municipality has jurisdiction over corrections facilities, policies can and should cover the Department of Corrections. As a result of PEP, the speed with which Federal ICE officials are able to communicate with local authorities and "drop" detainers has increased significantly and it has become important to consider policies that cover local police departments as well.

REIMBURSEMENT: The policies in Washington, DC, Cook County, IL and Santa Clara, CA condition the honoring of detainers wholly or in part on a written agreement with the federal government to reimburse the county fully for the costs associated with holding individuals on immigration detainers. In effect, such policies result in very few detainers being honored because full reimbursement is unlikely.

YOUTH: The policies in DC and Santa Clara both refuse to honor detainers for individuals below 18 years of age, and in NYC detainers are not honored for individuals adjudicated as youthful offenders.

DATA: The NYC ordinance includes extensive reporting requirements related to the number of individuals held pursuant to immigration detainers, the types and numbers of convictions those individuals had, and the amount of federal financial assistance received for the purposes of holding immigrants on detainers, among other things. Such reporting requirements are useful to include in order to overcome the significant information gaps regarding the impact and costs of ICE holds on local municipalities and immigrant communities.

LIMITS ON LENGTH OF CUSTODY: Under federal law, an individual may not be held pursuant to an immigration detainer for more than 48 hours. Local detainer policies can shorten the length of time beyond which an individual may not be held, increasing the likelihood that ICE agents will not arrive in time to collect the individual and he or she may be released. Washington, DC's policy, for example, only allows for individuals to be held for 24 hours where the individual meets the criteria permitting detention.

LANDSCAPE AND RESOURCES

The **National Day Laborer Organizing Network** (NDLON) has been active in a number of local and state campaigns related to ICE holds and has a website with useful resources focused on community organizations.[6]

The **Center for Popular Democracy** has been supporting local and state detainer campaigns in partnership with **NDLON, SEIU Local 32BJ**, and other organizations and can provide assistance on policy development, bill drafting, and campaign strategy.

NOTES

1 Formerly called the Secure Communities program or S-Comm. Pursuant to a November 20, 2014 memorandum by Department of Homeland Security Secretary Jeh Johnson, PEP replaced S-Comm. *See https://www.ice.gov/sites/default/files/documents/Document/2015/pep-overview.pdf.*

2 *See, e.g., Morales v. Chadbourne*, 996 F. Supp. 2d 19 (D. R.I. 2014), *affirmed on appeal*, 2015 WL 4385945 (1st Cir. July 17, 2015) (U.S. citizen held on ICE detainer stated a valid Fourth Amendment claim against Rhode Island officials); *Galarza v. Szalczek*, 745 F.3d 634 (3d Cir. 2014) (county could be held liable for Fourth Amendment violation after holding U.S. citizen on ICE detainer, causing county to settle with Plaintiff for $95,000); *Miranda-Olivares v. Clackamas County*, 2014 WL 1414305 (D. Oregon 2014) (granting summary judgment to individual
held on ICE detainer because detainer and therefore detention not support by probable cause); *Mendoza v. Osterberg*, 2014 WL 3784141 (D. Neb. 2014) (U.S. citizen had viable Fourth Amendment claim against county resulting from detention on ICE detainer); *Villars v. Kubiatowski*, 45 F. Supp. 3d 791 (N.D. Ill. 2014) (Plaintiff had viable Fourth Amendment claim for detention pursuant to ICE detainer); *Uroza v. Salt Lake County*, 2013 WL 653968 (D. Utah 2013) (same).

3 See: http://www.ice.gov/secure_communities/

4 8 C.F.R. 287.7 (2011) (stating that "[t]he detainer is a request that the [local law enforcement] agency advise the Department [of Homeland Security], prior to release of the alien, in order for the Department to arrange to assume custody"). See also Buquer v. City of Indianapolis, 797 F.Supp.2d 905 (2011).

5 See Turning the Tide website, "The Real Impact of Police-ICE Collaboration," at http://altopolimigra.com/2011/08/16/the-real-impactof-police-ice-collaboration/

6 See Immigrant Legal Resource Center, http://www.ilrc.org/enforcement, for an updated map.

Co-authored by the National Immigration Law Center

LOCAL CONFIDENTIALITY POLICIES

"If you say to people we're not going to give you a zone of protection when you're sick and seeking treatment in a hospital, in effect, we're saying we're going to put you at peril and you'll be deported or expelled if you seek treatment."

—Former New York City Mayor **Rudolph Giuliani,** defending the city's immigrant confidentiality policy[3]

THE PROBLEM

Fear of disclosing immigration status deters many immigrant families from seeking health coverage or care, and public services, including police protection, benefits, and economic supports. These fears are understandably amplified during periods of increased anti-immigrant sentiment. Last year, an undocumented Houston mother of three was arrested in a doctor's office exam room.[1] She was charged with a felony for tampering with documents, prompted by her fake Social Security card, but it's unclear how the clinic staff discovered her license was a fake and got law enforcement involved with the case. The arrest violates the federal HIPAA law that protects patient privacy. In Illinois, immigration officials arrested an immigrant who was participating in the state program that issues licenses to qualified residents who enter the US illegally, despite state officials' assurance that applicants don't need to fear being targeted for deportation.[2]

A patchwork of federal laws governs when federal and state agencies may collect information about immigration status, and when or if they must share it.[4] Two such laws, specifically pertaining to state and local governments' ability to restrict the sharing of immigration-related information, bear mention here. In 1996, the **Federal government** enacted the Welfare Reform Act and the Illegal Immigration Reform and Immigrant Responsibility Act, both of which contained provisions relating to state and local government communication with the then-Immigration and Naturalization Service (INS).[5] Both were enacted to "prevent any State or local law, ordinance, executive order, policy, constitutional provision, or decision of any Federal or State court that prohibits or in any way restricts any communication between State and local officials and the INS."[6] However, consistent with federal law, cities like New York have adopted executive orders that protect the confidentiality of a broad range of private information— for example, sexual orientation, victim status, public benefits recipient, as well as information regarding immigrants.[7]

THE SOLUTION

Numerous jurisdictions around the country, including **New York, NY; San Francisco, CA; Seattle, WA; Durham, NC; New Haven, CT; Takoma Park, MD;** and, most recently, **Suffolk County, Long Island, NY** among others, have adopted policies to protect the confidentiality of information, including information provided by immigrant residents.[8]

POLICY ISSUES

In general, immigrant confidentiality policies do one or both of the following: (1) most importantly, they prohibit local government employees from inquiring, collecting or recording information about immigration status where such information is not necessary in order to determine an individual's eligibility for a benefit or service, and/or(2) they prohibit or limit local government employees from sharing a broad range of infor-

mation with other agencies, except where required by law (for e.g. to confirm an individual's eligibility for benefits). A variety of mechanisms have been used to implement such policies, including city ordinances, resolutions, executive orders, and administrative directives.

These policies are consistent with federal laws and guidance issued by federal agencies to protect against potential civil rights or privacy violations and to ensure that eligible individuals in mixed status households can obtain critical services.[9]

GROUPS PROTECTED: As discussed above, it is wise for municipalities considering immigrant confidentiality policies to cover a broad range of sensitive information within the policy, such as sexual orientation, receipt of public benefits, crime victim status, information contained on tax returns, and status as a victim of domestic violence. Doing so can help build a broader coalition in support of the confidentiality policy.

ADDITIONAL ELEMENTS OF THE POLICY: Municipalities can also consider including agency staff training requirements into their confidentiality policies, to ensure that city employees understand how to implement the policy, its interactions with other federal, state, and local laws, and the importance of the policy in promoting trust and inclusion of immigrant communities, among others. One innovative approach would focus on the city attorney's office and requiring that city law departments, in proceedings where the city is a party, oppose the efforts of other parties to discover the immigration status of complainants or witnesses, unless the issue is central to the dispute.[10]

LANDSCAPE AND RESOURCES

The **Center for Popular Democracy** has been supporting local campaigns on immigrant confidentiality, including an ongoing effort in **Aurora, CO** and the recently enacted policy in **Suffolk County, Long Island,** and can provide assistance on policy development, bill or policy drafting, and campaign strategy.

NOTES

1 Texas Observer,"Woman Arrested at Gynecology Office May Face Deportation." September 2015. Accessed April 29, 2016.https://www.texasobserver.org/woman-arrested-at-gynecology-office-may-face-deportation/

2 Chicago Tribune, "License application leads to immigration bust." September 2014. Accessed April 29, 2016. <http://www.chicagotribune.com/news/ct-drivers-license-deportation-met-20140908-story.html>

3 Speech of Rudolph W. Giuliani, "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" (September 11, 1996), available at: www.nyc.gov/html/records/rwg/html/96/welfare.html.Letter of Alan D. Aviles, President, New York City Health and Hospitals Corporation to All HHC Employees (May 18, 2006).

4 For a helpful summary, please see: National Immigration Law Center, "Confidentiality, Verification, and Reporting: What happens to information that immigrants give to the government," in the Guide to Immigrant Eligibility for Federal Programs (4th ed. 2002).

5 8 U.S.C. 1644.

6 H.R. Rep. No. 104-725, at 383 (1996).

7 City of N.Y. Exec. Order 34 (May 2003).

8 For a summary of these local immigrant confidentiality provisions, among other local efforts to promote immigrant inclusion, see Cristina M. Rodriguez, "The Significance of the Local in Immigration Enforcement," Michigan Law Review, vol. 106, p. 567 (2007-2008)

9 See, e.g. Tri-Agency Policy Guidance Regarding Inquiries into Citizenship, Immigration Status and Social Security Numbers in State Applications for Medicaid, State Children's Health Insurance Program (SCHIP), Temporary Assistance for Needy Families (TANF), and Food Stamp Benefits, at http://www.hhs.gov/civil-rights/for-individuals/special-topics/needy-families/triagency-letter/index.html; confidentiality laws cited in NILC chapter (n. 4 below); and recent DHS reassurance to ensure that residents of Flint have safe access to clean water https://www.dhs.gov/news/2016/02/24/public-notice-current-water-emergency-flint-mich.

10 See: Model Bill: Immigrant Assistance in Crime Fighting, developed by Bernie Horn, Progressive Majority (bhorn@ourfuture.org)

Co-authored by the National Immigration Law Center

LOCAL POLICE SURVEILLANCE TECHNOLOGY

THE PROBLEM

As the capabilities of surveillance technologies continue to advance, so does law enforcement's ability to monitor civilians' movements, communications, and ideas. Today, these technologies enable local police to trick a cell phone into providing them with the user's location. They can monitor where drivers and pedestrians travel in public using license plate readers and close circuit television cameras. They can intercept text messages unbeknownst to their senders or recipients. They can even be alerted when somebody posts a hashtag like #BlackLivesMatter on Twitter or Facebook. These measures, some of which are of questionable legality, are happening with far too little public knowledge or governmental oversight.

This growing surveillance impacts everybody, but has disproportionate impact on people of color, certain religions (particularly Muslims), and people who are politically active.[1] How do we know this? Despite the efforts of police to keep the use of surveillance technologies a secret, when advocates have periodically been able to peer behind that veil of secrecy, they have discovered these technologies are frequently deployed in a discriminatory manner. This proved to be the case in cities like **Baltimore, MD, Lansing, MI, Milwaukee, WI, Oakland, CA,** and **Tallahassee, FL**, where various surveillance technologies were overwhelmingly focused on communities of color.

The policies of the Trump Administration have exacerbated the threat presented by the local use of surveillance technologies.[2] President Trump has made it very clear, in both words and deeds, that his administration is hostile towards undocumented immigrants, Muslims, and other vulnerable communities. Because federal law enforcement does not have enough personnel to monitor the millions of persons belonging to these groups, the Trump Administration needs the help of local law enforcement to fully pursue his agenda. While some local police forces have refused to help federal law enforcement agencies, even in those cities, that may not be enough to stymie the Trump Administration's efforts. By continuing the Obama Administration's expansion of programs that fund local police purchases of surveillance technologies, and making those grants contingent on local police sharing their data directly with the federal government or other government entities that share data with the feds, the current Administration can gain the passive assistance it needs from local law enforcement to more effectively target those communities. This is precisely the loophole U.S. Immigration and Customs Enforcement (ICE) used to obtain Oakland, California's automatic license plate reader data even though Oakland is a sanctuary city. As long as local police continue to have the authority to approve such agreements in secret, they are likely to do so.

The problem, in short, is that local police are increasingly using surveillance technologies to invade privacy, undermine civil rights and civil liberties, and target vulnerable communities. Because in most cities, decisions about funding, acquiring, and using surveillance technologies are exclusively made by local law enforcement in secret, the public and their elected officials neither know what surveillance technologies are being used nor have the ability to restrict or prohibit their use. That must change.

THE SOLUTION

In the fall of 2016, a coalition of sixteen politically diverse organizations, including the ACLU and the Center for Popular Democracy, launched the Community Control Over Police Surveillance (CCOPS) effort. The effort is based upon eight guiding principles:

- Surveillance technologies should not be funded, acquired, or used without express city council approval;
- Local communities should play a significant and meaningful role in determining if and how surveillance technologies are funded, acquired, or used;
- The process for considering the use of surveillance technologies should be transparent and well-informed;
- The use of surveillance technologies should not be approved generally – approvals, if provided, should be for specific technologies and specific, limited uses;
- Surveillance technologies should not be funded, acquired, or used without addressing their potential impact on civil rights and civil liberties;
- Surveillance technologies should not be funded, acquired, or used without considering their financial impact;
- To verify legal compliance, surveillance technology use and deployment data should be reported publically on an annual basis; and
- City council approval should be required for all surveillance technologies and uses – there should be no "grandfathering" for technologies currently in use.

To achieve these objectives, the CCOPS effort is promoting the adoption of model legislation[3] by city councils across the nation. As of summer 2017, CCOPS-type laws have already been adopted in **Seattle**[4], **Nashville**[5], and **Santa Clara County**[6], California (home of Silicon Valley). Bills have been introduced, or on the verge of being introduced by an identified sponsor, in 16 additional cities[7] (plus two states[8]). Grassroots efforts to identify a sponsor who will introduce a CCOPS bill are underway in more than 40 additional cities. If adopted, CCOPS laws will create an open, transparent process for the approval – or rejection – of local surveillance technologies. Moreover, as part of the process of seeking approval, law enforcement will need to provide the public and their elected officials with detailed information regarding how the surveillance technology works, how it will be deployed and for what purposes, what the potential adverse impacts on civil rights and liberties are, and how those potential adverse impacts will be avoided.

Where CCOPS bills become law, local law enforcement will no longer be able to acquire surveillance technologies without an open, public hearing and city council approval. Likewise, police departments will not be able to use that technology in a manner that has not been approved by the city council, nor will they be able to share access to or data from those technologies with the federal government or any other entity without city council approval. Given these objectives, it is fair to say CCOPS is as much about promoting government transparency as it is about empowering the public and their elected officials to make informed decisions about the use of surveillance technologies.

Elected officials and organizations wishing to start or join a CCOPS effort in their city should visit the CCOPS website (see details below). They can also contact the ACLU for further information and assistance at CCOPS@ACLU.org.

ADDITIONAL RESOURCES

To learn more about the CCOPS effort, and to access CCOPS advocacy resources, visit the CCOPS website at www.CommunityCTRL.com.

To download a version of the CCOPS model city council legislation, see "An Act to Promote Transparency and Protect Civil Rights and Civil Liberties with Respect to Surveillance Technology". ACLU. January 2017.

To download the fourteen-organization CCOPS' Guiding Principles document, see "Community Control Over Police Surveillance – Guiding Principles." ACLU.

For a primer on the various surveillance technologies being used by local police, "Community Control Over Police Surveillance: Technology 101." ACLU.

NOTES

1 For further discussion, see Let There Be Light: Cities Across America Are Pushing Back Against Secret Surveillance by Police. ACLU. September 21, 2016.
2 ibid
3 An Act to Promote Transparency and Protect Civil Rights and Civil Liberties with Respect to Surveillance Technology. ACLU. January 2017.
4 Ordinance Number 124142, Office of the City Clerk. Seattle.gov. Passed March 18, 2013.
5 Ordinance NO. BL2017-646. Nashville Metropolitan Council. Approved June 7, 2017.
6 Santa Clara County Passes Landmark Law to Shut Down Secret Surveillance. ACLU. June 8, 2016.
7 Berkeley, CA; Oakland, CA; Palo Alto, CA; New York, NY; Cambridge, MA; Somerville, MA; Washington, DC; Charlottesville, VA; Richmond, VA; Pensacola, FL; Miami Beach, FL; Hattiesburg, MS; St. Louis, MO; Milwaukee, WI; Madison, WI; Muskegon, MI.
8 California and Maine.

Co-authored by the American Civil Liberties Union

POLICING AND CIVIL RIGHTS

"I've been stopped so many times that now I've lost count... When I see officers now, I feel like I'm going to be stopped, like a hostage in my own neighborhood."

— **Clive**, Brooklyn Resident [1]

"[L]egislation is a crucial step we must take toward achieving better policing and safer streets for all."

— **Jumaane Williams**, New York City Council Member [3]

"The NYPD wants to create public safety but is instead instilling fear among immigrant communities. While officers believe that they are creating safety by stopping innocent New Yorkers, they are really creating enemies who will be less likely to report crime when it does happen."

— **Daniel**, Queens Resident [2]

THE PROBLEM

In too many communities across the country, local law enforcement officers who are responsible for serving and protecting residents are instead targeting them for harassment and abuse. Each day, individuals are targeted because of their race, ethnicity, national origin, immigration status, religion, age, sexual orientation, gender identity or expression or other characteristics. Every day, residents of entire neighborhoods are subjected to policing practices that violate constitutional protections and state and local laws and simultaneously erode trust between police and area residents.

A Department of Justice investigation in Washington documented the Seattle's Police Department's disproportionate use of excessive force against people of color and its tendency to use similar tactics when interacting with individuals with mental health issues. In **New York City (NYC)**, a 2011 study revealed that the New York Police Department (NYPD) had conducted over 685,000 street stops. African-American and Latino young men between the ages of 14-24—while less than 5% of the city's population—accounted for over 40% of those stopped. More than 80% of those ticketed in NYC for low-level offenses were Black or Latino, and in nearly 9 out of 10 cases, no ticket was issued or arrest made. This is a trend that has unfortunately continued in recent years. In 2013 the NYC Attorney General released a report revealing that just 0.1% of stop-and-frisks resulted in conviction for a violent crime or possession of a weapon. In 2015, the NYPD conducted 22,939 street stops. 12,223 of those stops were of Black residents (54%) and 2,567 were of Latino residents (11%). 18,353 of the total number of stops (80%) were completely innocent.

THE SOLUTION

Eliminating discriminatory policing requires innovative policies that reinforce constitutional principles. The most promising approaches not only outlaw the targeting of individuals and communities on the basis of demographic characteristics, they also provide guidance on how law enforcement agencies can protect the rights of residents while also ensuring public safety and institute effective transparency and accountability measures. In **New York City** in 2013 Communities United for Police Reform was able to help pass a local law that outlawed targeting on the basis of characteristics such as immigration

status, age, housing status, disability, sexual orientation, gender and gender identity or expression in addition to race, religion, and national origin.

In the absence of federal action, local leaders are partnering with community and labor to hold law enforcement agencies accountable to the communities they serve. Cities including **New York, Detroit, Cincinnati, Columbus** and **Jackson** have enacted local laws barring—at a minimum—police profiling on the basis of race or ethnicity. In 2011, in response to concerns about surveillance of Middle Eastern and Muslim communities in **Portland**, the City Council enacted an ordinance protecting residents' rights and supporting public safety by ensuring city oversight of local law enforcement collaboration with the FBI's Joint Terrorism Task Force. Similar legislation was enacted by the **San Francisco** Board of Supervisors in 2012.

POLICY ISSUES

The following are important issues to consider in designing local policy solutions to address discriminatory policing. Legislators can tailor their proposals to the political realities of their communities.

POLICE PROFILING: Many legislative efforts to address discriminatory policing bar profiling on the basis of race, ethnicity, religion or national origin, but individuals are often targeted on other bases as well. It is important to work with community members to get a full sense of whether they have been targeted on other grounds, such as sexual orientation, gender identity or expression, age, housing status, immigration or citizenship status, language, disability, housing status, occupation or socioeconomic status. The most effective measures will be those that bar reliance on these characteristics to any degree.

POLICE IDENTIFICATION: Measures that require police officers to identify themselves, explain the reasons for a stop or other police activity and share information on complaint procedures can help to promote transparency and accountability and promote trust. Similar laws exist in other jurisdictions and the U.S. Department of Justice has made adoption of similar policies a requirement in consent decrees entered into with the **City of New Orleans** and the **Puerto Rico** Police Department.

CONSENSUAL SEARCHES: In many cases, residents are unaware of their constitutional right to decline to consent to a search for which there is no other legal basis. Provisions that require that consent be informed and documented can safeguard residents' rights and protect law enforcement agencies from false claims of wrongful behavior. Similar laws exist in other jurisdictions and the U.S. Department of Justice has made adoption of similar policies a requirement in consent decrees entered into with the **City of New Orleans** and the **Puerto Rico** Police Department. **West Virginia** and **Colorado** have enacted measures related to consensual searches. Other states such as **California, Minnesota, New Jersey** and **Rhode Island** have banned consent searches all together due to discrimination.

OFFICER TRAINING: High-quality training and other forms of professional development can help law enforcement officers better understand how to promote public safety while respecting the rights of all residents. Training should relate to the nature of profiling, how to avoid profiling and the implementation of data collection requirements.

DATA COLLECTION AND REPORTING: The collection, analysis and reporting of data on law enforcement activity is a critical element of legislation to address discriminatory policing. Processes must allow for the disaggregation of data on the demographic characteristics of individuals who are the targets of law enforcement activity, including the rates at which drugs, weapons or other items are found during stops and searches. Regular, public reporting of this data must be required.

OVERSIGHT AND ACCOUNTABILITY: Strong provisions for ongoing oversight will incentivize compliance and allow for the identification of successful efforts. One means of accomplishing this is through establishment of an independent office or body with a specific mandate to monitor compliance.

For example, the **Los Angeles** Police Department is subject to oversight by an Inspector General with investigative authority.

LANDSCAPE AND RESOURCES

The **Rights Working Group** (RWG) is a coalition of more than 340 local, state and national organizations with a website features extensive resources on racial profiling. The **Racial Profiling Data Collection Resource Center** at Northeastern University has a valuable compilation of policy and litigation materials related to the topic. **The Center for Popular Democracy** provides legal, strategic, and organizing support to local campaigns.

INTERACTIVE CITATIONS AVAILABLE ONLINE AT WWW.LOCALPROGRESS.ORG/NOTES

RACIAL EQUITY IN OUR CITIES

"Without a broad and deep commitment to a genuinely shared and comprehensive strategy, we are never going to get beyond small, fragmented, often narrow programs and services that are insufficient in scale, intensity, continuity, and scope to make a lasting impact on the life trajectories of at-risk children and their families."

— Race to Equity, **Wisconsin Council on Children and Families**

THE PROBLEM

From the inception of our country, local, regional, state and federal governments have played a role in creating and maintaining racial inequity. Despite progress in addressing explicit discrimination, racial inequities continue to be deep, pervasive and persistent across the country, including in education, criminal justice, jobs, housing, infrastructure and health, regardless of region.

Many current inequities are sustained by historical legacies and structures that repeat patterns of exclusion; for example, because funding for schools comes from a local tax base, racial and economic segregation in housing leads to tremendous inequities in education, which itself perpetuates inequity. Although there is a strong relationship between race and class, simply talking about class is not enough. Taking a "color-blind" approach to governance allows racial inequities to continue, and therefore, local government should explicitly target both racial and economic inequities.

THE SOLUTION

Local government has the ability to implement policy change at multiple levels and across multiple sectors. Because race touches on almost every facet of life, governments have the opportunity to address racial inequity across a wide breath of issue areas.

Examples of local government successes include the following:

Use of a Racial Equity Tool in budget, policy and program decisions. Racial Equity Toolkit: An Opportunity to Operationalize Equity (in multiple cities and counties across the country).[1]

Transforming the relationships between police officers and community members. Project PEACE: City of **Tacoma, WA** Police Department Partnering for Equity and Community Engagement.[2]

Working to eliminate racial inequities in employment. Minimum Qualifications: Best Practices in Recruitment and Selection Advancing Racial Equity in **Multnomah County**.[3]

Analyzing and using data to motivate action. City of **Dubuque, IA**. Partnering to Develop a Community Equity Profile and Scorecard.[4]

Use of criminal background checks in employment decisions. The Job Assistance Ordinance: Expanding Opportunity for Workers in **Seattle**.[5]

Meaningful shifts in the inclusion of communities of color in government. City of **Madison, WI** elections, poll workers and racial equity, a winning combination.[6]

National movement of local government leaders. The cities of **Albuquerque, Austin, Grand Rapids, Louisville,** and **Philadelphia** are members of Racial Equity Here, a coalition of cities that works to provide technical support, tools, and effective practices to organizations in their cities that are working to change the mechanisms that perpetuate racial gaps.[7]

BEST PRACTICES

Government must also recognize that policy change is necessary, but not sufficient. Organizational culture changes that transform government into an effective and inclusive democracy are also necessary. Key lessons

learned across jurisdictions include the following:

ANALYSIS: Jurisdictions must use a racial equity framework that clearly articulates the differences between individual, institutional and structural racism, as well as implicit and explicit bias. We must recognize the historical and current reality that government played an integral role in the creation and maintenance of racial inequities.

CAPACITY: Jurisdictions need to be committed to the breadth and depth of institutional transformation so that impacts are sustainable. While the leadership of elected and appointed officials is critical, changes take place on the ground, and infrastructure that creates racial equity experts and teams throughout local government is necessary.

TOOLS: Racial inequities are not random; they have been created and sustained over time. Inequities will not disappear on their own. Racial equity tools must be used to change the policies, programs and practices that are perpetuating inequities. Such tools lay out a process and a set of questions to guide the development, implementation and evaluation of policies, initiatives, programs, and budget issues.

DATA AND METRICS: Measurement must take place at two levels – first, cities should measure the success of specific programmatic and policy changes, and second, they should develop baselines, set goals, and measure progress. Use of data in this manner is necessary for accountability.

PARTNERING: To achieve racial equity in localities, government must work in partnership with community and other institutions to achieve meaningful results.

URGENCY: While there is often a belief that change is hard and takes time, history has shown repeatedly that political can lead to rapid reforms. The alignment of political priorities with concrete policy and behavior changes has led to important societal shifts. Similar success can be had in achieving racial equity if local officials are motivated by urgency.

INCREASING EVERYBODY'S WELLBEING: Local government's focus on racial equity is critically important to getting to different outcomes in our communities. The goal must be beyond closing the gap; leaders must establish appropriate benchmarks that lift up all populations while paying close attention to those often excluded. Advancing equity means focusing on more than just disparities. Systems that are marginalizing communities of color (whether education, criminal justice, or voting rights) are actually failing all of us both directly and indirectly.

We must develop goals and outcomes that will result in improvements for all groups, with the strategies developed based on the needs of a particular group. This specificity will increase our collective success and be cost effective.

LEADING WITH RACE: Focusing on race provides an opportunity to also address other ways in which groups of people are marginalized, including based on gender, sexual orientation, ability, and age. To have maximum impact, focus and specificity are necessary. Strategies to achieve racial equity differ from those to achieve equity in other areas. "One-size-fits-all" strategies are rarely successful.

A racial equity framework that is clear about the differences between individual, institutional and structural racism, as well as the history and current reality of inequities, has applications for other marginalized groups. Race can be an issue that keeps other marginalized communities from effectively coming together. An approach that recognizes the inter-connected ways in which marginalization takes place will help achieve greater unity across communities. It is critical to address all areas of structural inequity, and an institutional approach is necessary across the board.

LANDSCAPE AND RESOURCES

The Government Alliance on Race and Equity (GARE) is a joint project of the Center for Social Inclusion and the Haas Institute for a Fair and Inclusive Society at UC Berkeley. GARE is a national network of governmental jurisdictions working to advance racial equity and improve success for all groups.

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SPECIALTY COURTS & COMMUNITY JUSTICE

"The use of early pretrial diversion is particular appealing as a response to misdemeanor crime, given the potential to conserve scarce resources and refocus attention on more serious cases, while also reducing the exposure of defendants facing low-level charges to the traditional justice system."

—Center for Court Innovation, Creating Off-Ramps: A National Review of Police-led Diversion Programs (2016)

THE PROBLEM

"The use of early pretrial diversion is particular appealing as a response to misdemeanor crime, given the potential to conserve scarce resources and refocus attention on more serious cases, while also reducing the exposure of defendants facing low-level charges to the traditional justice system." – Center for Court Innovation, Creating Off-Ramps: A National Review of Police-led Diversion Programs (2016)

America's enormous inmate population is of increasing concern to policymakers across the country. While most of the discourse about incarceration focuses on federal and state prisons, local jails are also overcrowded. In 2015, local jails admitted 10.9 million people, and had an average daily population of about 728,000 a day.[1] With the national recidivism rate at 76.6%, many more than the majority of these inmates are repeatedly shuffled through the system.[2] And, like federal and state prison populations, local jail populations tend to be disproportionately people of color. While Blacks only comprise 13.2% of the national population, they account for 35% of those in local jails.[3]

The effect on local budgets is also massive: for local governments with limited resources, sustaining such imprisonment levels is simply untenable. Since 1983, the nationwide cost of local corrections—jail and community corrections—has increased from $6.8 billion to $26.4 billion.[4] A 2010 study found that **Philadelphia** spent seven cents out of every tax dollar on holding people in jail. That is more than it spent on anything other than police and human services, and about the same amount spent on streets and health departments combined. Smaller and mid-sized localities are suffering the most from the added burdens of these costs - a recent study by the Vera Institute found that the prison population in small and mid-sized counties was driving growth in the prison population nationwide.[5]

THE SOLUTION

Local governments are pursuing a range of policy solutions to help end the unabated growth of prison populations, from decriminalizing minor offenses to investing in alternatives to incarceration.

The **New York City** Council and Mayor's office announced a plan to close the Rikers Island prison as part of a wide sweeping plan that will end the practice of imprisoning individuals who are awaiting trial and unable to afford their bail, which will save the city an estimated $1.4 billion annually.[6] Kim Ogg, **Houston**'s District Attorney has announced a marijuana diversion program that aims to reduce significantly the $250 million that Houston spent over the last ten years prosecuting low-level possession cases. The program will divert marijuana possession cases and convictions away from local jails and into programs that process marijuana users quickly and leaves them with a clean record.[7] A study from the Center for Court Innovation estimates that a similar program practiced on a wide scale in New York City could save up to $45 million annually.[8]

Smaller municipalities have taken positive steps as well. **Hamden County, MA** was able to save $16,000,000 annually by decreasing its incarcerated population.[9]

One important way local governments can help address the issues that lead to criminal activity, without needlessly relying on incarceration, is to implement specialized courts that are focused on addressing com-

munity-specific challenges. Unlike more traditional courts, specialized courts usually center on one type of offense or offender and are incorporative of other social service providers.

POLICY ISSUES

COMMUNITY COURTS: Community courts are neighborhood-focused courts that seek to use the justice system to solve local problems. They incorporate outside stakeholders such as residents, merchants, churches, and schools in an effort to bolster public trust in justice, while testing new approaches to reduce both crime and incarceration.[10]

Since the first community court was founded 23 years ago, these specialized systems have played a critical role in addressing criminal activity, instituting alternative sanctions, and defraying the massive costs of criminal justice involvement. Some community courts focus on an entire city or county, while others center on a neighborhood, but all seek to address the issues that lead to criminal behavior, while engaging the community and imposing logical sanctions.

Courts often mandate participation in both restorative community service and individualized services, including counseling, treatment, and other programs. Each court creates innovative approaches to help problem-solve in communities where the same issue tends to repeats itself. Ultimately, the most important thing about community courts is that they are "shaped by the unique political, economic, and social landscapes in each community."

In **New York City,** the Harlem Community Justice Center's programs include Attendance Court, which focuses on chronically truant students and parents. Bronx Community Solutions provides all judges with a number of options, such as addiction counseling and treatment, job training, family services, and help with mental health issues. In **Atlanta**, the Reunification Program assists homeless defendants who want to be re-connected to family or other support outside of the city by making connections and providing access to transportation.

DRUG COURTS: Over the past thirty years, the criminal justice system has treated drug addiction as a criminal offense rather than a health concern. This practice has a massive economic cost for taxpayers. The Drug Policy Alliance reports that the US spends more than $51 billion annually in the "war on drugs."[11]

Drug courts seek to reverse that tide by connecting drug offenders with treatment and judicial monitoring. When implemented correctly, drug courts are better able to reduce recidivism and treat addiction. A study of six drug courts by the Center for Court Innovation found that the courts reduced the recidivism rate by an average of 29% over three years.[12] Furthermore, the programs continued to have a positive effect beyond the period of program participation, with recidivism falling by an average of 32% over the year "post-program". Additionally, according to the Center for Court Innovation, "drug court participants stay in treatment much longer than those entering it voluntarily." And while the costs of treatment are typically higher for participants in drug courts, localities should see this as a worthwhile investment. With less recidivism, drug courts actually save about $6000 per offender overall.[13]

REENTRY COURTS: Many community courts provide services for those who have been recently incarcerated. One way to assist this population is by implementing a Reentry Court. Reentry Court provides support to parolees and others recently released from prison by providing consistent oversight and service provision. According to the Center for Court Innovation, the goal of Reentry Court is to provide stability by "helping them to find jobs, secure housing... and assume familial and personal responsibilities." In many Reentry Courts, participants graduate from the program, providing a sense of accomplishment and accountability. However, they are still eligible for case management and social service assistance. A study of the Harlem Justice Center Reentry Court showed that parolees, including graduates and those who failed to graduate, were less likely to be rearrested and less likely to be reconvicted.

MENTAL HEALTH COURTS: Jails have been called the "new asylums" because of the high number of mentally ill inmates. In many states, funding has been cut for mental health services, leading to an increasing number being incarcerated. The Justice Policy Institute estimates that 6 out of 10 jail inmates suffer from a mental health problem.[14] And, according to the National Alliance on Mental Illness, 2 million people with serious mental illness are booked into jail every year, and only half of those mentally ill inmates report getting treatment while incarcerated.[15] Mental Health Courts focus on taking people who suffer from mental illness out of the court system and into a more community-based treatment. By requiring close supervision by a judge and regular check-ins with the service providers associated with the court, mental health courts can support the mentally ill without needlessly punishing them for circumstances outside of their control.

LANDSCAPE AND RESOURCES

Above are just some of the examples of alternative courts available to local governments. For more information on specialty courts, please visit T**he Center for Court Innovation**, the **Justice Policy Institute**, and the **Bureau of Justice Assistance** at the U.S. Department of Justice.

INTERACTIVE CITATIONS AVAILABLE ONLINE AT WWW.LOCALPROGRESS.ORG/NOTES

ACCESS TO HEALTHY FOOD

THE PROBLEM

Accessing affordable, high-quality, healthy food is a challenge for many Americans, particularly those living in low-income neighborhoods, communities of color, tribal communities, and rural areas. The U.S. Department of Agriculture estimates that 29.7 million people live in low-income areas more than 1 mile from a supermarket. The same communities without supermarkets and grocery stores often feature fast food, liquor, and convenience stores selling unhealthy, high-fat, high-sugar foods. Low-income zip codes have 25 percent fewer supermarkets and 1.3 times as many convenience stores as middle-income zip codes. Predominantly Black zip codes have about half as many supermarkets as predominantly White zip codes, and predominantly Latino areas have only a third as many. Nearly one-third of the U.S. population cannot easily access a grocery store, work, or other basic personal and family needs via personal or public transportation. Accessing healthy food can mean multiple bus rides while carting groceries and children or scrambling to find someone with a car who is willing to drive.The absence of healthy food retailers doubly impacts low-income communities because these areas are often in great need of the jobs and economic activity that grocery stores and healthy food retail can provide.

THE SOLUTION

Over the past 20 years—with more than 300 studies completed—research shows that people who live in neighborhoods with access to healthy food also tend to have better nutrition and better health. Efforts to expand fresh food options also provide opportunities to bring good neighborhood jobs and revitalize disinvested communities and struggling business districts. Working with residents and community partners, local governments have pursued a number of strategies that improve both the economic and physical health of cities and their residents. Promising strategies include healthy food retail financing initiatives and incentives, targeted land use and planning regulations, local procurement, and entrepreneurship development.

POLICY ISSUES

HEALTHY FOOD RETAIL FINANCING: Healthy food retail such as grocery stores, corner stores, and farmers' markets provide important access points for a neighborhood. However, they are complex, capital-intensive businesses that operate on thin profit margins. Retail operators cite lack of financing as one of the top barriers to the development of stores in underserved areas, particularly for independent and regional operators who are more likely to consider locating their business in a disinvested community. High development costs, competition with chain stores, and meeting local customers' needs are also factors in the success of a retail endeavor.

Building upon the success of state and federal programs like the Pennsylvania Fresh Food Financing Initiative (FFFI) and the Healthy Food Financing Initiative (HFFI), a number of cities and metropolitan areas have launched their own local healthy retail financing programs.[6,7,8] **Houston**, **Washington DC**, and **New Orleans** have all created programs to expand or incentivize healthy food retail development in target neighborhoods. In **Baltimore**, the city council recently approved legislation to offer 10-year tax incentives to attract and retain supermarkets located in or nearby designated food desert areas. **Los Angeles** and **Minneapolis** have also initiated programs to help corner stores, convenience stores and liquor stores convert into healthy food retail outlets.

LABOR PROTECTIONS: Cities that provide financial incentives for new or redevelopment of food retail establishments in underserved communities can require the beneficiary employers to commit to high-road principles which set labor standards ensure good jobs. Public investment creates a proprietary interest; as potential stakeholders, municipal governments have the authority to place conditions on their investment to ensure economic viability and long-term success. Examples include:

- Living wage & benefits. Requiring that workers earn a living wage that includes employer-covered benefits. Wages vary by area, as as in **Los Angeles**.

- Labor peace. Requiring employers to sign a labor peace agreement with relevant unions in which the employer generally agrees to card check neutrality and workplace access in exchange for the union agreeing not to strike or otherwise disrupt business operations, as in **New York City.**
- Targeted & local hire. Requiring that a certain percentage of the workforce comes from the community where the project occurs, as well as prioritizing workers who face certain barriers to employment such as the formerly incarcerated, women, or low-income residents, as in **New Orleans**.
- Job training. Requiring the provision of job training opportunities for workers, including both soft and hard skills, as advanced in Chicago.
- First source hiring. Job postings must open for a certain period of time for the exclusive consideration of local and targeted prospective employees, as in Washington, DC.

DISTRIBUTION AND SUPPLY CHAIN: Agricultural and market consolidation has contributed to disconnected regional food supply chains, making it difficult for fresh produce grown by small and mid-sized local farms to reach independent grocers, institutional buyers, and low-income residents in greatest need. New models such as "food hubs," which aggregate, distribute, and market food from local and regional producers, are emerging to link local producers and consumers in ways that spark job creation and small business development. Based in **Philadelphia,** Common Market has emerged as a regional food hub, connecting farmers to more than 150 public and private schools, colleges, universities, hospitals, workplaces, grocery stores, nonprofits, and faith institutions throughout the Delaware Valley.[10] **Cleveland** worked with health care and education and foundation partners to launch the Evergreen Cooperative, including the Green City Growers Cooperative that supplies fresh produce to the city's major retailers, wholesaler, and institutions. The city of **Los Angeles** and **Los Angeles Unified School District** both adopted the Good Food Purchasing Program, a set of values-driven purchasing guidelines created by the Los Angeles Food Policy Council. In addition to cost, food contracts are evaluated on the following standards: local economic impact, environmental sustainability, valued workforce, animal welfare, and nutrition. The policy has also been adopted in San Francisco and Oakland.

PLANNING AND TRANSPORTATION BARRIERS: In addition to the transportation challenges described above, many existing zoning and planning regulations make it difficult for farmers' markets, mobile vendors, community and urban gardens, and grocery stores to locate in an underserved community. Cities can take action to remove these barriers and expand food access. In Minnesota, the city of **Duluth** and the **Duluth Transit Authority** created the **"**Grocery Express," new bus route that connects neighborhoods without access to fresh and heathy food to a network of nearby grocery stores.[11] In Tennessee, **Knoxville's** area transit agency created the "Shop & Ride" program, which offers free return bus tickets for customers making a minimum $10 purchase at partnering grocery stores. **Fresno** and **Minneapolis** removed zoning restrictions that prohibit farmers' market development, and **New York City's** Green Cart initiative authorized thousands of new permits for street vendors, many of them immigrant entrepreneurs, to sell healthy food options in low-income neighborhoods. Cities have also supported urban agriculture by identifying and providing land and resources, such as city of **Seattle's** efforts to inventory public land available for community gardens, and programs in **Madison, Cleveland,** and **Boston** that offer grants for start-up and operation costs related to urban agriculture projects.

COMMUNITY ENGAGEMENT: Engaging community and food system stakeholders is critical to ensuring that healthy food access projects are responsive to the needs and context of a neighborhood. Key stakeholders may include community organizers and resident leaders; food access organizations; industry, government, and policy leaders; financial sector representatives; community development and public health workers. Hundreds of cities have launched food policy councils to coordinate policy-making efforts, garner high-level political support, and conduct activities designed to solidify community backing. Visit the Food Policy Council Directory to learn more.[12]

LANDSCAPE AND RESOURCES

Visit the **Healthy Food Access Portal**, a one-stop online hub of data, information, and resources to support the successful planning and implementation of policies, programs, and projects to improve access to healthy foods in low-income and communities of color.[13] The Portal is managed by **PolicyLink, The Food Trust,** and **Reinvestment Fund**. **Access to Healthy Food and Why it Matters** compiles and reviews the latest research on the health, economic, and community impacts of healthy food retail. **Economic and Community Development Outcomes of Healthy Food Retail** details the connections between healthy food retail and economic and community development outcomes.

INTERACTIVE CITATIONS AVAILABLE ONLINE AT WWW.LOCALPROGRESS.ORG/NOTES

Co-authored by PolicyLink
& the United Food and Commercial Workers

ADDRESSING THE FORECLOSURE CRISIS

"We're just trying to stay in our home as long as we possibly can."

—Cathy Busby, CO

"Not one political campaign, not one ad, addresses this issue."

—Mark Roarty, OH

THE PROBLEM

Communities around the country have been devastated since the housing bubble burst: families cut back on spending when their life savings disappeared; the economy was thrust into recession; government tax revenue plummeted; crucial services were cut. No industry is more demonstrative of the nation's economic challenges than the housing market. As the market picks up for some, many parts of the nation's housing market remain in disrepair: more than 3.5 million homes have been lost to foreclosure and over 4.3 million homeowners are still "underwater," meaning they owe more on their mortgage than their house is worth. Although the major settlement announced by the federal government in early 2012 is benefited some homeowners, too many people still face huge delays and improper denials of mortgage modifications and there have been very few principal reductions.[1] Adding to the challenges, low housing cost set the stage for speculation in our communities and the displacement of long term working class residents of color. Some of this was aided by federal programs which shifted massive pools of distressed post-foreclosure crisis loans into the hands of Wall Street at a discount.

THE SOLUTION

The federal government has the power to ameliorate the crisis and states can rewrite their foreclosure laws. But what can cities do? Increasingly, local communities and elected officials are thinking creatively about how to protect homeowners, recover losses, and hold banks accountable for the crisis they created. Some emerging strategies are laid out below.

STEP 1. DEMAND TRANSPARENCY AND RECOVER THE COSTS OF FORECLOSURES: After banks take homes into foreclosure and evict the residents, the properties often sit vacant for months or years. Not only is this a waste of valuable housing, but empty property also becomes a neighbor-hood blight, dramatically reduces the value of neighborhood homes, reduces city tax revenue, and forces government to spend money on upkeep, code enforcement, and police services.[2]

To combat these costs, **Los Angeles** adopted a foreclosure registry program in 2010. It mandates that the owner of any foreclosed property: (1) immediately register the property with the city and pay a small fee; (2) conduct regular inspections of the property and ensure it is properly maintained; and (3) pay utilities on time and collect the rent if the property is occupied. If the property remains vacant for more than 30 days and is not being renovated or actively offered for rent or sale, the ordinance permits the city to impose a fee of up to $1000 per day, not to exceed $100,000. The first several years of implementation showed mixed results: although over 18,000 foreclosed properties had been listed in the Los Angeles registry, many of which were blighted, the City had not recovered even one dollar in fines through the summer of 2012.[3] Recently, the city amended the ordinance to include a requirement that foreclosing

properties be registered earlier (upon the Notice of Trustee sale being filed) and much more aggressive inspections. It also includes giving local youth summer jobs in a "blight brigade" that inspects bank properties.

Riverside, CA investing heavily in enforcement from the beginning and collected $7 million in fines during 2009 and 2010.[4] Cities as small as **Murrieta, CA** and as big as **Atlanta, Las Vegas,** and **San Diego** have also adopted foreclosure registry ordinances. **Springfield, MA** has taken the most aggressive approach by mandating that lenders who foreclose on a property post a $10,000 bond with the city to ensure compliance with the law. A federal judge recently rejected banks' challenges to the law.[5]

STEP 2. MOVE OUR MONEY: Cities are major depositors with the very banks who have caused so much pain. Modeled after **Cleveland's** 1991 law and the federal Community Reinvestment Act, at least seven cities – **Seattle, Pittsburgh, Portland, Kansas City, Los Angeles, New York,** and **San Diego** – have each recently passed a Responsible Banking Act to demand more transparency and accountability from banks.[6] The specifics of each law vary, but they generally require that any bank wishing to do business with the city disclose detailed data on its lending, foreclosure, and community redevelopment activities. In **Los Angeles**, banks that fail to comply are not eligible for city contracts; in **New York**, however, such failure is only one factor to be considered by the City in selecting banking partners. **Buffalo** has been bolder: in May, it moved all of its deposits out of Chase Bank and into First Niagara.[7] **Binghamton** and other upstate New York towns have also closed their accounts to protest Chase's failure to renegotiate mortgages.

STEP 3. INNOVATE: In 2013, the city of **Richmond, CA** began to advance strategies to get troubled mortgages out of the hands of Wall Street banks and investors and into the hands of "good actors" committed to working with homeowners and modifying mortgages with principal reduction. The city voted to use its power of eminent domain to gain control of troubled, underwater mortgages that threatened the viability of certain hard-hit neighborhoods. Wall Street strongly opposed this measure and after a 1 ½ year battle succeeded in beating back this strategy – at least for now. Not to be deterred, the city of Richmond, CA has helped to lead a national campaign to get HUD, Fannie Mae and Freddie Mac to sell pools of delinquent mortgages to non-profits as opposed to Wall Street speculators. Local Progress members in **New York, San Francisco, Seattle, Baltimore, Philadelphia** and **Minneapolis** have all joined in this effort. The federal agencies have already made some policy changes, in response to pressure, and additional improvements appear to be imminent.

Another approach is for legislators to instruct city attorneys to **open investigations**, backed by subpoenas, into the LIBOR interest rate manipulation that likely deprived municipalities of billions of dollars. Interest rate swaps still in effect on municipal bonds should be renegotiated on better terms.

LANDSCAPE AND RESOURCES

A host of organizations are pushing on these issues. Among them are the **National People's Action, Right to the City, Alliance for a Just Society** and the **Center for Popular Democracy.**

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AFFORDABLE HOUSING IMPACT FEE PROGRAMS

THE PROBLEM

Across the country, particularly since the Great Recession, housing has become less affordable. Today, millions of families must pay more than half of their income in rent—leaving less and less money for other necessities like food, clothing, utilities, and transportation. Low income communities and communities of color are particularly vulnerable to these rising costs. Yet federal housing assistance for these populations has declined in recent years as the government has reduced funding for programs like public housing, Housing Choice Vouchers, and Home Investment Partnerships.

This situation has prompted many counties, cities, and towns to step up and take action. Many places have turned to inclusionary housing policies, which require developers to set aside a certain percentage of a new development's units as affordable. These policies leverage local governments' role as regulators of land use to ensure that new residential development includes, or supports the development of, new affordable residential units.

While more than 500 jurisdictions[1] across the country have successfully implemented some kind of inclusionary housing policy, some places have found challenges in implementing or adopting them. For example, in some states, prohibitions on rent control laws preclude local governments from adopting strong on-site inclusionary housing requirements.[2]

THE SOLUTION

Cities facing legal barriers to implementing inclusionary housing requirements have found an alternative way to support affordable housing: development impact fees, also known as linkage fees. Under these policies, a jurisdiction requires developers building new market rate developments to contribute to the affordable housing need by paying a fee. They can assess these fees on residential development, commercial development, or both. The city then uses the proceeds of that fee to build, restore, or repair housing that is priced to be affordable for families that cannot pay market prices.

Impact fees that apply to new residential development are easy to confuse with in-lieu fees, which are a component of many inclusionary housing programs. The two are actually different, particularly from a legal standpoint. Under residential impact fee programs, developers have a baseline requirement, or default option, to pay a fee. Some programs offer developers an alternative option to paying the fee. In **San Francisco, CA** for instance, under their impact fee program, developers can choose to construct affordable housing if they prefer to build a mixed-income development rather than pay the assessed affordable housing impact fee[3]. Inclusionary housing programs, on the other hand, operate in the reverse: inclusionary housing programs typically require that residential developers build mixed-income housing as the default option. Many inclusionary housing programs also offer developers an optional alternative to pay a fee in-lieu of construction, hence the term "In-Lieu Fee".

Another difference between impact fees and in-lieu fees is that impact fee programs may apply to either new commercial development, or new residential development, or both, whereas in-lieu fees, as an option under inclusionary housing ordinances, only apply to residential developments.

POLICY ISSUES

In impact fee programs, communities charge developers a fee for each unit or square foot of new market-rate construction and use the funds to pay for affordable housing. *Commercial* impact fees are sometimes called jobs-housing linkage fees. They help ensure that when jobs are created by new commercial development, there is also housing developed for those workers within the community. *Residential* impact fees support a healthy mix of housing by requiring that a portion of the profits generated by new market-rate residential development, which is typically higher-end housing, be reinvested into housing for lower-income earners.

Cities have a variety of options on how to spend the revenues from impact fees. Often, jurisdictions direct their fee revenue to Housing Trust Funds or Local Housing Funds that are dedicated to building affordable housing. Municipalities can use proceeds from these funds for direct loans or grants for low-income housing; to underwrite bonds sold to support low-income housing; or for direct low-income rental assistance or homebuyer subsidies.

Fee programs have grown in popularity in California in response to a statewide court decision that questions the legality of inclusionary housing requirements for rental developments[4]. According to a recent study by the Association of Bay Area Governments, among the cities and towns in **San Francisco** and the four surrounding counties, 16 cities have residential linkage fees and 13 cities have commercial linkage fees[5].

To enact an affordable housing linkage fee on commercial or residential development, cities generally conduct a "nexus" study, which evaluates the extent to which new development projects contribute to the local need for affordable housing and estimates the maximum level of fees that are legally allowable to offset the impact of these projects. For a variety of political, legal and practical, reasons, most cities choose to set their impact fees well below the maximum fee suggested by their nexus studies[6].

Unfortunately, political opposition and legal caution can result in low fee levels that do not substantially increase municipal affordable housing resources[7]. Nevertheless, some cities have passed more substantial fee levels that were both legally defensible and sensitive to the context of their local housing market. **Santa Monica**, for instance, charges approximately $28 per square foot. To keep its fee schedule current, the City also increases its fee automatically each year based on an index that accounts for the changes in the cost of construction and in land values in the city[8].

Basing its fee schedule on the affordability gap method, **Berkeley** takes a different approach. The City charges $34,000 for each new market rate home to fund affordable housing[9].

Several cities across the county also impose linkage fees on commercial developments. For example, **Boston** has one of the oldest commercial linkage programs in the country. It charges about $8.34 per square foot of new commercial development for the provision of affordable housing. Between 1986 and 2012, **Boston** has committed $133,804,969 in linkage funds. These funds have helped create or preserve 10,176 affordable housing units in 193 development projects. To address concerns over concentrations of poverty, Boston requires at least half of its fee revenues to be invested in neighborhoods that have less than the citywide average of affordable housing or have a demonstrated need for producing or preserving affordable housing[10].

Arlington County, Virginia assesses a commercial linkage fee of $1.91 per square foot for the first 1.0 Floor Area Ratio (FAR). To give its program more flexibility, Arlington also allows commercial developers to build units if they prefer[11].

LANDSCAPE AND RESOURCES

More information about inclusionary housing and linkage fees is available from **Grounded Solutions Network, Center for Housing Policy,** the **Lincoln Institute of Land Policy, Partnership for Working Families,** and the **Public Interest Law Project.**

NOTES

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Co-authored by the Grounded Solutions Network

GROUNDED SOLUTIONS NETWORK
strong communities from the ground up

BANNING HOUSING DISCRIMINATION BASED ON SOURCE OF INCOME

THE PROBLEM

A chronic shortage of decent, affordable housing exists in many cities. As a result, families across the country struggle to find affordable rental housing in safe, stable neighborhoods. Due to discrimination against them, finding affordable housing is particularly hard for people who pay part or all of their rent with income derived from sources other than employment – such as housing assistance, welfare, Social Security, child support, and alimony.

The extent of housing discrimination based on source of income is difficult to measure.[1] A study in **Chicago** found that "discrimination against Section 8 holders appears to be disturbingly common,"[2] and that nearly all study participants reported at least one encounter with a landlord "who refused to even consider accepting Section 8."[3] A report into the advertising practices of real estate brokers in **New York City** revealed a "proliferation of New York City rental advertisements that indicate a limitation or discrimination based on source of income."[4] In addition to the difficulty in quantifying incidents of housing discrimination based on source of income, discrimination often goes unreported.[5]

Source of income discrimination has a disproportionate effect on the most vulnerable members of society. Where a person lives defines their access to schools, employment and community. Living in less desirable neighborhoods means fewer opportunities and, without real housing alternatives, individuals and families cannot move on to lead better lives.

THE SOLUTION

In 12 states and the **District of Columbia**, discrimination based on source of income is prohibited.[6] It is also prohibited in counties and cities in 12 other states, including **Ann Arbor, Philadelphia,** and **Seattle**.[7] It is important for municipalities to take leadership on this issue if their states have failed to enact prohibitions. In addition to protecting their residents, action by municipalities will encourage further reform.

Protection against discrimination based on source of income gives local policymakers the ability to eliminate other forms of discrimination and foster inclusive communities. In many cases, source of income discrimination is proxy for illegal discrimination based on race and disability. By removing this proxy, municipalities can be more effective in protecting everyone against all forms of discrimination.

Discrimination based on source of income also frustrates housing assistance programs. A study by the U.S. Department of Housing and Urban Development revealed that local bans on source of income discrimination increase the rate at which voucher holders are able to find suitable housing.[8] Adoption of local source of income protection has a measurable, positive impact on implementation of housing policies and on meeting the needs of voucher holders.

Municipalities take different approaches to defining "source of income," the scope of prohibited practices, and the availability of defenses and enforcement.

DEFINING SOURCE OF INCOME: In **New York City**, source of income discrimination is forbidden by their human rights law and expressly includes "Section 8 vouchers."[9] **Washington, D.C.** explicitly states that vouchers are an example of source of income.[10] In states and cities where Section 8 vouchers are not specified within the definition of "source of income," claimants must rely on judicial interpretation to expand the scope of the definition.[11] Still, other jurisdictions do not define "source of income" and allow landlords to refuse to accept Section 8 vouchers from tenants.[12] Given the experience of some cities and municipalities, cities should define "source of income" to specifically include Section 8 vouchers.

PROHIBITED PRACTICES: Generally, local and state laws prohibit landlords from refusing to rent on the basis of source of income.[13] Other prohibited conduct may include discrimination in the terms, conditions, and privileges of housing transactions and discrimination

in the advertisement of rental properties.[14] In **New Jersey**, the prohibition against discrimination based on source of income goes beyond the housing context to include those seeking employment.[15] There are obvious advantages to proposed local laws that adopt a broad scope of prohibited practices.

AVAILABILITY OF DEFENSES: Under some local laws, certain owners are exempt from the prohibition against discrimination based on source of income. For example, in **New York City**, owners of buildings with fewer than six units are exempt. Elsewhere, landlords have successfully claimed "administrative burden" or "legitimate reasons" defenses. However, courts generally reject such claims and only permit narrow and directly relevant creditworthiness considerations.[16] As far as possible, the availability of defenses and exceptions should be limited.

ENFORCEMENT: Studies and investigations across the country demonstrate high levels of discrimination even in states or cities with legislative protection against housing discrimination based on source of income.[17] In many jurisdictions, the burden of enforcement falls on victims to bring complaints to the administrative agency, many of which are under-resourced. This inhibits an agency's ability to launch affirmative investigations into discriminatory practices and forces them to respond solely to isolated incidents. In other cities and states, the statutes permit both administrative and court enforcement.[18] In jurisdictions with court enforcement, the approach also varies: some require an agency to enforce in court on behalf of a complainant and some permit a complainant to file suit directly.[19] In **Montgomery County, MD,** the Human Rights Commission successfully enforced a local fair housing law prohibition against discrimination based on source of income following independent testing and obtained favorable holdings rejecting the existence of an "administrative burden" defense for landlords. Accordingly, proposed enforcement regimes should be bolstered by pro-active measures like testing, investigations, and reporting by administrative agencies and non-profit organizations, and should provide complainants with the option to pursue civil action in courts.

LANDSCAPE AND RESOURCES

The **Fair Housing Justice Center, The Leadership Conference, The Urban Institute** and the **Poverty & Race Research Action Council** all have valuable resources on this issue.

NOTES

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2 Popkin & Cunningham at 23.
3 Id. at 25.
4 A snapshot of the postings on July 29, 2008 found no fewer than 1,543 advertisements for rental units that indicated a limitation or discrimination based on source of income.
5 Renters have no way of knowing whether they have been discriminated against if they are "screened out" at initial stages by landlords or brokers before they even have an opportunity to get the address of a prospective rental property.
6 California, Connecticut, District of Columbia, Maine, Massachusetts, Minnesota, New Jersey, North Dakota, Oklahoma, Oregon, Utah, Vermont and Wisconsin.
7 Local laws and ordinances in Florida, Illinois, Iowa, Maryland, Michigan, Missouri, New York, Ohio, Pennsylvania, Tennessee, Missouri and Washington.
8 U.S. Department of Housing and Urban Development, Office of Policy Development and Research, Study on Section 8 Voucher Success Rates (2001) at 3-17,
9 N.Y.C. Admin. Code § 8-102(25) includes "income derived from social security, or any form of federal, state or local public assistance or housing assistance including section 8 vouchers".
10 D.C. Code § 2-1402.21(e).
11 Courts have held that Section 8 aid does not qualify as a source of income. Sabi v. Sterling, 183 Cal. App. 4th 916 (Cal. Ct. App. 2010); Knapp v. Eagle Property Management Corp., 54, F.3d 1272 (Wis. 1995). Courts have held otherwise in Comm'n on Human Rights & Opportunities v. Sullivan Associates, 250 Conn. 763, 739 A. 2d. 238 (1999).
12 Cook County Code of Ordinances § 42-31, 42-38; Wheeling Human Rights Ordinance Ch. 6.14 (Illinois).
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19 Cal. Gov't Code § 12980(h); Conn. Gen. Stat. Ann. § 46a-64c; N.D. CENT.

CREATING GREEN JOBS

THE PROBLEM

Without a movement to win bold solutions to the climate crisis over the coming years, low-income communities of color will bear the brunt of an avoidable disaster. Cities are crucial to limiting the impacts of climate as they bear primary responsibility for protecting their residents from the consequences of climate change. With social infrastructure reliant on fossil fuels, mitigating the impacts of climate change means we must address how all systems of modern life – buildings, housing, transportation, energy, food, and more – are powered and structured. If we are to avert the worst impacts of the climate crisis, we must rebuild these systems in ways that promote equity and justice.

With opportunities to advance meaningful policy stuck at the Federal level and in many states, cities have a critical role to play in passing cutting-edge initiatives that address both climate and inequality by taking the lead on designing innovative programs and funding sources to restart the green jobs movement.

THE SOLUTION

In 2008, over 1,100 mayors signed the Green Jobs Pledge, committing their cities to policies that drive investment in an inclusive and sustainable economy.[1] The goals of the green jobs movement are to: (1) shift America's economy away from its dependency on fossil fuels and (2) create millions of sustainable, middle class jobs available to workers with a range of educational backgrounds.

Cities can create and support green jobs by encouraging the development of renewables, implementing weatherization and energy efficiency programs, expanding public transit, and investing in countless other initiatives,

Moreover, these jobs can be good jobs. A study in 2011 found that the green economy offers more opportunities and better pay for low- and middle-skilled workers than the national economy as a whole. Median wages in the clean economy are 13 percent higher than median U.S. wages. Green jobs also pay a living wage, are safe, and create upward mobility. Living wage requirements, community benefit agreements, and clawback provisions should be used whenever possible.

Local governments can use job quality standards to require companies receiving "green" subsidies and contracts to meet certain criteria, including wage levels, availability of health insurance, and full-time hours. Clawback provisions can provide insurance that subsidized companies comply or else repay all or part of the subsidies awarded to them.

The most successful cities have offices that design local solutions, coordinate implementation, and take full advantage of available state programs. Cities can create and encourage green jobs in: energy efficiency; renewable energy; green manufacturing, construction, and product design; organic agriculture, sustainable forestry, and conservation; and waste control and recycling.[2]

ENERGY EFFICIENCY UPGRADE PROGRAMS

The quickest way to directly create new green jobs is through energy efficiency upgrades to buildings. The immediate and on-going cost savings created by these upgrades funds the upfront costs and, ideally, makes the projects sustainable. Forty percent of America's energy is used in buildings, so improvements have significant environmental benefits.[4]

- *Government buildings:* City governments occupy office and school buildings for decades, so there is strong financial incentive to make energy efficiency upgrades. With interest rates at historic lows, cities can immediately save money by issuing bonds to pay for the upgrades or partnering with utility companies and responsible banks to develop other financing.
- *Residential buildings:* Many energy efficiency programs offer homeowners free or cheap upgrades while lenders recover the savings over time. The biggest challenge is often outreach: in a **South Bronx** pilot project, although 100 families received free audits from NY State, only 5 completed the retrofits.

Portland has been far more successful – and has prioritized the creation of good jobs– through collaboration with community organizations.[5]

- *Commercial buildings:* Economies of scale make these projects attractive and over 25 states permit municipalities to issue bonds to fund them.[6] However, because tenants generally pay energy costs, landlords often do not have an incentive to invest in upgrades. Mortgage terms also complicate matters. The **New York City** Energy Efficiency Corporation is using an innovative financial arrangement to resolve these problems.[7]

ENCOURAGING EFFICIENCY: ZONING, CODES, & TAXES. Cities can stimulate significant economic growth by requiring building owners to measure and improve their energy usage. **New York City** passed a package of local laws requiring that large buildings annually benchmark their energy performance, conduct an energy audit and retro-commissioning every 10 years, upgrade lighting to meet code, and provide large commercial tenants with sub-meters.[8] Other policies to encourage efficiencies include:

- Many cities have energy codes that exceed state minimums;
- **Berkeley** and **Austin** require upgrades at the time of sale or other trigger points;
- **Washington, D.C.** requires that large commercial buildings disclose their energy use to the public;
- Cities can offer non-financial incentives, such as expedited permitting or prioritization in access to public services, in exchange for efficiency.

INVESTING IN CLEAN ENERGY

Many cities have prioritized the use of clean energy. In 2001, **San Francisco** voters authorized $100 million in bonds to purchase enough renewable energy to supply about 25 percent of the government's needs. As a result, the city has become a hub for the solar industry, fostering economic and job growth.

States around the country mandate that electrical utilities buy a portion of their energy from renewable sources; they have established tradable energy credits to encourage energy production by businesses and homeowners. **Gainesville, FL** has sought to speed up production by setting the rates that utilities must pay for solar energy.[9] As a result of these and other programs, employment in the solar industry grew by 13 percent in 2012.[10]

COORDINATING OTHER GREEN POLICIES

In **Pittsburgh**, a coalition of entities is creating good green jobs by (1) diverting excess usable building materials from landfills into construction; (2) rebuilding the county's drain system to divert rainwater away from sewers and into gardens, farms, and green spaces that revitalize abandoned lots and business areas; (3) turning used commercial and residential cooking oil into biofuel; and (4) establishing a six-week job training program for underemployed and unemployed people that connects workers to green jobs.[11]

LANDSCAPE AND RESOURCES

For a more comprehensive policy outline please see the Local Progress Resource Guide: Climate Change, Mitigating Climate and Advancing Equity: October 2015, A Local Climate Justice Report.

The **Department of Energy** provides funding and support to twenty-five cities to promote solar energy markets. See the comprehensive ***Solar Powering Your Community: A Guide for Local Governments* (2011)**. **Vote Solar** is leading campaigns at the local, state, and federal to help solar markets grow. **C40** is a group of major cities around the globe taking action to avert climate change. **Green for All, the Blue-Green Alliance, Good Jobs First**, and **The Labor Network for Sustainabili**ty are leading the fight for a green economy.

NOTES

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DIVESTING FROM FOSSIL FUELS

How Cities Can Help Solve the Climate Crisis

"The impact of divestment by local governments has significant potential. Nationally, total municipal holdings amount to about $1.5 trillion in cash and security holdings and an additional $500 billion in retirement funds."

—Mayor's Innovation Project, Divestment from Fossil Fuels: A Guide for City Officials and Activists (2014)

THE PROBLEM

Local government investments support the status quo of an economy driven by harmful fossil fuels. Following a staggering number of major natural disasters in the past several years, climate change has become a very real and local problem. Coastal flooding and extreme temperatures are already costing cities billions of dollars in preparation and repairs. These problems have pushed cities to make their operations more environmentally friendly. But many localities face a common problem – even as their operational policies become greener, their investments still support the industries that are driving global climate change.

THE SOLUTION

Recently, a new policy has been gaining traction: divestment of public funds from the stocks of fossil fuel companies that make money extracting coal, gas, and oil. Thirty-six local overnments in the United States have already committed to the divestment process. The impact of divestment by local governments has significant potential. In 2014 total municipal holdings add up to about $1.5 trillion in cash and securities, plus an additional $500 billion in retirement funds.[1] Divestment affects companies' bottom line while also bringing attention to their reckless practices.

From an investment standpoint, divestment can actually make local government finances more secure. Fossil fuel companies are already facing time constraints on their future profitability: between 50-80 percent of their value is derived from unburned reserves. But because of the already-changing climate, it is likely that the US will ultimately institute a price on carbon that will slow the extraction and reduce fossil fuel companies' profits. Disinvesting from fossil fuel companies protects cities from these future financial risks.[2]

Research suggests that cities will not suffer meaningful financial impact from divestment, particularly in light of its social and environmental benefits.[3] Recently, even financial giants have come to the same conclusion. In January 2014, a Goldman Sachs subsidiary sold its shares in a **Seattle**-based coal export terminal.[4] Environmental regulations, competition from natural gas, and increased energy efficiency were all specifically cited by Goldman Sachs as reasons to shy away from investments in coal. Additionally, **London's** most prominent stock index, the FTSE, has recently chosen to completely exclude fossil fuel companies.[5]

POLICY ISSUES

Many cities have already begun to make progress. The divestment procedure is relatively straightforward for most city governments. However, it can be complicated politically, and usually requires education and persuasion, as there are numerous levels of government and fund managers involved.[6] Government officials who want to explore divestment should conduct an assessment of all government funds to determine who is in charge of asset management and the extent of equity ownership in companies with carbon reserves.[7]

Seattle was the city that started the local government divestment campaign by divesting all of the city's directly controlled fossil fuel investments, and asking the City's biggest pension funds to remove their funds from fossil fuel-related investments in 2012.[8] Since then, numerous other cities and counties across the US have taken legislative action to divest from fossil fuels. For example, ten other cities joined **Seattle** on April 25, 2013 to launch the Fossil Free city divestment campaign including **Boulder, CO, San Francisco, CA, Santa Fe, NM** and **Eugene, OR.** [9]

Meanwhile, residents are petitioning local governments that have not yet acted to join the movement. In **Massachusetts**, a 95-year old man wrote a resolution to encourage divestment in **Truro** and nearby **Provincetown**.[10] Thanks to concerned citizens, nine municipalities in the state have voted to divest.[11]

In addition to divesting their own public funds, cities and towns can also encourage state entities to do the same. **Berkeley** has called on **California's** state pension fund to stop investing in oil.[12] Universities have also taken action to protect their students' future by exploring divestment of their endowments. In May 2014, Stanford divested from coal companies, while Unity College in **Maine** and Pitzer College in **California** are among the many small schools that have already divested their entire endowments of fossil fuel stocks.[13] Public institutions are not far behind: San Francisco State University's Foundation, which has a $67.7 million endowment, agreed unanimously that it would no longer invest directly in companies that produce or use coal.[14]

Faith-based organizations and foundations have also used their collective financial clout to advance the divestment movement. Many religious institutions across the United States have done so through the efforts of GreenFaith, a national interfaith environmental coalition.[15] Meanwhile, a coalition of U.S. and global foundations, Divest-Invest Philanthropy, came together in January 2014 with assets of close to $2 billion to make a commitment to divest from fossil fuels, invest in clean energy, and to recruit other foundations to join them.[16]

Divestment is only the first part of the process. Local governments can also make a further commitment to socially-responsible investment policies. The optimal policy decision is to invest locally. Such policies can stimulate the local job market, promote affordable and sustainable housing options, and improve aging infrastructure. One extremely valuable area for these investments, among many others, is transportation. This includes improved roads, particularly in poverty stricken neighborhoods, pedestrian and bicycle infrastructure, as well as quality public transit.[17] Another option is to invest in the many mutual and exchange traded funds that have been screened and approved for their positive environmental impact.[18] These funds consist of a wide variety of possible investment opportunities, including public and private equity and fixed income securities.

LANDSCAPE AND RESOURCES

These are just some of the examples of divestment policies that local governments have instituted. For more information, please visit **Go Fossil Free, The Mayors Innovation Project, American Legislative** and **Issue Campaign Exchange** (ALICE), and **350.org.**

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ENDING DRUG-RELATED EVICTIONS IN PUBLIC HOUSING

"[Drug-related evictions] target the poor for a punishment that rarely befalls more affluent per- sons with drug-involved family members and acquaintances"

—Emma D. Sapong[1]

THE PROBLEM

Municipalities spend precious resources throwing families out of public housing and onto the streets. Public housing authorities (PHAs) initiate drug-related evictions (DREs) against unrepresented tenants in forums where the standard of proof is so low that families are evicted even after the underlying criminal charge is dismissed. Despite criminal drug policy reforms, there has been little effort to dismantle the web of devastating civil consequences associated with drug addiction—such as DREs. DREs disproportionately punish and destabilize already vulnerable low-income communities of color and cost the government millions.[2]

While local PHAs exercise significant discretion in determining eviction and eligibility policies, Federal pressure to increase DREs began with the 1988 Anti-Drug Abuse Act.[3] DREs proliferated under President Clinton's "one-strike" policy, which incentivized the adoption of harsh eviction and eligibility regulations.[4] The volume of DREs increased after the 2002 Supreme Court decision, Department of Housing and Urban Development v. Rucker, under which PHAs have the discretion to evict entire households, even when the leaseholder does not know about or participate in the illegal activity. In **Chicago**, 87 percent of DREs between 2005-2012 did not involve allegations against the leaseholder.[5] Many families are evicted because of the mistakes and misdeeds of children—one study suggests that more than 25 percent all DREs stem from juvenile arrests.[6]

Although the Department of Housing and Urban Development (HUD) now advocates[1] for "second chances,"[7] most jurisdictions enforce draconian eviction and eligibility policies.[8] [9] Many jurisdictions apply strict liability DREs to Federal Section 8 voucher programs. Others have incorrectly interpreted Federal law as mandating a three-year ban on public housing eligibility once a family is evicted.[10] Still others, such as Massachusetts and Washington, DC, bar families from emergency shelter if they are evicted from public housing due to alleged criminal activity.[11] Together these policies deny the most vulnerable families the basic necessity of a home.

Some jurisdictions, like **New York City**, have adopted procedures for first time offenses that require the leaseholder to permanently exclude the "offending family member."[12] These "stipulations" often force mothers and grandmothers to choose between barring their loved ones from the family home or being evicted themselves. Eviction proceedings have been initiated after "excluded" household members returned to care for an elderly grandmother, to mourn the death of a beloved sibling, and to visit an immobile parent.

Drug related evictions, meant to target "dangerous drug predators,"[13] have resulted in the eviction of tens of thousands of innocent families for offenses as minor as a teenager possessing marijuana.[14] While there is no evidence that these draconian policies have reduced crime in public housing,[15] they cost federal, state, and local governments millions of dollars. Annually, it costs approximately $35,000 more to keep one person homeless than to provide subsidized housing for that same individual. Additionally, housing stability results in lower hospitalization and arrest rates.[16] Similar to mass

incarceration for low-level drug offenses, DREs are inhumane, ineffective, expensive, and discriminatory.

THE SOLUTION

Because of the extensive discretion allowed to local PHAs, municipalities can stop the expensive and inhumane practice of evicting entire families for minor non-violent drug offenses.

Under current Federal law the only offenses that mandate eviction or limit eligibility for public housing are: 1) the manufacturing of methamphetamines on federal property and 2) crimes that result in the accused being put on the Sex Offender Registry for life.[17] Although Federal law mandates a three year ban in the case of a prior eviction from public housing for a drug-related offense, the ban may be overcome if the household member completes a drug rehabilitation program.

POLICY ISSUES

PHAs should mandate the consideration of mitigating circumstances. PHAs may take into account all relevant circumstances prior to eviction. Advocates and city officials can work with local PHAs to develop policies that allow for individualized decisions. The Legal Action Center has created model legislation suggesting that PHAs take the following factors into consideration before eviction: 1) whether the offense bears a relationship to the safety and security of other residents; 2) whether an eviction is likely to result in homelessness; 3) whether the individual has undertaken efforts at rehabilitation; and 4) the effect on the entire household.

PHAs should revaluate evidentiary standards. Most jurisdictions rely extensively on unproven allegations, sealed court records, and arrests not resulting in convictions to evict families from public housing. Additionally, PHAs need only prove allegations by a "preponderance of the evidence"—simply requiring that it is more probable than not the act occurred. Particularly in the absence of counsel, families facing eviction should be protected against capricious state action by carefully crafted rules with enforced evidentiary standards. Towards these ends, in **Chicago**, a court held that an arrest alone does not constitute "criminal activity" for the purposes of PHA exclusion or eviction.

Local officials should demand transparency about rules governing eviction and eligibility. The lack of transparency about standards for eviction and eligibility, along with the lack of data documenting enforcement, makes it impossible for those affected by DREs to advocate on their own behalf or for policy change. Local PHAs should make rules governing evictions and eligibility easily available. Furthermore, PHAs should report data pertaining to enforcement of DREs.

PHAs should offer time-limited stipulations rather than demanding permanent exclusion as the only alternative to eviction.

PHAs should take HUD's advice and only evict as a last resort. The current use of strict liability standards and vicarious liability should be replaced with regulations that prioritize safety and support struggling families instead of banishing them.

The Housing Authority of **New Orleans** recently passed a new admissions policy pertaining to criminal records that includes revised look back periods and individual assessments for people with convictions of concern, rather than automatic denials.[18][19] Ideally such policies will be applied to third-party property management companies as well.

LANDSCAPE AND RESOURCES

In **New Orleans**, **Stand with Dignity**, the **New Orleans Workers' Center for Racial Justice**, and **Voice of the Ex- Offender** are working to enact less punitive public housing policy.

In **New York City**, the **Center for Popular Democracy** is working with public defender's offices and grassroots tenant and housing organizations to change laws governing drug-related evictions.

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EQUITABLE INFRASTRUCTURE

THE PROBLEM

From collapsing roads to unsafe water systems and crumbling school buildings, communities across the country are grappling with failing and outdated infrastructure. The American Society of Engineers estimates that a $4 trillion investment is needed over the next 10 years to bring our infrastructure up to date and prepare for the future. While the needs are great, the Trump Administration seems uninterested in promoting a real plan that will provide the level of public investment needed to address the country's urgent infrastructure needs.

SOLUTION

The United States needs a people-centered plan for real public investment in infrastructure that will support healthy communities and a sustainable economy. In addition to roads and bridges, investments should be made in schools, broadband access, and energy and water systems. Investments should empower women and communities of color while protecting the planet and public health. This includes ensuring that all communities have affordable access to new infrastructure, that career pathways to family-sustaining jobs are created for disadvantaged workers, and that investments are directed to communities that have suffered from a lack of investment. The best way of ensuring these outcomes is by creating meaningful roles for communities to provide input and act as decision makers. Lastly, local governments that retain public control of their infrastructure and aren't bound by public-private partnership arrangements that hand control to private corporations are better able to ensure that infrastructure meets community needs now and can adapt to changing needs in the future.

POLICY ISSUES

Local officials are well positioned to ensure that the community's voice is included in infrastructure decisions, that investments reflect community need, and that as a public good, infrastructure is democratically controlled. Local officials can:

TAKE A BROAD APPROACH TOWARD DEFINING INFRASTRUCTURE. New infrastructure investments should promote access to clean and safe water, affordable broadband, updated and safe schools, affordable housing, and community facilities like parks and libraries. Investments should also address the threat of climate change by prioritizing clean energy and public transportation infrastructure in addition to resiliency infrastructure.

ENSURE INVESTMENTS ARE MADE IN COMMUNITIES THAT NEED THEM THE MOST and that projects deliver concrete community and environmental benefits. For far too long low-income communities and communities of color have suffered from a lack of infrastructure investment and have borne the brunt of environmental degradation. New infrastructure investments should prioritize the needs of disadvantaged communities. Local officials can also encourage the use of community benefits policy tools to ensure that new projects deliver concrete benefits including affordable housing, environmental remediation, and community facilities and services.

MAXIMIZE THE OPPORTUNITY TO CREATE GOOD JOBS. In addition to failing infrastructure, too many cities are grappling with a lack of quality jobs. Infrastructure investments provide an important opportunity to create family-sustaining jobs, particularly for disadvantaged workers. There are a range of policy tools local officials can use to ensure both high-quality job creation and that pathways are created for low-income workers, people of color, women, and other groups of disadvantaged workers. Community Workforce Agreements provide a comprehensive policy tool that establishes a range of job quality and access standards in addition to conflict resolution provisions that ensure high quality projects are delivered on time. Where these policies aren't feasible, local officials can pursue job quality standards that ensure workers earn a living wage

with benefits, have access to training and apprenticeship opportunities, a safe work environment, and have a voice on the job.

PROMOTE MEANINGFUL COMMUNITY ENGAGEMENT & TRANSPARENCY throughout every phase of an infrastructure project to ensure that investments produce vital environmental, economic, and community benefits. Meaningful community engagement in infrastructure projects should begin with early community input and should focus on articulating community needs as well as project selection and design. Legislators can also take several steps to promote a high level of transparency that begins with how community members will access information about a project, which should include early and complete disclosure of the project's anticipated impacts on community and the environment. The public should also be informed about the financing arrangements and procurement methods, including any proposed public-private partnerships. The ultimate goals of transparency and community engagement are to create accountability among all stakeholders and to building beneficial projects. To this end, local officials can include meaningful consequences for failing to meet obligations. Consequences can include clawbacks of public funding, debarment from public contracts and appropriate judicial remedies for those harmed.

USE FINANCING MEASURES THAT ENSURE AFFORDABLE & ACCESSIBLE INFRASTRUCTURE. Infrastructure must be affordable and accessible to those who use it, especially to those in low-income communities. However, financing arrangements such as the use of private equity financing through public-private partnerships often rely on high user fees to maximize corporate profits. Furthermore, these contracts may give the private entity wide latitude to raise rates over time, making fees like bridge tolls, water bills, and transit fares expensive and inaccessible. Progressive affordability policies are easier to create when using financing arrangements such as low-cost municipal bond financing.

POLICIES IN ACTION

NEW YORK CITY. Superstorm Sandy caused $19 billion in damage and shined a light on deep inequality in the city. Low-income residents, communities of color and immigrants were hit hardest by the storm. In its wake, the Alliance for a Just Rebuilding, , advocated for a range of policies that would ensure that the communities hit hardest had access to the relief spending and that the recovery efforts did not further perpetuate pre-existing inequality. In addition to a range of housing and environmental remediation demands, the coalition also won a 20 percent local hiring requirement and the first disaster relief project labor agreement in the country. The Alliance also secured funding for pre-apprenticeship programs and the creation of the Sandy Funding Tracker, which makes comprehensive reporting on recovery job creation and spending available to the public.

LOS ANGELES. In 2012, the Los Angeles Metropolitan Transit Authority (Metro) became the first transit agency in the country to adopt a Construction Careers Policy for all major construction projects, including the $2.4 billion Crenshaw/LAX Transit Project, an 8.5-mile light-rail line that runs through the heart of LA's Black community. This project improved access to public transit for residents of color and represented an opportunity to address elevated poverty and unemployment rates. Building on a decade of successful targeted hire policies, the Construction Careers Coalition, pushed for a policy that would create pathways for low-income residents and people of color and serve as a template for major infrastructure investments. To date, 58% of work hours on the Crenshaw/LAX Transit Project have been completed by economically disadvantaged workers and 69% by workers of color.

RESOURCES

The Campaign to Defend Local Solutions, based in Florida, is one of the nation's leading organizations devoted to supporting cities and local elected officials facing preemption, by providing communications, media, and litigation support, research, and resources

Preemption Watch helps advocates better understand and counter preemption by providing tools, research, and case studies and a bi-weekly newsletter with coverage of federal and state preemption threats. The Partnership for Working Families provides legal, communications, and organizing support to campaigns to stop state interference with progressive local measures.

The Partnership for Working Families and **In the Public Interest** have produced several publications useful to local officials who want to pursue equitable infrastructure. These include:

- Building America While Building Our Middle Class: Best Practices for P3 Infrastructure Projects
- A Guide to Understanding and Evaluating Public-Private Partnerships
- Community Benefits Toolkit

Co-authored by the Partnership for Working Families

PARTNERSHIP for Working Families

EQUITABLE STRATEGIES FOR RENEWABLE ENERGY

THE PROBLEM

Without a movement powerful enough to win bold solutions to the climate crisis, over the coming years low-income communities and communities of color, like the residents of Isle de Jean, LA who are the nation's first 'climate refugees', will bear the brunt of a tremendous and avoidable disaster.[1]

Beyond just mitigating the most catastrophic of climate impacts, however, the work of progressive elected officials and allies should be to seize the unparalleled opportunity presented by the climate crisis to fundamentally rebuild society in a more just and equitable fashion. With social infrastructure reliant on fossil fuels, to mitigate the impacts of climate change is to address how all of the systems of modern life – our buildings, housing, transportation, energy, food, and more – are powered and structured. If we are to avert the worst of the climate crisis, we must rebuild these systems in ways that promote equity and justice.

THE SOLUTION

Renewables are a critical part of the effort to reduce greenhouse gas emissions and address climate change, and cities can play a huge role in their development. Across the country, cities like **Burlington**, VT, **Greensburg**, KS, **Aspen**, CO and **San Diego**, CA are committing to plans to switch from carbon-intensive fossil fuels to 100% renewable energy.

Cities and local governments have the power to transform the production and supply of energy in this nation by using their collective political and purchasing power to influence utilities and by regulating to support the development of utilization of renewable energy sources within their communities. Many local governments that pursue these strategies have done so with a focus on equitable approaches that lower energy costs, increase reliability of service, and democratize energy ownership.

MUNICIPALIZATION. Municipalization involves a city or county taking control of its electric or gas system from an Investor Owned Utility (IOU) or Rural Electric Cooperative (Coop). Currently, there are more than two thousand municipal electric companies in the United States serving more than 43 million people.[2] On the whole, they enjoy lower and more stable rates, higher reliability, and greater responsiveness to residents. Municipalization is also a strategy for cities to respond to consumer demand and provide more energy from renewable sources. Following two public referendums, officials in **Boulder**, CO are taking active steps towards creating a public utility as a way to increase energy efficiency, local renewable energy, and democratic control of the city energy system.[3]

The prospect of municipalization can itself be a powerful and mobilizing force. In **Minneapolis,** MN a group of activists put forward a proposal to create a municipal power company, advocating for a citywide referendum coinciding with the expiration of the city's contracts with two investor-owned utilities. This pressure led to the creation of the first of its kind "clean energy partnership" between the utilities and the city of Minneapolis. The partnership included the creation of a board of public and utility officials to push for energy efficiency and renewable energy programs, including efforts to create "green zones" to improve energy conservation in high risk neighborhoods.[4]

COMMUNITY CHOICE AGGREGATION. Established by law in seven states thus far,[5] community choice aggregation (CCA) allows local governments to pool their electricity load in order to purchase power on behalf of their residents, businesses, and municipal accounts. Together, the pooled group can leverage their combined demand to lower rates, increase the supply from renewable sources, establish local control over the utility, and generate local jobs.

In the CCA model, local governments work in partnership with the region's existing utility to determine rates and energy sources. Like municipal utilities, CCAs offer cost efficiencies, flexibility, and local control, but they do not face the same financial and operational burdens of owning their own utility. The most successful

CCA agreements are usually "opt-out," in which all citizens are enrolled in the program collectively when legislation is passed, but they have the choice of switching back to utility service at any time.[6]

As of 2013, approximately 2.4 million customers were participating in CCAs that source renewable energy, totaling more than 9 million MWh of renewable energy.[7] In **Cleveland**, OH, around 65,000 residents and small businesses participate in the city's community purchasing program that uses 100% renewable sources. Participants receive a 21 percent electricity bill savings off the market rate.[8] Recently, energy advocates in **Westchester**, NY successfully lobbied the state to allow them to implement a CCA program in the county.[9]

MICROGRIDS. Microgrids are smaller, local grids that can incorporate multiple local power sources to supply power in its area. These localized systems are completely customizable, and can generate power from a variety of sources including solar cells, wind farms, geothermal, and fuel cells. Microgrids typically operate parallel to the central grid, alternately feeding the central grid extra energy produced or buying energy when it needs to, and many can also function independently as islands, completely separate from the central grid.[10]

One benefit of microgrids is reliability. With a microgrid, a community can continue to provide power even if the central grid fails. For example, **New York City's Co-Op City**, one of the largest housing cooperatives in the world, is home to a community microgrid that includes a 40-MW combined heat and power plant that serves 14,000 apartments in 35 towers. During Superstorm Sandy, when power outages blanketed the Northeast, the microgrid continued to provide electricity, heat, hot water, and air conditioning for 60,000 residents.[11] This independence is especially powerful for low-income communities and communities of color that are often the last to see power restored after a crisis.

A pilot project in **Hunters Point in San Francisco** aims to prove that local renewables can supply a significant amount of total electric energy consumption, while maintaining or improving power quality, reliability, and resilience. Hunters Point is a community that has struggled for decades with poverty, unemployment, and toxic waste following the closing of a shipyard. The community's microgrid will generate at least 25 percent of the local electric energy consumption by deploying 50 MW from solar installations on rooftops or parking lots, serving about 20,000 residential and commercial customers. The project designers estimate that the microgrid will reduce greenhouse gas emissions by 78 million pounds and save 15 million gallons of water annually.[12]

Microgrids are also good economic policy as they increase energy efficiency and lower energy costs. With local production, less energy is wasted through long transmission lines, and local siting of power generation allows users to capture the heat produced from energy production to heat water and buildings. Microgrids are also less costly than building new substations or transmission and distribution lines. The Hunters Point Community Microgrid, mentioned above, would not only add a significant amount of renewable energy to San Francisco. It is predicted to contribute $233 million to the regional economy and avert $80 million in transmission related costs over 20 years.[13]

NOTES

1 http://www.nytimes.com/2016/05/03/us/resettling-the-first-american-climate-refugees.html?_r=0
2 http://www.nepower.org/who-we-are/public-power/
3 http://communitypowernetwork.com/node/990, https://bouldercolorado.gov/energy-future
4 http://midwestenergynews.com/2014/10/17/ minneapolis-utility-fight-ends-with-unique-clean-energy-deal/
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6 http://www.leanenergyus.org/what-is-cca/
7 http://apps3.eere.energy.gov/greenpower/markets/ community_choice.shtml
8 http://www.sustainablecitiesinstitute.org/cities/ cleveland-ohio
9 http://www.capitalnewyork.com/article/albany/2015/ 02/8563054/state-approves-westchester-power-experiment
10 A recent publication, " Community Microgrids: A Guide for Mayors and City Leaders," can provide local officials with more detailed information about creating and operating a microgrid. You can download the guide at http://microgridknowledge.com/microgridknowledge-com-releases-guide-on-community-microgrids-for-mayors-and-city-leaders/.
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FRACKING BANS & MORATORIUMS

"[Fracking] uses massive quantities of water, inserts harmful chemicals into the water system and surrounding environment, contaminates soil, and feeds our national dependence on fossil fuels."

—**Earthworks,** Hydraulic Fracturing

THE PROBLEM

As traditional supplies of natural resources deplete, the fossil fuel industry is taking a different approach to gas and oil extraction through fracking. Unfortunately, this process of extracting natural gas and oil from underground shale rock is under-regulated, highly contaminative, and unsustainable.

Fracking involves drilling and injecting water and chemicals—many undisclosed, due to "trade secrets"—into the ground at a high pressure in order to fracture shale rock. The process uses massive quantities of water, inserts harmful chemicals into the water system and surrounding environment, contaminates soil, and feeds our national dependence on fossil fuels.[1] There is also evidence linking the fracking process to earthquakes – before fracking in **Oklahoma** there was about one earthquake registering above 3.0 on the Richter scale per year. Now the state averages one 3.0 or above earthquake per day.[2] And it's not just earthquakes—for years communities have dealt with unwanted toxic messes made by companies looking to extract natural resources through fracking.

Major decisions about large-scale fracking projects remain unaddressed by the federal government since profitable oil companies have focused their monetary and political capital on keeping fracking legal.

THE SOLUTION

Much of the anti-fracking movement relies on local action. Some cities have been able to ban fracking outright, by explicit ordinance or through other means, such as rewriting zoning laws, narrowing road-use regulations, setting noise limits, or recognizing "critical environmental areas."

POLICY ISSUES

In total, over 400 cities and municipalities in over 20 states have passed local resolutions to either ban fracking or instate a moratorium, including thirty-five in **New Jersey**, thirteen in **California**, ten in **Colorado,** and eighteen in **Michigan.**[3] The movement against fracking continues – in March of 2014, **Los Angeles** unanimously passed a motion directing the city attorney to look into a moratorium on fracking and other well-stimulation techniques.[4] By prohibiting fracking, cities can help eliminate contaminative energy practices and facilitate a just transition towards an economy based on clean energy sources.

Recently, **Texas** enacted H.B 40, which says municipalities do have the right to ban fracking.[5] Some other localities do not have the legal authority to ban the practice. But many cities have chosen to instead call for a moratorium on the practice until further research occurs. These elected officials have described fracking as a public safety issue and have required that the practice be postponed until a host of precautionary measures have been completed, such as EPA impact reports and financial impact reports.

There are a number of other methods municipalities have used to ban or limit fracking. Some communities have held public meetings with fossil fuel corporations

to fully discuss the fracking process, other communities have developed petitions to protest dirty energy development. Fracking has already adversely affected thousands of American citizens. There are over 1,000 documented cases of water contamination next to fracking sites, which have caused a host of health problems such as sensory, respiratory, and neurological damage.[6] Local municipalities have used this specific data to substantiate their claim that fracking is harmful for the community in their fracking bans and moratoriums. Cities have also noted in their bans and moratoriums that the public health dangers of fracking will have consequences on cities' economies, since businesses and consumers depend on clean drinking water to thrive.

> *"In total, over 400 cities and municipalities in over 20 states have passed local resolutions to either ban fracking or instate a moratorium, including thirty-five in New Jersey, thirteen in California, ten in Colorado, and eighteen in Michigan"*
>
> —**Washington Post,** How Two Small New York Towns have Shaken Up the National Fight Over Fracking (2014)

Fracking has been exempt from the Safe Drinking Water Act and the Clean Water Act, even though fracking fluid that enters the ground is highly contaminative. The exemption, dubbed the "Halliburton Loophole," was recommended by the Bush administration Energy Policy Task Force in 2005.[7] Measures to amend this loophole in Congress are slow moving: Congressman Jared Polis of Colorado introduced the Bringing Reductions to Energy's Airborne Toxic Health Effects (BREATHE) Act in 2013 only to be stuck in committee for the rest of the session.

However, in 2011, the **City Council of Oneonta, NY** justified its moratorium on fracking by announcing Rights to the Natural Environment, which includes their Right to Clean Water, Right to Natural Communities, and Right to Self-Government. The **City of Oneonta** pointed out that the right to clean water was supposed to be ensured under the Clean Water Act, and the public's right to accessible clean water is threatened by fracking.

As the fracking problem intensifies, local governments are choosing to stand up to fossil fuel companies, reject further depletion of limited resources, and demand the right to clean water and air.

LANDSCAPE AND RESOURCES

Food and Water Watch is a public interest organization whose goals are to ensure that we are consuming non-contaminated food and water. It provides a list of local governments' who have passed fracking moratoriums on their website.

350.org is one of the leading non-profit organizations for the climate change movement. "Go Fossil Free" is the name of 350's divestment campaign and its website provides information about entities that have already divested, local divestment groups, and existing campaigns.

NOTES

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HOUSING CODE ENFORCEMENT

THE PROBLEM

HEALTH RISKS TO RESIDENTS AND CHILDREN: Housing codes have long been used as a primary mechanism for preventing urban decay and the spread of preventable illnesses. In the mid-20th century, public health workers were intimately involved in code enforcement. However as medicine and sanitation methods have improved, the health community has reduced its involvement.

Inspectors today are more likely to have a construction background and tend to concentrate their efforts on structural violations, oftentimes ignoring blatant health concerns such as pests, radon, poor ventilation, moisture, and mold.[1] Indeed, children living in substandard housing are more likely to suffer from asthma, respiratory illness, lung cancer, and mental illness as well as an increased risk of accidental injury.[2] And local housing codes tend to borrow from model codes, which oftentimes fail to address important local problems like persistent pests or poor air quality.[3]

EXERCISING STRICT ENFORCEMENT: Enforcing housing codes can also cause problems for residents, particularly in low-income neighborhoods.[4] Code enforcement often backfires because officials require changes that are simply not economically feasible for owners and their tenants. When code enforcement officials force these changes and threaten legal or financial repercussions, families may have no choice but to abandon their home.

REPORTING VIOLATIONS & THE THREAT OF RETALIATION: Regardless of how comprehensive a city's housing code may be, the safety of residents may still at be risk.[5] Most housing codes rely primarily on reports and complaints from tenants. If tenants fear retaliation, they may not report violations. Similarly, undocumented immigrants may fear that contacting enforcement will end in deportation.

THE SOLUTION

ENFORCING HOUSING CODES: Reasonable enforcement is the best tool for ensuring that residents are able to live in a safe and secure environment. Code enforcement policy should neither burden the tenant with repair costs nor encourage building condemnation as a solution. Instead, code enforcement should encourage a landlord or property owner to improve living conditions. If they are unwilling, the building should be sold at a discounted price to a capable owner or the city itself should repair and resell the property.

Property owners who find improvement costs prohibitive should consider making an initial investment, which can, over time, be reasonably recovered through higher rents.[6] Cities can also develop innovative financing for necessary but cost-prohibitive repairs, using tools such as Community Land Trusts or Housing Trust funds.

MANDATED INSPECTIONS: In order to remedy concerns over retaliation for reporting inadequate living conditions, cities can follow in the footsteps of **Los Angeles, CA** and **St. Louis, MO** which have mandated that inspections must occur on a regular basis even if there are no complaints about the property. Other cities such as **Rochester, NY** have mandated that there must be periodic inspections of "high-risk" housing. According to a city study, this initiative has reduced the dangers of lead poisoning in children by 90% since implementation.[7] Another city, **Greensboro, NC**, has adopted a Rental Unit Certificate of Occupancy Ordinance that requires all rental units to be inspected before landlords rent the property to new tenants.[8] It also mandates that a random sampling of units be inspected annually. This ordinance has resulted in a dramatic decrease in the number of substandard residences in the city. "By improving housing inspection, we can lower the amount of wide-spread health problems that plague low-income communities. Furthermore, ensuring a neighborhood is compliant with the housing code helps prevent a de-

crease in property value, which benefits all residents."– Robin Powers Kinning, Selective Housing Code Enforcement and Low- Income Housing Policy (1992)

TRAINING INSPECTORS TO IDENTIFY HEALTH CONCERNS: Unfortunately, many housing inspectors are under-educated about how to identify these concerns. At the same time, inspectors primarily examine homes for problems that could, if unaddressed, get them in trouble. For example, if residents of an inspected building are injured from a collapsed ceiling or fire, the inspector could lose his job or face other repercussions. On the other hand, when a child suffers from asthma attacks based on poor ventilation, there is no negative impact on the inspector. It is critical that cities both provide better training to code enforcers and also consider a remedy for tenants who suffer from health issues attributable to housing violations.

COMMUNITY-BASED ACTION: State legislatures can also follow the lead of California, which enacted the Toxic Mold Protection Act of 2001, requiring that mold exposure standards be met before any real estate transaction can take place.[9] In Seattle, the Healthy Homes Initiative trains residents how to examine and identify triggers for child asthma, while involving community nurses, resources such as bed covers and cleaning supplies, and in-home outreach.

Other places have now modeled their own programs after **Seattle**'s. The Green and Healthy Homes Initiative in **Philadelphia** partners with community organizations to give residents the informational tools and the access they need to identify harmful environmental hazards. In **San Diego**, the City Healthy Homes Project provides direct services from city agencies to inspect and repair homes for residences with children and/or the elderly and who make less than 80% of the median wage. And the **Boston** Healthy Homes Initiative uses residents to train others about ways to protect their families from chronic health problems that could be avoided.

COST: While the cost of both retraining inspectors and creating new enforcement mechanisms may be of concern to local elected officials, benefits to the taxpayer may offset these costs.[10] Healthier buildings mean healthier communities. By improving housing inspection, we can lower the amount of wide-spread health problems that plague low-income residents. And while there may be short term costs involved with retraining inspectors to recognize certain health code violations, cities can direct the hiring of new officials towards individuals with a background in public health, thus reducing the amount of training needed.

"Children living in substandard housing are more likely to suffer from asthma, repertory illness, lung cancer, mental illness as well as an increased risk of accidental injury."

—**James Krieger & Donna Higgins**, Housing and Health (2002)

LANDSCAPE AND RESOURCES

PolicyLink and **The Urban Institute** have both released reports dealing with housing code enforcement in low-income housing. The **US Department of Housing and Urban Development**, or HUD, also addresses housing codes in their Public Housing Occupancy Guidebook.

NOTES

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INCLUSIONARY HOUSING

THE PROBLEM

Across the country more and more people are burdened by the rising cost of housing. Millions are currently paying more than half of their earnings toward housing costs.[1] During the foreclosure crisis, low-income communities and communities of color saw their home values decline at significantly higher rates than the general population. Additionally, low-income renters have been disproportionately impacted by decreased funding for public housing and voucher programs.

Even though many cities are now experiencing significant levels of development, this new construction is insufficient to meet the needs of the hundreds of thousands of people fighting for affordable and stable housing. In fact, in many places, new residential development attracts middle and upper-income families to areas they would not have previously considered desirable rather than providing housing for lower-income families in need.

In the face of the affordability crisis and declining investments by the federal government in affordable housing,[2] local governments are using a variety of tools to creatively expand and preserve their supply of affordable and workforce housing. In particular, they are using their role as regulators of land use to ensure that new residential developments include, or support the development of, affordable residential units for low-income and working families.

These "inclusionary housing policies" are notable not only for their ability to create more affordable housing, but because they do so in neighborhoods with efficient transportation, good schools, and safe streets. Historically, public and subsidized housing projects have been built predominantly in low-income neighborhoods suffering from a lack of public and private investment. Inclusionary housing policies help reverse these trends by creating affordable housing in places that are desirable to residents of all income levels and in neighborhoods where market-rate housing is booming.

THE SOLUTION

Local governments across the country are increasingly adopting inclusionary housing policies to expand the supply of affordable housing without requiring large investments of scarce public resources. In particular, local governments use their role as regulators of land use to help ensure that new residential development includes, or supports the development of, new affordable residential units.

POLICY ISSUES

REQUIRE OR ENCOURAGE LOW COST UNITS: In the past several decades, many municipalities have embraced a low cost, market-based tactic to ensure that new residential development includes units that are affordable to those who need them. These inclusionary housing policies require or incentivize new market-rate housing developments to include lower-priced units. In other words, home builders and developers set aside a certain percentage of their units for low and moderate income residents.

Inclusionary housing programs may be voluntary or mandatory. However, purely voluntary incentive-based programs typically yield far fewer units than mandatory programs. For this reason, voluntary programs often transition to a mandatory framework. In **New York City**, inclusionary zoning has been voluntary, and largely based on developers receiving density bonuses for the inclusion of affordable units. **New York** has created fewer than two thousand affordable units since its passage in 1987, a tiny fraction of its total market rate production.[3] As a result of this paucity of concrete results, the city's ordinance will transition to a mandatory one in 2015.[4]

PROVIDING INCENTIVES: Under a mandatory program, a city can support development by easing other restrictions that affect its developers' profit and flexibility. Some of the most popular developer benefits or cost-offsets are revenue neutral for the locality. These include density bonuses, reduced parking requirements,

and other variances. A density bonus reduces the developer's per-unit development cost because it allows the developer to build more units in the designated space than would otherwise be permitted. Other cost-offsets include tax abatement, fee reductions, waivers, and fast-track processing, but these come at a financial cost to the locality.

ALTERNATIVES TO CONSTRUCTION: Most programs offer developers additional flexibility by offering alternative means of meeting the ordinance's requirements. For example, the city may offer options to pay a fee in lieu of building onsite units, build housing in a different location than the market-rate development, dedicate land, or preserve existing low-cost housing. Localities can shape their policy to shift the balance of developer contributions toward fee revenue or toward on-site affordable housing, for example, depending upon their policy goals. In **Chicago** paying fees is relatively simple, but in **Fairfax, VA**, and **Montgomery County, MD**, opting out of building affordable units requires proof of financial hardship. Because they have a high standard of proof, permission has never actually been granted.[5]

Unfortunately, many jurisdictions set their fee so low that they receive only fee revenue, not because it is the intention of the program, but because it is the easier option for the developer. In many cases, cities set fees low because of political pressure or because policy makers lack information on how to appropriately set fee levels. Experts can help determine the right fee level for local housing market conditions and policy goals.

BARRIERS TO INCLUSIONARY HOUSING: State law can also hamper local inclusionary housing efforts. Some states, including **California** and **Colorado**, limit the ability of localities to regulate residential rents, which has made inclusionary policies more complex. Three states, **Texas, Oregon**, and **Arizona**, passed sweeping bans against locally adopted inclusionary housing policies that make it impossible to implement a mandatory inclusionary housing policy at the local level. Voluntary programs are still possible, however, and **Austin**, Texas, has one of the most successful voluntary policies in the country.

Successful inclusionary zoning policies depend greatly on the trajectory of the real estate development market and inclusionary housing only works in places where market rate housing development is financially feasible. It is best to conduct a financial feasibility study to understand market conditions, developer constraints and potential incentives before crafting an inclusionary policy. The effectiveness of inclusionary zoning laws depends in large part on enforcement and longevity.

THE BEST INCLUSIONARY HOUSING PROGRAMS:

- Apply where new development is occurring or will occur;
- Are mandatory;
- Have long terms of affordability for inclusionary units;
- Plan for monitoring and stewardship;
- Are simple and predictable; and
- Objectively assess financial feasibility.

LANDSCAPE AND RESOURCES

For more information on inclusionary housing please check out **The Lincoln Institute of Land Policy**, **Inclusionary Housing: Creating and Maintaining Inclusive Communities**,[6] **Cornerstone Partnership**, **Center for Housing Policy** and **Furman Center for Real Estate and Urban Policy** at New York University.

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6 http://www.lincolninst.edu/pubs/3583_Inclusionary-Housing

Co-authored by the Grounded Solutions Network

GROUNDED SOLUTIONS NETWORK
strong communities from the ground up

LIVABLE CITIES

"[Every Sunday in Bogotá] over 70 miles of city streets are closed to traffic where residents come out to walk, bike, run, skate, recreate, picnic, and talk with family, neighbors & strangers... [Recently I visited and it was] simply one of the most moving experiences I have had in my entire life."

—Clarence Eckerson, Jr., StreetFilms

In the past twenty-five years, the New Urbanism movement has envisioned a revitalization of cities through design and planning that emphasizes:

- *Livable streets arranged in compact, walkable blocks;*
- *A range of housing choices to serve people of diverse ages and income levels;*
- *Schools, stores and other nearby destinations reachable by walking, bicycling or transit;*
- *An affirming, human-scaled city with lively streets and public spaces.*[1]

Here are some of the many ways that legislators can help revitalize their communities.

INVEST IN PUBLIC TRANSIT

Los Angeles – long the mecca of automobile America – has embarked on an incredible investment in subways, rapid bus, bike lanes, and denser mixed-use neighborhoods.[2] But transit is not just for the country's biggest cities. From 1995 through 2013, public transportation ridership increased by 37.2%—a growth rate higher than the 22.7% increase in U.S. population and higher than the 20.3% growth in the use of the nation's highways over the same period.[3] **Missoula, MT** has built an excellent bus system that ferries people to every part of the city. **Denver** offers a free shuttle bus through its bustling downtown. Cities like **Eugene, Las Vegas, Boston,** and **Kansas City** have invested in bus rapid transit with dedicated bus lanes or signal priority and other features that can make it preferable to driving for thousands of residents.

Alongside better transit should be "transit-oriented development": relatively high density, mixed-use residential and commercial space that facilitates efficient and full use of the transit options by pedestrians who live and work nearby. Residential property values perform 42 percent better on average if they are located near public transportation with high-frequency service. **Arlington, VA** has permitted development surrounding two of its metro stations, leading to significant economic growth. For every $1 communities invest in public transportation approximately $4 is generated in economic returns.[4]

Here are five strong public policy reasons to invest in transit and transit-oriented development:

- *It creates good jobs and a reliable return on investment:* with good transit, families save money, businesses gain customers, and the unemployed are put to work;
- *It dramatically improves life for senior citizens, poor people, and youth, who depend on public transit to get to work, buy food, and live a full life;*
- *It reduces our reliance on fossil fuels, which is crucial to combating climate change;*
- *It reduces traffic and cleans our cities' air;*
- *It facilitates and encourages walking and biking, which makes us healthier.*[5]

Among the many victories in the 2012 elections was strong voter support for this vision: pro-transit campaigns had an 80 percent victory rate in a year that saw a record number of ballot measures.[6] For example, **Arlington County, VA** voters approved a bond measure to fund Metro subway projects, street repair, bike/pedestrian infrastructure, and traffic calming. And **Orange County, NC** voters approved a half-cent sales tax that will fund new busses and bus service, an Amtrak station, and a light rail connection from the University of North Carolina to downtown Durham.

CREATING SAFE AND "COMPLETE" STREETS

Although over 32,000 people were killed in traffic accidents in 2011, there is essentially no national dialogue on this issue.[7] We need not accept these tragedies as the cost of modern society. Cities can take the following approaches to keeping their residents safe:

DESIGNING COMPLETE STREETS: Seattle's City Council has required the use of this guiding principle: "to design, operate and maintain Seattle's streets to promote safe and convenient access and travel for all users – pedestrians, bicyclists, transit riders, and people of all abilities, as well as freight and motor vehicle drivers." Cities as diverse as **El Paso, TX; Newark, NJ; North Little Rock, AR; Onalaska, WI;** and **Scottsdale, AZ,** have recently adopted similar policies. Cities can make engineering modifications to calm traffic and make streets dramatically more pedestrian and bike friendly: wider sidewalks, fewer and narrower lanes, speed bumps, raised pedestrian crosswalks, and protected bike lanes.[8]

INVESTIGATING CRASHES AND PUNISHING DANGEROUS DRIVERS: Street safety should be prioritized by police departments.[9]

PROPERLY PRICING SPACE: Urban space is valuable and scarce. Rather than subsidize the inefficient and dangerous reliance on cars, cities like **Los Angeles, Santa Monica, New York,** and **Seattle** have begun to use smart parking systems that adjust the price of parking depending on demand to reduce traffic, raise revenue, make it easier to find parking, and encourage other forms of travel.

In 2011, the city of **San Francisco** set up new high-tech meters and ground sensors in several parts of downtown to tell how busy these blocks and city parking lots were. Over the next two years, the city shifted parking costs upward on 37 percent of the time segments per blocks or lots, while at another 37 percent, the prices dropped.

Overall, driving in the pilot areas went down by about 2,400 miles per day — and circling dropped by 50 percent. Correspondingly, that helped reduce greenhouse gas emissions by 30 percent. Meanwhile, drivers reported that it took them 43 percent less time to find parking.

REBUILD OUR PUBLIC SPACES

Around the country, cities are creating new public spaces where parents, children, friends, retirees, and workers can congregate together. In 2008, **Houston** opened Discovery Green, a twelve acre park adjacent to its convention center and two sports stadiums and walking distance from its commercial downtown. Over a million people use it every year and it is revitalizing the city center.[10]

At 30th Street train station in **Philadelphia**, lanes of parking spaces were transformed into The Porch – a plaza with games, movable chairs and tables, farmers' markets, and concerts. Just outside of a major subway stop in the heavily immigrant neighborhood of Corona, **New York City** has turned an underused street and group of parking spaces into a vibrant pedestrian plaza, teeming with life.[11]

LANDSCAPE AND RESOURCES

The **National Complete Streets Coalition** is helping to coordinate campaigns for safe streets around the country, at the city, state, and federal levels. They offer tremendous resources and can give cities and advocates technical assistance in developing a Complete Streets policy.

The Equity Caucus at Transportation for America —"formed by the nation's leading civil rights, community development, racial justice, economic justice, faith-based, health, housing, labor, environmental justice, tribal, public interest, women's groups and transportation organizations— drives transportation policies that advance economic and social equity in America."

Since its founding in 1975, the **Project for Public Spaces** has collaborated with 2,500 communities and cities to help them build successful public spaces and create healthy, sustainable, and economically viable cities of the future.

The StreetsBlog network of websites provides an excellent entry point for news, policy, and advocacy surrounding the livable streets movement.

NOTES

1 See The Congress for the New Urbanism, http://www.cnu.org/who_ we_are.
2 See Matthew Yglesias, *LA's Transit Revolution*, Slate (Sept. 17, 2012).
3 "Facts at a Glance." Where Public Transportation Goes Community Grows. 2016. Accessed June 15, 2016. http://www.publictransportation.org/news/facts/Pages/default.asp
4 Ibid.
5 See Smart Growth America, at http://www.smartgrowthamerica.org/issues/transportation/.
6 See Center for Transportation Excellence (Nov. 7, 2012 Press Release).
7 See Dangerous By Design, Transportation for America
8 Complete Streets Improve Safety for Everyone, www.smartgrowthamer- ica.org/documents/cs/factsheets/cs-safety.pdf.
9 See The *NYPD's Crash Investigation Problem*, Reclaim (Winter, 2012).
10 See Project for Public Spaces, Benchmark: Discovery Green, at http:// www.pps.org/wp-content/uploads/2011/08/discovery-green_bench- mark_aug-2011.pdf.
11 See videos of these and many other vibrant public spaces at www. streetfilms.org/catagory/public-space.

PERMANENTLY AFFORDABLE HOMEOWNERSHIP

THE PROBLEM

Homeownership is one of the main ways that Americans build transformational, generational wealth. But in many places, the cost of a home is out of reach for low- and moderate-income individuals and families. Jurisdictions, in response, offer one-time development subsidies or down-payment assistance loans in order to help make homeownership more affordable and accessible.

In a traditional development subsidy model, the jurisdiction gives a one-time subsidy to a developer in order to help write down the cost of creating the homeownership opportunity. In a traditional down-payment assistance model, a grant or forgivable loan is made to buyers to help cover the gap between what they can afford and the market rate price of their home.

In either case, there is usually an affordability period of five to fifteen years during which, if the homeowner sells, he or she must return a portion of the grant or loan to the jurisdiction. If the homeowner remains in the home beyond the affordability period, he or she is able to capture the full market value of the home upon sale. This creates an above-market rate of return on the home—a windfall for the lucky few who are able to participate in the program.

This model of short-term affordability periods creates a hamster wheel of affordable housing development where jurisdictions spend staff time and money to create new opportunities just to compensate for existing opportunities that expire to the market. Jurisdictions are so focused on trying to keep pace that they can't make a dent in their community's needs.

As funding for affordable housing declines and the cost of subsidizing homes increases, these short term programs force jurisdictions to make difficult decisions. Without access to growing funds, will the program make fewer investments? Will it try to serve the same number of people, but through smaller subsidy awards, thereby serving only higher-income homebuyers?

THE SOLUTION

Knowing that they need to use their resources more efficiently, many jurisdictions are now creating *permanently* affordable home-ownership opportunities.

Permanently affordable homes serve generation after generation of income eligible homebuyers. Rather than making a grant or a loan to an individual, jurisdictions use one-time subsidies to write down the cost of the home to a price that is affordable to the initial purchaser. In return for being able to purchase a below market rate home, the buyer agrees to resale restrictions that cap the sales price at a level that is affordable to the subsequent buyer while also providing a fair return to the seller.

The most common models of permanently affordable homeownership include deed-restricted housing, community land trusts, and limited-equity cooperatives. In all of these models, the affordability restrictions are secured through a deed-covenant, ground lease, or proprietary lease (in the case of a limited-equity cooperative) that sets forth income and/or price requirements for subsequent buyers. In successful programs, the homes are "stewarded" by either the jurisdiction or a nonprofit. The steward is responsible for ensuring that the home remains affordable and that the homeowner is successful. Tasks include preparing new buyers for homeownership, overseeing resales, certifying ongoing owner occupancy, and supporting homeowners as they refinance or take out home equity lines of credit.[1]

There are more than 10,000 units of permanently affordable homeownership across the country, and data shows that both the programs and the homeowners have been successful. The HomeKeeper National Data Hub[2] demonstrates that well-stewarded homes remain affordable across multiple resales and continue to serve lower-income households. It also shows that homeowners that buy through these programs are very rarely in default or foreclosure, build significant wealth compared to the other investment opportunities that would have been available to them as renters, and are more likely than their peers to still be homeowners after five years.

POLICY ISSUES

SETTING PREFERENCES OR REQUIREMENTS FOR PERMANENT AFFORDABILITY: Since permanently affordable homeownership programs make the most efficient use of public resources, they should not only be included as eligible uses under all city funding programs, they should be the preferred or required model. Cities like Boulder, Colorado require all homeownership units receiving local funding or created through inclusionary housing and annexation policies to be permanently affordable.

ALLOCATING ADEQUATE RESOURCES TO STEWARDSHIP: Stewardship activities are critical to program success and to protecting limited public resources. Jurisdictions need to allocate sufficient resources to cover these ongoing costs. Many jurisdictions, like **Chapel Hill, North Carolina, Burlington, Vermont** and **Chicago, Illinois** provide operating support or fee-for-service contracts to local nonprofit stewards that efficiently manage large portfolios of permanently affordable homes.

SUPPORTING THE CREATION OF NEW COMMUNITY LAND TRUSTS: In cities like **Irvine, California, Portland, Oregon** and **Delray Beach, Florida**, municipal support was critical in helping to spark new community land trust organizations. Cities have provided new organizations with planning and staffing support, start-up financing and expert assistance.[3] Recently, the **City of Boston, Massachusetts** announced a technical assistance program to help form new community land trusts in neighborhoods across the city.

ADOPTING EQUITABLE TAXATION POLICIES: Because homeowners living in permanently affordable homes will never be able to monetarily realize the full market value of their homes, it is unfair (and unrealistic) to tax these households at the full assessed value of their home. States and some jurisdictions, like **Albuquerque, New Mexico**, adopt "equitable taxation" policies that reduce the tax burden on homeowners. These policies are especially important in places where property taxes alone could make a home unaffordable.

ADDITIONAL RESOURCES

Grounded Solutions Network supports strong communities from the ground up. We work nationally, connecting local experts with the networks, knowledge and support they need to build inclusive communities.

For more than a decade, we have compiled extensive tools, resources and research on permanently affordable housing. Access our resource libraries at **www.cltnetwork.org** and **www.affordableownership.org**.

NOTES

1 For more information, see the *Stewardship Standards for Homeownership* at http://www.affordableownership.org/stewardship-standards/.

2 Visit the HomeKeeper National Data Hub at: http://myhomekeeper.org/why-homekeeper/the-homekeeper-national-data-hub

3 Read more about how cities can partner with and support CLTs at: http://www.lincolninst.edu/pubs/1395_The-City-CLT-Partnership.

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strong communities from the ground up

PROTECTING TENANTS IN THE ON-DEMAND ECONOMY

THE PROBLEM

The recent growth of the on-demand economy poses a number of challenges for cities, including a loss of affordable housing. The proliferation of AirBnB properties reduces the availability of affordable housing by putting upward pressure on rent prices. Cities should evaluate carefully the claims of AirBnB and other companies about their impact on job and economic growth, with an eye to job quality and net growth. In addition, without adequate tracking mechanisms and taxation policies, cities may lose needed tax revenue. According to LAANE, commercial AirBnB activity costs Los Angeles renters more than $464 million annually and accounts for 63 percent of new housing construction.[1]

Domestic workers, hired by AirBnB to keep costs down, are at risk of wage theft and lower wages. They earn a median wage of $10 an hour, compared to hotel workers who earn an average wage of $14.07 an hour[2]. AirBnB also poses a threat to hotels' profitability and associated jobs. A 2013 report found that 91 percent of the more than 52,000 domestic workers in the Bay Area had no overtime provisions and a quarter of them were paid below minimum wage[3]. Low wages, especially in expensive urban areas, make it difficult to afford the cost of living. As officials consider the right policies governing on-demand rental units, they should consider their impact on housing and rental markets, lost property tax revenue, insurance, liability, consumer protections, data reporting and user privacy, and the cost of enforcement.[4]

THE SOLUTION

City officials should craft laws and regulations that promote tourism while protecting affordable housing stocks, particularly against commercial operations that buy up large numbers of properties and convert them from permanent housing into basically unregulated hotels.

Local regulations should ensure that AirBnB and similar companies are responsible for public health and safety. Hotels are subject to a significant number of requirements and regulations. AirBnB staff allow their hosts to operate in a similar fashion without being subject to any of these regulatory measures. The **Los Angeles Municipal Code** requires hotels to keep registries of guests, a record that can be used to regulate questionable hotels, provide information for criminal investigations, and help track the spread of diseases.[5] AirBnB treats its hosts as independent contractors and cannot be held liable for the actions of these contractors, or their guests; therefore the hosts take on the greatest amount of risk. AirBnB frequently entices cities with the promise of jobs and remittances equivalent to a city's transient occupancy taxes (TOT), otherwise seen as adding new revenue for cities. In both cases, AirBnB is more often shifting an economy than it is contributing to growth. Many guests would stay in hotels, supporting good jobs and paying taxes, if AirBnB was not available.[6]

In **San Francisco**, the city's initial ordinance had few restrictions. Housing advocates encouraged the Board of Supervisors to consider options including a back tax payment of about $25 million dating to when the city treasurer ruled that vacation rentals are liable for the city's 14 percent sales tax, a ban on units in rent-controlled buildings, and a prohibition against renting units that have been vacated under the Ellis Act. None of those passed initially, but a few city supervisors have said they would consider single-ordinance legislation to restrict some of the industry's activities.[7]

The **City of Portland** negotiated a regulatory framework that allowed it to collect hotel taxes in exchange for a new category of housing in the planning code, "Accessory Short Term Rental (ASTR)." One piece governs AirBnB units in single-family homes and the second governs those in multifamily housing. ASTR grants permits to be displayed, and hosts must pay a small fee, notify neighbors, and submit to an inspection to receive the permit. Homeowners may not rent a space in their home for more than 95 days per year.

Portland's Shared City Initiative helps AirBnB

renters collect taxes on behalf of the city. Portland has also run into enforcement issues: the Portland Revenue Bureau estimates that 93 percent of all hosts haven't met the necessary conditions to operate. Data collection is complicated because of user privacy issues. The city requires companies like AirBnB to submit contact information for all hosts, but the rules do not put any direct liability on AirBnB as long as it continues to pay money to the city.[8]

New York City has a more stringent approach: Under state law, residential rentals shorter than 30 days are considered illegal. The law has been enforced, slowing AirBnB's expansion; an investigation by New York Attorney General Eric Schneiderman found that more than 72 percent of AirBnB's New York City revenue was generated by illegal listings. The investigation also found that commercial hosts comprised a significant portion of the New York City AirBnB market. The city's continued efforts to bring transparency to AirBnB's business practices show that AirBnB could require hosts to comply with state law but it chooses not to do so.

Cities that are uncertain about the impact of AirBnB should consider convening a special task force to better understand home rental economic and social effects. The **Los Angeles City Council** has convened a working group to assess best practices for regulation in the residential sector.[9] Cities should also evaluate the current short-term rental regulations to see how effective and appropriate they would be for home rentals.

RESOURCES AND MATERIALS

Additional resources on the on-demand economy can be found at the **National League of Cities, LAANE**, and the **National Employment Law Project**.

NOTES

1 Roy Samaan. "AirBnB, Rising Rent, and the Housing Crisis in Los Angeles." <http://www.laane.org/wp-content/uploads/2015/03/AirBnBFinal.pdf> LAANE. March 2015. (Accessed October 9, 2015).
2 Roy Samaan. "AirBnB, Rising Rent, and the Housing Crisis in Los Angeles."
3 Nik Theodore, Beth Gutelius and Linda Burnham. "Home Truths: Domestic Workers in California." <http://www.domesticworkers.org/sites/default/files/HomeTruths.pdf> National Domestic Workers Alliance. 2013. (Accessed October 9, 2015).
4 Molly Cohen and Corey Zehngebot. "What's Old Becomes New: Regulating the Sharing Economy." <http://bostonbarjournal.com/2014/04/01/whats-old-becomes-new-regulating-the-sharing-economy/> Boston Bar Journal. April 1, 2014. (Accessed October 9, 2015).
5 Roy Samaan. "AirBnB, Rising Rent, and the Housing Crisis in Los Angeles."
6 Ibid.
7 Ibid.
8 Ibid.
9 Ibid

CAMPAIGN FINANCE REFORM

"We really truly believe with democracy vouchers, a lot of folks across the city who never imagined or considered donating to a campaign before will all of a sudden have a tool they can use,"

—Chris Genese, Washington Community Action Network"

THE PROBLEM

Big money interests play too large a role in municipal elections. This limits who can run, who can win, and who governs. Through political action committees, Super PACs, large contributions directly to candidates, and rising outside spending in the wake of Citizens United, corporations and wealthy special interests and spending heavily to influence local races. Local candidates generally raise significantly less than those running for state or federal office, so just a few large checks can have a big impact. Moreover, the role of big money in our elections is a barrier that disproportionately prevents people of color and women from running, being elected, and representing the communities they live in.

As a result, it is increasingly important for localities to pass their own laws that address the barriers that prevent non-wealthy people from running for office and prevent wealthy donors from having disproportionate impact in local elections.

THE SOLUTION

There are three primary methods through which local governments can advance regulations that diminish the influence of money in political campaigns: disclosure, contribution limits or bans, and public financing.

PUBLIC FINANCING: Some localities have enacted public financing systems to amplify and diversify the voices of all residents and make it possible for many more people of color and women to run and win elected office. When candidates opt-in to these programs, they agree to limit the size of the donations they will accept (usually less than $200) and in exchange they receive public funds for their campaign based on the amount of small donors they are able to attract. Some programs match small contributions from local residents with public funds, so a $20 contribution can be worth $140 or more to a grassroots candidate. Others provide residents with coupons or "vouchers" that they can use to contribute directly to local candidates. These programs facilitate broader engagement in the political process, particularly by marginalized communities. Small-donor elections break down the barriers money creates for those running for office so that candidates can reflect the racial, gender, and economic diversity of the country. These programs change the way that candidates run for office, putting voters in the community—not just wealthy donors—at the center of campaigns.

CONTRIBUTION LIMITS: Many localities have also established contribution limitations, which can vary significantly depending on the office that a candidate is seeking and whether the donor is an individual or a political committee. Most jurisdictions limit the amount of money individuals and corporations to give direct campaign contributions to candidates and many jurisdictions ban direct contributions from corporations entirely. Some municipalities also have specific bans or limits on direct contributions to candidates of corporations or individuals who are doing business with the city or are registered lobbyists. Contribution limits can promote faith in democracy; give candidates without access to networks of large donors a better chance to run competitive campaigns; and ensure that super-wealthy

donors cannot bankroll favored candidates' entire campaigns.

DISCLOSURE: Timely and comprehensive disclosure of campaign contributions and independent expenditures is important even though it does not directly reduce the role of money in politics because it helps voters make informed decisions and hold politicians and others trying to influence voters accountable. It is important for the public to know who is backing elected officials and having an impact on the laws and regulations they attempt to pass. Disclosure ordinances typically require individuals and groups that work to influence local elections to disclose their electoral spending once it reaches a certain threshold—either continuously or at certain specified times throughout the election cycle. Although *Citizens United* and recent Supreme Court jurisprudence prevent laws imposing expenditure limits on so-called independent spending in elections, governments still have the power to mandate transparency of this independent spending. These ordinances can vary greatly in their level of specificity, frequency of reporting, and whether or not they embrace electronic reporting. Disclosure filings should require regular and comprehensive reporting and be made available online in user-friendly formats.

EXAMPLES OF POLICIES IN ACTION

Seattle, WA passed an innovative "democracy voucher" system on the 2015 ballot. Each resident who is eligible to vote will receive and can use four $25 coupons to contribute to their preferred local candidates. In return for accepting democracy vouchers, candidates agree to spending, contribution limits and reporting guidelines. The program will go into effect for the 2017 election cycle, and advocates expect it to give a broader set of Seattle residents a stake in their local democracy.

New York City, a pioneer on this issue, has taken an active approach to regulating local election campaigns since the Campaign Finance Act of 1988. The updated Act allows qualified candidates for mayor, comptroller, public advocate, borough president, and city council to agree to strict spending limits in return for a six-to-one public match on small contributions from city residents. Studies have shown that the program has been effective at encouraging contributions from communities of color and middle- and low-income residents, and has enabled a more diverse set of candidates to run for office, affecting the makeup of the city council. Candidates who opt out of the voluntary public funding program must still comply with disclosure requirements. In response to a flurry of outside spending during the 2013 election, New York also updated its disclosure laws, banning anonymous campaign communications and requiring disclosure of top donors that finance committees making independent political expenditures.

In December 2015, the **Washington, D.C.** City Council introduced the Citizens Fair Election Act, which would match small donations from voters with limited public funds for those candidates who agree to turn down large contributions. The bill is still under consideration.

In 2014, the **Montgomery** County Council unanimously passed a bill creating an independent and bipartisan Committee to Recommend Funding for the Public Election Fund. The Committee has recommended the Fund be provided with $10 million by May of 2017 to encourage candidates to participate in the program, empowering them to seek grassroots support from individuals in their communities.

Philadelphia's campaign finance law (i) sets limits on political contributions to candidates, (ii) requires candidates and political committees to electronically disclose campaign finance information, and (iii) creates a board with authority to enforce and provide guidance to candidates and donors. Many large cities, including **Los Angeles, Berkeley,** and **Seattle** also have disclosure laws that include similar provisions.

LANDSCAPE AND RESOURCES

The Campaign Disclosure Project helps governments to pass legislation to increase transparency in elections. **The Brennan Center for Justice** has written extensively on campaign finance and has produced a 2010 guide to drafting state and local campaign finance laws. **Demos** is a public policy organization working for an America where we all have an equal say in our democracy and an equal chance in our economy. **Every Voice** is a national nonpartisan organization fighting for a democracy that works for everyone. **The Center for Popular Democracy** works with national partners, base-building organizations and state and local allies around the country to expand the voice of voters and communities in our democracy.

NOTES

1 "Our Voices Our Democracy." Public Citizen. February 2016. Accessed June 14, 2016. <http://www.citizen.org/documents/our-voice-our-democracy-report-february-2016.pdf.>

2 <Vandewaker, Ian. "Letter to Montgomery County Council: Adequately Fund New Public Financing Program." Brennan Center for Justice. April 1, 2016. Accessed June 14, 2016. https://www.brennancenter.org/analysis/letter-montgomery-county-council-adequately-fund-new-public-financing-program.>

3 Campaign Finance, City of Philadelphia Board of Ethics (available at http:// www.phila.gov/ethicsboard/campaignfinance/Pages/default.aspx).

Co-authored by Demos

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AN EQUAL SAY AND AN EQUAL CHANCE FOR ALL

COMMUNITY SCHOOLS

THE PROBLEM

In 2013, 51 percent of students in our nation's public schools were low income and in 40 states, low income students comprised no less than 40 percent of all public schoolchildren.[1] In some states the percentage of low-income students is even higher– in Mississippi, for example, 71 percent of public school students qualify for free or reduced lunch. This statistic is particularly concerning because of the correlation between socioeconomic class and academic success. Most of the states with a majority of low income students are in the south and Midwest. Low-income students are more likely to be absent (due to caring for a sibling or earning money to supplement the household income), fall behind or drop out, not to mention struggling with food insecurity and perhaps unreliable housing. Unfortunately, the students who need extra educational resources are least likely to receive them: high-poverty schools (meaning schools with a student body that is 76% – 100% low-income) spend less per student than any other schools. This further diminishes potential academic success and perpetuates the existing cycle of poverty. It is imperative that we increase the quantity and quality of our investments in public schools.

THE SOLUTION

Community schools partner with service providers, health providers, after-school programs, youth centers, and other community organizations or providers to ensure holistic attention, education, and service provision for students. There are a number of different models of community schools, depending on the attending student body and their specific needs. However, the most successful community school programs use a consistent set of research-based strategies that allow for greater student-centered learning, community investment and engagement, and school environments squarely focused on teaching and learning: curricula that is engaging, culturally relevant, and challenging; (2) emphasis on high teacher quality, not high-stakes testing; (3) wrap-around supports; (4) positive discipline practices;(5) authentic parent and community engagement and (6) inclusive school leadership.[2]

CURRICULUM: Schools may offer a robust selection of classes, after-school programs, Advanced Placement (AP) courses and honors options.

HIGH TEACHER QUALITY: Community schools must have an emphasis on high-quality teacher, not high-stakes testing. In the last fifteen years, standardized testing has fostered a high-stress and toxic environment for teachers and students as well as administrators and parents. In addition, they have served to pseudo-scientifically validate the "failure" and subsequent closing and or privatizing of high numbers of schools nationwide – especially in urban centers with high populations of poor students and students of color. Authentic and multidimensional assessment (such as performance or portfolio-based and teacher-developed), when properly administered, help inform teachers so they can better meet the needs of their students. Professional development should accompany this approach, be ongoing and high-quality. Students, parents and community members and leaders can be incorporated into such formats as exhibitions and demonstrations to further local assessment in a community context.

WRAP-AROUND SUPPORTS: As one of the six pillars in a school, they help meet students' health needs, from eye and dental care to social and emotional services. These services, available to parents, families and often the broader community, can often be housed within the school building and be supported by community and partners who are culturally aware and responsive.

POSITIVE DISCIPLINE PRACTICES: Discipline practices such as restorative justice and social emotional learning supports are critical as they help students grow and develop as contributing members to the school community. Restorative practices contribute to positive school climate and culture overall, ensuring students feel safe and supported in their learning environment.

Expulsions and punishments are greatly reduced, helping students stay in the classroom, reducing absenteeism, increasing learning time and helping to end the school-to-prison pipeline.

PARENT AND COMMUNITY ENGAGEMENT: Authentic parent and community engagement is critical as it helps to create a link between the success of students, their school and the development of a community as a whole. Parents and the full community should actively be part of planning and decision-making for the school. Parent leadership development can create agency out of despair and can result in policy, economic development and other real changes to communities.

The community school strategy **requires inclusive school leadership** where all levels of staff and leadership team are aligned and committed to the strategy. All levels of leadership should be part of the planning and implementation as members of a Community school committee, which includes parents, school staff, youth and other stakeholders. Finally, the community school coordinator should be a part of the leadership team.

RESULTS

The results for community schools are significant, and include both academic and non-academic outcomes. In one of the most high-poverty areas of **Los Angeles**, there is a high school where 99 percent of graduates go to college; the city of **Cincinnati** was able to shrink its racial and socioeconomic achievement gap from 14.5 percent to 4.5 percent; in Texas, two schools located in **Austin's** most high-poverty neighborhood went from the brink of closure to becoming two of the highest performing schools in their city; a school in **Baltimore** went from being ranked 77th in the city to 2nd; and in Kentucky, the state went from being consistently ranked one of the worst in education in the nation to outperforming half of all states and reducing their socioeconomic achievement gap to the smallest in the nation.[3]

A recent report on the Community School initiative in **Baltimore**, finds drops in absenteeism, chronic absenteeism as well as a drop in student/family mobility. It also finds high ratings on school climate, overall, including parents -- especially immigrant and poor parents -- feeling welcome and engaged in school -- and drops in suspension and expulsion rates. Students and families want to come to community schools. These findings are consistent with findings in districts all over the country.

School boards should pass resolutions to support pilot community schools and commit to their expansion as a strategy to support all students.

RECOMMENDATIONS

The model Community School strategies outlined in the CPD report can and should be used in every public school across the United States to achieve transformational results. The new federal education legislation, the Every Student Succeeds Act (ESSA), sends much of the decision-making power to create mechanisms for student success to the state level. The report recommends that schools:

EMBRACE COMMUNITY SCHOOLS AS A TRANSFORMATIONAL EDUCATION SOLUTION: State and local policy makers, using the opportunity created by this new law and in collaboration with their education constituencies including parents, school staff, students and community members, tap the power of community to grow the number of effective Community Schools in every state and municipality in the country.

CODIFY COMMUNITY SCHOOLS IN POLICY: Community organizing and education advocacy groups, unions, and Community School practitioners join lawmakers to use the policy templates included in this report to pass legislation that will enable a dramatic increase in the number of Community Schools.

For more information on this issue, please check out the **Coalition of Community Schools** at www.communityschools.org, the **Alliance to Reclaim Our Schools** (AROS) at www.reclaimourschools.org, and **Center for Popular Democracy** at www.populardemocracy.org.

NOTES

1 Suitts, Steve. *A New Majority Research Bulletin: Low Income Students Now a Majority in the Nation's Public Schools. Southern Education Foundation. (2015).* < http://www.southerneducation.org/Our-Strategies/Research-and-Publications/New-Majority-Diverse-Majority-Report-Series/A-New-Majority-2015-Update-Low-Income-Students-Now>

2 Frankl, Evie et all. Center for Popular Democracy. Community Schools: Transforming Struggling Schools into Thriving Schools. February 2016. https://populardemocracy.org/news/publications/community-schools-transforming-struggling-schools-thriving-schools

3 Ibid.

COMPREHENSIVE SEX EDUCATION

THE PROBLEM

The need for comprehensive sex education is clear. Adolescents in the United States use contraception at lower rates than their peers in other countries that provide comprehensive sex education consistently, and face far higher rates of teen pregnancy than their peers in other countries.[1] Medically accurate, developmentally appropriate, and inclusive sex education has a positive impact on adolescent sexuality and health. It equips students with knowledge that can protect themselves from sexually transmitted infections and unwanted pregnancy. Comprehensive sex education has been linked to declines in teen pregnancy, delays in first intercourse, and increased use of contraception.[2] It also provides information on healthy relationships and an understanding of sexual orientation and gender identity. This may reduce incidents of intimate partner violence, sexual assault, and bullying by fostering an understanding of the full spectrum of sexuality, gender, and family types, as well as providing students with models of healthy relationships and how to be a good partner. Alternatively, there is no reliable data to show that abstinence-only education leads to positive health outcomes.[3]

Yet despite the overwhelming evidence in support of comprehensive sex education, it is not consistently available in schools across the nation. There are many reasons why comprehensive sex education is lacking or missing entirely– politics or ideological beliefs, a school administration's fear of parental pushback, a lack of resources and trained instructors, and limited class time.

THE SOLUTION

Local officials have many policy options at their disposal to ensure that students receive comprehensive sex education. Some states have implemented policies that set requirements or restrictions on sex education,[4] but even in these places there may be latitude in determining curriculum. City and county leaders should take the initiative to partner with school board officials and advocates to implement effective, evidence-based policies.

POLICY ISSUES

MANDATE COMPREHENSIVE SEX EDUCATION: One of the most effective actions a municipality can take is to mandate comprehensive sex education in the classroom. This type of mandate is generally passed by the local School Board or Department of Education, but city councils can support a mandate by holding hearings that document the need for a policy change and engage community members, as happened in **Boston**.[5] Mandates may recommend specific curricula, as they do in **Tempe, AZ**,[6] or may establish general curricular guidelines, as in **Chicago**.[7]

PROVIDE CONTRACEPTION AT SCHOOL-BASED HEALTH CENTERS (SBHCS). SBHCs are primary care health centers located within a school setting that provide critical points of confidential care for young people. They offer essential services, in a place both familiar and easily accessible, that may otherwise be out of reach for students, especially those who are low-income and/or uninsured.[8] Cities can provide funding and pass regulations that enable students to access a range of contraceptive options, including long-acting reversible contraception (LARCs) and emergency contraception, confidentially at SBHCs. In **New York City**, the Connecting Adolescents to Comprehensive Healthcare (CATCH) program enables students in communities that either lack access to nearby clinics, or have high teen pregnancy rates, to access the full range of contraception at their SBHC.[9] In **St. Paul, MN**, an award-winning SBHC program in nine public high schools offers students access to contraception, prenatal care, and gynecological services, among other health care.[10] In **Baltimore, MD**, SBHCs have been providing contraception to students at no cost for nearly three decades.[11]

EVALUATE EXISTING SEX EDUCATION: It is critical to track what is actually taking place in the district's schools in order to assess whether sex education is actually being offered, and if so, to evaluate its quality and impact. A system of evaluation can establish need for a

policy on sex education if one is not already in place, and helps to ensure that the selected curriculum is being implemented and meeting the needs of teachers and students. One excellent resource is the Health Education Curriculum Analysis Tool (HECAT), developed by the federal government for local officials responsible for developing, selecting, enhancing, or improving effective health education curricula.[12] Other school districts have developed different strategies for assessing sex education in their communities. In **Cuyahoga County, OH**, the local Board of Health was given funding to conduct an evaluation and release a report about the comprehensive sex education curriculum.[13] **Broward County, FL** requires schools to report the number of students who participated in sex education courses each year.[14] The **New York City** Council passed a bill requiring the Department of Education to report annually on school compliance with comprehensive health education regulations.[15]

PROVIDE RESOURCES AND TRAINING FOR SEX ED: In municipalities that already have a mandate, funding for implementation and training is essential to turn policy into reality. Many school districts already receive funding for comprehensive sex education, but this valuable support can be increased by allocation of local funds. This money provides essential support for under- resourced school systems while emphasizing the priority of comprehensive sex education in the district. **Chicago** provides free trainings, either in-person or online, to "sex-ed" instructors, supported by a range of free resources including a "Sexual Health Education Implementation Planning Tool" and lessons plans for each grade from K-12.[16] The **Multnomah County, OR** Board of Commissioners funds the Adolescent Health Promotion program, which provides comprehensive sex education both in the classroom and at other community sites.[17] In **Minneapolis**, the "Out4Good" program helps ensure a safe and supportive school environment for LGBT students, families, teachers and staff and requires the sex-ed curriculum to include lessons on sexual orientation and gender identity.[18]

SUPPORT COMMUNITY-BASED ORGANIZATIONS THAT PROVIDE SEX ED: Municipalities can also look to community-based organizations to provide comprehensive sex education to students, both in and outside of the classroom. If teachers are unable to teach these courses, outside educators can be brought in. These organizations can also provide comprehensive sex education to youth in after-school programs or community centers. Municipalities can allocate funding to these organizations. The **New York City** Council allocates funding every year for the Teens Outreach Reproductive Challenge (TORCH), a program that trains youth in comprehensive sexual education and then pays them a stipend to provide workshops around the city. The **Austin** City Council has provided funding to the city's local Planned Parenthood to implement a range of teen pregnancy prevention initiatives, within and outside of school.[19] In **Philadelphia**, the Department of Public Health and the School District, in partnership with other organizations, approves of programs that may provide comprehensive sex education within the school setting and releases a comprehensive guide to schools within the city.[20]

LANDSCAPE AND RESOURCES

The **National Institute for Reproductive Health** provides funding and technical assistance to organizations and advocates working to advance reproductive health, rights and justice on the local level. **Advocates for Youth** partners with young people to advocate for a more positive and realistic approach to adolescent sexual health. **SIECUS** helps schools and communities adopt and implement comprehensive sex education and can provide up-to-date resources on adolescent sexuality. **Planned Parenthood** is a leader in providing comprehensive sex education to young people in classrooms across the country.

NOTES

1 See McKay, A., & Barrett, M. (2010). Trends in teen pregnancy rates from 1996-2006: A comparison of Canada, Sweden, USA, and England/Wales. Canadian Journal of Human Sexuality, 19 and "Adolescent Sexual Health in Europe and the United States: The Case For a Rights. Respect. Responsibility. Approach", Advocates for Youth.

2 "Emerging Answers 2007: Research Findings on Programs to Reduce Teen Pregnancy and Sexually Transmitted Diseases", The National Campaign to Prevent Teen and Unplanned Pregnancy

3 Ibid.

4 "State Policies in Brief: Sex and HIV Education", Guttmacher Institute

5 Akila Johnson, "Teens ask for more sex ed, greater condom availability", The Boston Globe

6 Tempe Union High School District Governing Board Meeting, May 7, 2014 7. Chicago Public Schools Policy 704.6, Sexual Health Education

8 Keeton, V., Soleimanpour, S., & Brindis, C. D. (2012). School-Based Health Centers in an Era of Health Care Reform: Building on History. Current Problems in Pediatric and Adolescent Health Care, 42(6), 132–158.

9 Anemona Hartocollis and Michaelle Bond. "Ready Access to Plan B Pills in City Schools." The New York Times. July 11, 2013.

10 "Health Start School-Based Clinics / Cuidados de Salud Situados en Escuelas."

11 "Comprehensive Sex Education Evaluation Report: Cuyahoga County Board of Health Teen Wellness Initiative, 2012-2013 School Year." Cuyahoga County Board of Health Teen Wellness Initiative

12 "Adolescent and School Health: Health Education Curriculum Analysis Tool (HECAT)", Centers for Disease Control and Prevention

13 Policy 5315, Family Life and Human Sexuality

14 "School Based Health Centers." Baltimore City Health Department.

15 A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education to report information regarding health education. Int. No. 952-A.

16 "Sexual Health Education Toolkit: Guidelines and Resources for Implementing Chicago Public Schools Sexual Health Education Policy."

17 "Multnomah County Program #40025 - Adolescent Health Promotion"

18 "Out4Good", Minneapolis Public Schools

19 Regular Meeting of the Austin City Council, September 30, 2010

20 "Zelda Guide: Health Services for Philadelphia Youth."

Co-authored by the NIRH

NATIONAL INSTITUTE FOR REPRODUCTIVE HEALTH

CONFRONTING PREEMPTION

THE PROBLEM

Corporate and special interests are systematically working at the state level to stifle the power of local governments, which provide essential hubs of policy innovation and progressive political power. The Koch-Brothers-backed American Legislative Exchange Council (ALEC), the architect of this strategy, has in a vast number of states moved state legislators and courts to gut the ability of local governments to take action on a range of critical issues. States across the country now restrict local policymaking on: the minimum wage (27), construction labor agreements (23), paid leave (19), inclusionary housing (11), rent control (27), tobacco products (31), nutrition and food policy (9), gun control (43), anti-discrimination measures (3), local hire (2), and ridesharing (37). This strategy has been particularly effective because while the vast majority of states give local governments broad powers under "home rule" principles, most states also permit the state to "preempt" or otherwise limit those powers through legislation.

ALEC and others have taken the strategy to extremes, even winning laws that punish localities and local officials for their policy choices. Florida has a law that threatens local officials with civil penalties and removal from office for their votes on local gun safety issues. In 2016, Arizona adopted a law that allows the state to withhold all state funds from any local government that takes action that a single official finds inconsistent with state law. The Governor of Texas, Greg Abbott, recently began actively advocating for the complete removal of local government authority to take any action without the permission of the state.

THE SOLUTION

There are two potential avenues for stopping particular state bills and laws that interfere with local authority. First, are broad based campaigns involving both local officials and advocacy groups to educate state legislators about the downsides of preemption, inoculate against preemption of new local proposals, and fight new preemption bills as they arise. Second, legal challenges to preemption laws may be available. Such laws may run afoul of state home rule principles or the federal Constitution and laws, especially where they are punitive (as in the Florida example) or discriminatory.

However, legislative victories may be temporary and legal victories may be narrow, such that neither may prevent recurrence of state interference, even on the same issue. A more fundamental shift in the political (and possibly legal) landscape will be needed to protect the ability of cities to move progressive policy over the long term. Orchestrating such a shift will require careful work, because reform efforts that focus on "local control" alone ignore the fact that not all localities will use that control for progressive ends. Efforts to protect local authority should be clearly grounded in progressive values and use messaging and framing that reflects those values.

ROLE FOR LOCAL OFFICIALS

Local officials have a vital role to play in the movement to protect local authority. They can:

- Push the attorneys for the local government to be accurate and complete in their understanding and presentation of the law related to local authority and to be willing to aggressively defend the city against state interference.
- Work with advocates and colleagues in other parts of the state to form statewide coalitions that can pressure state officials to protect the power of cities to adopt progressive policy.
- Find ways to smartly navigate preemption as they craft local policy, for example by focusing in areas protected from state interference under state home rule principles.

Examples

We have seen quite a few coalitions of both local officials and advocates successfully defeat preemption bills recently. In Minnesota, local officials and advocates persuaded Governor Dayton to veto a bill that

would have voided minimum wage and paid sick days laws in **Minneapolis** and **St. Paul** just before they were about to take effect. In Louisiana, similar coalitions have now successfully turned back state legislation targeting **New Orleans**' local hire and inclusionary housing laws. In Florida, a similar coalition defeated a state bill that would have only permitted localities to regulate in ways that the legislature had expressly authorized.

We have also seen cities and advocates fighting back against state interference through litigation. In Pennsylvania, **Pittsburgh** is aggressively defending its paid sick days law against a legal challenge by a business association under the state home rule statute and the case will soon be heard in the state Supreme Court. In Ohio, the city of **Cleveland** won an important ruling in its favor in case challenging a state law that preempts the city's long-standing local hire law. The court found that the state law ran afoul of the state constitution's grant of authority to localities. In Alabama, a number of individuals and groups are challenging a state law that preempts local minimum wage ordinances and that was adopted shortly after **Birmingham**'s city council voted to create a city minimum wage of $10.10, the first of its kind in the state. Their lawsuit alleges that the state law violates federal equal protection principles by discriminating against African American workers, who would have disproportionately benefitted from Birmingham's minimum wage rule, and the Voting Rights Act, by stripping the political power of voters in an overwhelmingly African American city.

The Birmingham case is one of a number of instances in which predominantly white legislatures acted to strip majority people-of-color cities of the power to protect the basic needs and livelihood of their residents, a trend that should provoke further legal and political challenges.

RESOURCES

The **Legal Effort to Address Preemption Project**, housed at Fordham Law School's Urban Law Center, brings together legal academics and advocates to provide legal research and support to the field. **The Campaign to Defend Local Solutions**, based in Florida, is one of the nation's leading organizations devoted to supporting cities and local elected officials facing preemption, by providing communications, media, and litigation support, research, and resources. **Preemption Watch** helps advocates better understand and counter preemption by providing tools, research, and case studies and a bi-weekly newsletter with coverage of federal and state preemption threats. **The Partnership for Working Families** provides legal, communications, and organizing support to campaigns to stop state interference with progressive local measures.

Co-authored by the Partnership for Working Families

PARTNERSHIP for Working Families

DIGITAL DEMOCRACY AND TRANSPARENCY

"Sunlight is said to be the best of disinfectants..."

—**Justice Louis Brandeis,** "What Publicity Can Do," Harper's Weekly [1913]

THE PROBLEM

Modern government grows out of a nineteenth century bureaucratic model that is intentionally slow to innovate. Current transparency requirements general focus on physical publication and inspection, which are designed to favor and protect incumbent power. Exponential advancement, innovation and a remix culture of the private sector in the 21st century has often left government two centuries behind. Residents and advocates understandably want rapid access to government information online; they argue that transparency and public data can help improve the effectiveness of government agencies and elected officials. However, local governments often do not have rigorous data collection, either because this value is not recognized or because of budget constraints. Even localities that have the data lack the resources to make it useful.

THE SOLUTION

Democracy requires "government of the people, by the people and for the people." Yet today, we have largely lost what we believe should be the preferred relationship between citizens and the government. Digital democracy can reverse this trend by shedding sunlight on government and enabling citizen engagement in public decision-making. The solution includes targeted legal reforms, citizen-centered technologies and modernized models of public administration. This agenda is designed to build a more efficient, effective, accessible and responsive government. Most importantly, the tools of digital democracy are essential for an informed citizenry that consents to be governed in the modern era.

POLICY ISSUES

OPEN 311: Cities like **Baltimore, Chicago,** and **Washington, D.C.,** have diverted non-emergency service requests from 911 by adopting Open 311 to provide a single point of contact for residents to dial 311, visit a website, or use a third party app like SeeClickFix. Open 311 is a customer relationship management (CRM) that supports online submission and tracking of requests through resolution and allows searches for terms like "trash" and "rat."

OPEN DATA: Putting a live feed of government data online in computer readable format from 311, transit, traffic, and other sources empowers government and residents to hold agencies accountable by using facts and figures to make better arguments and decisions. Making this data open and computer readable will allow third-party developers to create new tools to address both old problems and new challenges. From the Federal Government to big cities like **New York** and **Chicago** and small ones like **South Bend, IN**, open data is making government more accessible by and putting data collected online for the public. Open Data Portals can easily be implemented using the CKAN free and open source software used for Data.gov.[1]

OPEN FOIL: The public has a right to know about and access the documents, communications, and other information leading to public policy decisions. Public information should be provided in a timely manner to any member of the public upon request. Freedom of information requests and their response times should

be tracked publicly in a centralized location, and once the information is provided, it should be available online so it does not need to be requested again. Implemented in **Oakland** and **New York City**, a free and open source program called RecordTrac provides access to a searchable database of city records and communication, with a centralized online record request continually updated with the status of requests.[2]

OPEN MEETINGS: Few residents can engage government during business hours; opening meetings through video and livestream will make it easier for residents to participate from the convenience of their desk or couch. Through Executive Order, law, or cable franchise agreement public meetings conducted by government can be recorded for television and streaming and archived online.

New York City and State have done all three and though hearings are often sparsely attended, they are engaged through tweets, comments and editorials from those watching at their desks or on television from the comfort of their home.

OPEN NOTICES: Governments publish notifications in newspapers to meet a standard of transparency from the 19th century. Few if any residents read through the public notices section of a newspaper to learn about meetings where important decisions will be made. To improve democracy and enable participation, notices of government meetings and upcoming decisions should be online in human- and computer-readable format so that apps can help make the information useful. New York City now publishes its public notices online in both formats.

OPEN LAW: Law is a constantly changing code, and cities should treat it as such when designing publication platforms. The free and open source software model can inform the principles by which the law is created and disseminated. Laws should not only be available to lawyers who pay costly subscription fees but should instead be published for free, online, for anybody to access. **Miami, San Francisco, Baltimore** and **Chicago** make their laws available for download and easy access online through the State Decoded free and open source platform.[3] **New York City** has a law requiring the law be open and online.

OPEN LEGISLATION: Legislation and rule-making should be treated as a work in progress, which can be drafted, commented on and followed by any interested resident. In **Philadelphia, Chicago,** and **New York City** the Councilmatic free and open source platform, has information on all official legislative actions, council members, public events, and how city government works, with advanced search and tracking features.[4] **Washington D.C.** has adopted the Madison free and open source platform that allows the public to read and comment on proposed legislation.[5]

OPEN ACCOUNTABILITY: Restoring the public trust means bringing transparency and accountability to shine a light on areas that have historically been sources of conflicts and corruption such as campaign finance, lobbying, and outside income. In **Washington, D.C.** and **New York** campaign finance contributions are searchable and downloadable online. In **New York** and **Chicago** lobbyists must report quarterly on fees received, clients, topics, and targets for lobbying, giving rise to apps like ChicagoLobbyists.org. In New York government employees with decision-making authority file annual disclosures of outside income in bands with those of public officials posted online.

LANDSCAPE AND RESOURCES

For more information on innovative local government approaches to open data, please check out the **Sunlight Foundation, OpenGov Foundation, Participatory Politics Foundation, GovLab**, and **GovTech.com**.

NOTES

References include websites and source code so that you can easily implement the technology to support these policies.

1 Data.gov source code available at https://github.com/GSA/data.gov/

2 Available at records.oaklandnet.com with source code available at https://github.com/codeforamerica/recordtrac

3 Available at StateDecoded.com with source code available at https://github.com/statedecoded/statedecoded

4 Available at Councilmatic.org with source code available at https://github.com/datamade

5 Available at MyMadison.io with source code available at https://github.com/opengovfoundation/madison/milestones

Co-authored by the OpenGov Foundation

DISRUPTING THE SCHOOL-TO-PRISON PIPELINE

THE PROBLEM

The school-to-prison pipeline, which disproportionately affects low-income communities of color, especially in cities, is a series of policies and practices under which students are increasingly pushed out of the education system and into the criminal legal system. The proliferation of law enforcement officers in schools has led to increased rates of arrest and referral to the criminal legal system. School-based zero-tolerance policies compound this problem as they drive school personnel to suspend and expel students for normal youthful behavior.

Districts across the country have criminalized school discipline. Often police intervene on low-level infractions that should be handled internally. For example, in New York City (NYC) nearly 70% of all arrests and juvenile reports in schools during 2016 were for misdemeanors and non-criminal violations. Non-criminal violations include offenses such as "trespassing" for being on the wrong floor of a multi-school building or "disorderly conduct" for participating in a peaceful protest.[1] In a Pennsylvania school district, police review already settled reports of student misconduct that the police department was not involved in and then charge students as adults in court for minor violations.[2]

School districts' continued reliance on punitive school climate strategies is ineffective, harms students and exacerbates existing inequities along lines of race and disability. Students of color are more likely than their white peers to be suspended, or arrested for the same conduct.[3] For example, Black and Latinx students make up 67.1% of NYC schools, but account for 92% of all student arrests.[4]

Arrests and court involvement cause devastating effects on young people's education. A study in Louisiana revealed that experiencing an arrest for the first time in high school nearly doubles the odds of the student dropping out, and a court appearance increases those odds four times over. [5]

These strategies also drain public funds that could be used to help ensure that all young people receive the support, resources, and access to opportunities they need to thrive.[6]

THE SOLUTION

For years, youth-led organizations and other advocates have organized to transform approaches to school culture, but students still experience high rates of exclusionary discipline and disparities remain deeply entrenched within school systems across the country.

DIVEST FROM OVER-POLICING. An essential step in decriminalizing education is divesting from over-policing of young people. Divesting from policing does not just keep students out of the prison pipeline, it also saves money that municipalities can re-invest back into schools. In NYC alone, the school-to-prison pipeline incurs costs of $746 million per year, including police involvement in suspensions, arrests, and other punitive actions.[7] The Young People's School Justice Agenda, developed by community youth leaders in NYC, is calling on the municipal government to remove costly and ineffective police officers and metal detectors from schools in the city and re-invest those funds in positive programs.[8]

States and municipalities should install bans on arrests, summonses, and court referrals for low-level infractions and misdemeanors such as campus fights, vandalism, trespassing or possession of tobacco or marijuana. Instead, students would be referred to school administrators for support. Depending on the legal structure of the district, state or local legislation or a police policy directive could be issued.

Schools and school districts should also compile and publish data pertaining to disciplinary measures and infractions. This data should guide policy priorities and action, as well as foster public accountability.

Districts may need to change policies to help create safe and inclusive schools. Some, if not most, districts will need to roll back harmful policies and practices already in place. Each municipality will need examine the current policies to determine the necessary reforms,

but some examples are: creating a program to expunge students' criminal and discipline records, and clearing outstanding warrants from summonses; and eliminating suspensions for subjective and vague offenses such as "defying authority."

INVEST IN SUPPORTIVE PROGRAMS. Solutions to the pipeline go beyond the removal of the harmful policies. Municipalities must also make deep and meaningful investments in their school communities.

School districts, cities, and states should invest in Restorative Practices. In dealing with conflict, restorative justice aims to heal relationships by bringing together everyone affected by wrongdoing and collectively considering the responsibilities of those involved. Fully embracing restorative approaches in schools offers an equitable and supportive approach to improving school climate.

Provide culturally responsive education. A culturally responsive approach to teaching acknowledges that students and families come from diverse backgrounds and treats this diversity as a positive asset. This approach also aims to understand and address institutional, personal, and instructional biases. Providing culturally responsive educational opportunities can lead to safer communities for women, youth of color, LGBTQ students, and students of different faiths.

Municipalities must increase mental health services available to students. Investments are needed in school-based mental health services such as in-school psychologists to more intensive external services including hospital based mental health clinics. Mental health services will support more young people with these needs and address the root cause of some behavior.

INVEST IN OPPORTUNITIES FOR STUDENTS TO THRIVE. True safety requires municipalities to not only stop harming young people, but also providing opportunities for students to thrive. The young people in each community may have different priorities for investment, but similar and consistent demands have emerged across jurisdictions: (1) create a universal youth jobs program; (2) provide free transportation for young people, beyond school hours, and (3) invest in providing free, high quality public higher education.

POLICY ISSUES

Los Angeles has taken the lead on reducing arrests and court referrals for low-level offenses by requiring district police to channel students to school administrators or an off-campus city resource center if they are involved in a low-level infraction or misdemeanor.[11] San Francisco's police officers in their schools only participating in serious criminal cases, which lead the student arrest rate to fall by more than half.[12]

Beginning in 2013, the **Minneapolis** Public School District implemented policies to increase engagement while decreasing suspension and out-of-class time.[13] As a result of implementing the new policy, 2013 – 2014 suspension rates dropped by 50% from 6.6% during the previous school year.

In 2014, in **Montgomery County**, teachers and their union worked with the superintendent on a new student code of conduct. Meanwhile, other districts have signed "memorandums of understanding" with local law enforcement agencies that keep minor offenders out of criminal courts.[14]

Approaches towards disciplinary measures in **Baltimore** have shifted towards promoting positive relationships, intervention strategies, and the use of suspensions only as a last resort.[15] African-American boys have had a 59% decrease in dropouts and a 16% increase in graduation rates between the 2006-2007 and 2012-2013 school years.[16]

During the 2009-2010 school year, **Chicago** offered after- and in-school programming designed to reduce decision-making problems through cognitive behavioral therapy. The program reduced violent crime by 44% and non-violent crime by 36%.[17]

LANDSCAPE AND RESOURCES

The **Center for Popular Democracy** provides provide legal, strategy, and organizing support to local campaigns. **The National Education Association** advocates for educational professionals, students, and high-quality public education. **The Advancement Project** provides resources on making policy changes to school disciplinary practices. **The Opportunity to Learn Campaign** unites a coalition of organizations working to ensure that all students have access to quality public education.

INTERACTIVE CITATIONS AVAILABLE ONLINE AT WWW.LOCALPROGRESS.ORG/NOTES

ESSA IMPLEMENTATION

THE OPPORTUNITY

On December 15, 2015, President Obama signed the Every Student Succeeds Act (ESSA) into law, replacing No Child Left Behind (NCLB). This reauthorization shifts decision-making from the federal level back to state and district policymakers, allowing communities to make tailored assessments and plans to meet the unique nature of their communities and public schools. School board members can take immediate local action and can also weigh in on state level decisions.

TESTING AND ACCOUNTABILITY: ESSA includes key changes in testing and accountability, eliminating some of the more onerous provisions of NCLB while maintaining a focus on the performance of all students.

- Eliminates Adequate Yearly Progress (AYP), punitive labels for schools, rigid non-research interventions, federally required teacher evaluations, and accountability systems based *solely* on standardized tests.
- Continues annual statewide standardized tests in reading and math in grades three through eight and once in high schools. Allows states to set a cap limiting the amount of time students spend taking annual standardized tests. Provides funding for states to audit and streamline testing, eliminating duplicative tests. It also provides for a new option for high schools to use a different nationally recognized assessment to fulfil the high-school requirement including the ACT, SAT or AP. Creates a state pilot program for local assessments, driven by teaching and learning (not just accountability) that could take the place of state standardized tests.
- Requires that disaggregation and interventions must be evidence-based. Data will be collected on measures of school quality and climate, disaggregated by subgroups of students, including rates of in-school suspensions, out-of-school suspensions, expulsions, school-related arrests, referrals to law enforcement, and chronic absenteeism (excused and in-excused).
- Acknowledges the right of parents and guardians to remove their children (opt out) from statewide academic assessments where state and/or local policies allow.

SCHOOL IMPROVEMENT

ESSA expands the possible options for school improvement investments, from the four largely punitive School Improvement Grant (SIG) options, and provides an opening for holistic strategies including Community Schools.

- Eliminates the School Improvement Grants Program (SIG) and its four mandated interventions in low-performing schools. Allows local school districts to determine the intervention strategy to be used for school turnaround, including sustainable community schools.[1]
- Protects high-poverty schools by ensuring that they receive more per-pupil funding under a demonstration agreement than they received the prior year.
- New positive language about restorative justice requiring local education agency (LEAs) plans to address the need to provide supports and resources in district efforts to reduce overuse of disciplinary practices that remove students from the classroom, which may include identifying and supporting schools with high rates of discipline, disaggregated by subgroups of students.
- State and local funds may be used to implement programs (e.g. PROMISE), that aim to reduce exclusionary discipline practices; implement school-wide behavioral interventions and supports; and to coordinate resources for school-based counseling and mental health programs, such as school-based mental health services partnership programs.
- Allows states to access targeted funds to support local initiatives aimed at improving student achievement in reading and writing from birth through grade 12. This is an important shift that recognizes the continuing needs of students to attain literacy skills that are necessary to ensure that students graduate from high-school college-and-career ready.

SPECIFIC OPPORTUNITIES IN TITLE FUNDING

- At least 7% of Title I funds must go to school turnaround for the "lowest performing 5%" of schools; one allowable use of these funds is for community school coordinators.
- As in Title I, Title IV provides many funding options for the components of community schools such as the hiring of community school coordinators and funding for all of the pillars named above.
- The *Community Support for School Success Program* provides a small number of grants for full-service community schools. Also included is language that allows for strategies such as: "high-quality early childhood education programs; family and community engagement and supports including engaging or supporting families at school or at home; activities that support workforce readiness including job training, internship opportunities and career counseling, social health, nutrition and mental health services and supports; juvenile crime prevention and rehabilitation programs."
- ESSA expands the reach of collective bargaining to cover targeted school supports and improvements on Title I and professional development, with pay based on professional growth, the Teacher and School Leader Incentive Program (formerly TIF), and all other provisions of contracts impacted by Title I.

School districts have the opportunity and responsibility to take a leading role in the implementation of ESSA. They can help assemble a diverse implementation team; identify evidence-based interventions they would like to use to help turn around low-performing schools (states continue to be obligated to intervene in the 5% lowest performing schools in the state), and weigh in on the state accountability plans. A key aspect of the law is the need to include voices and perspectives from a diverse array of stakeholders, including educators, in decision making at all levels.

The state of MD passed HD 1139 which mandates the MD State Department of Education (MSDE) to inform and provide technical assistance to districts that use Title I and IV funding under ESSA for community school site coordinators. Community and parent/student organizations, labor unions and advocacy groups can reach out to their state DOE's and districts to make sure these resources are being made available. Additional steps include:

COMMUNITY ENGAGEMENT: School boards can begin by **creating an implementation team or committee** that includes educator, parent, administrator, and community stakeholders who will provide feedback to help craft a district plan. States will develop resource equity plans for the lowest performing schools in 2016-2017 and the district and local stakeholders are responsible for creating a school improvement plan.[2]

ACCOUNTABILITY AND TESTING: Districts can contribute on components of the state accountability plan, take advantage of the opportunity for local assessment pilots, help decide what tests will be eliminated, how needs assessments should be done, and how interventions should be designed and by whom. Districts should issue a letter to the state requesting an audit of assessment and reduce unnecessary testing by passing a resolution to restore time for learning.[3]

Districts can seek approval to use nationally recognized assessments (i.e. SAT, ACT, AP) to fulfill the high school requirement—a potential reduction in federally required standardized testing. Districts should also advocate for their preferred additional indicator of student and school supports; state accountability systems must now include at least one non-standardized test metric, although test scores and grad rates must have greater weight. Districts should also take advantage of a state level advocacy opportunity as ESSA "allows states to decide what happens to schools that miss their participation mark."[4]

EQUITY AND INTERVENTIONS: Districts are required to conduct an "equity assessment" before deciding on an intervention strategy. The parameters of that assessment are not prescribed by the law, although it does call for an analysis of resource disparities. Districts should begin to redirect resources now to the highest need areas. Districts can identify evidence-based interventions that are permitted under school improvement requirements in ESSA.

LANDSCAPE AND RESOURCES

The National Education Association (NEA) and **American Federation of Teachers (AFT)** have ESSA guidance and implementation resources available online. **The Center for Popular Democracy** and the **Coalition for Community Schools** provide information on ESSA and Community Schools overlap. The **Annenberg Institute for School Reform at Brown University** provides research and technical assistance for districts, communities and partners to create smart education systems.

NOTES

1 Sustainable community schools is a proven strategy for increasing equity and school success with six pillars: leadership, culturally diverse and rigorous curriculum, positive culture and discipline practices, transformative parent and community engagement, less teaching to the test, and social, emotional, and physical supports.

2 The bottom 5% of Title I schools, add high schools with lower than 67% grad rates and lowest subgroup schools

3 http://www.nea.org/home/60856.htm

4 https://eia.memberclicks.net/essa-reauthorization

FIGHTING BACK AGAINST FORCED ARBITRATION

THE PROBLEM

Modern government grows out of a nineteenth cent- Forced arbitration refers to the growing practice by large corporations of requiring workers or consumers to resolve any potential claims against the company through a binding arbitration process. These "agreements," which are often buried in the fine print of form contracts, eliminate the right to sue in court, so that someone who experiences fraud, wage theft, sexual harassment, or another legal injury will have to face a private arbitrator rather than a judge. Forced arbitration clauses typically also preclude participation in class or collective action lawsuits, prohibit appealing an arbitrator's decision, and saddle plaintiffs with excessive arbitration costs.

Arbitration can be a cost-effective dispute resolution mechanism for two parties with equal or similar bargaining power. But when companies unilaterally set the terms by including arbitration in take-it-or-leave-it contracts, working people lose. Corporations are repeat players, leading arbitrators to rule against workers and consumers at much higher rates than courts.[1,2]

Today an estimated 30 to 40 percent of American workers, tens of millions of consumers in financial markets, and virtually all students at for-profit schools are subject to forced arbitration.[3] And the numbers are rising.[4] This weakening of private enforcement mechanisms shifts the responsibility of ensuring compliance with local consumer and employee protection laws to over-burdened and under-resourced public agencies. Without private litigation to supplement public investigations, employment discrimination, sexual harassment, wage theft, and consumer fraud remain unexposed and undeterred.

Forced arbitration not only prevents workers and consumers from seeking justice and emboldening corporations to pursue predatory practices, it undermines government transparency and accountability. Forced arbitration clauses typically include confidentiality provisions, which shroud in secrecy the allegations brought against corporations, evidence of claims, and determinations reached. For cities, forced arbitration may impede procurement and contracting processes by obscuring a potential contractor's compliance history. Cities often prefer to award contracts to companies that meet certain quality standards, but by burying evidence that a company has stiffed suppliers, cheated workers, or defrauded customers, forced arbitration may allow law-breaking companies to maintain eligibility for municipal contracts. Forced arbitration therefore prevents cities from acting as informed participants and responsibly managing the funds entrusted to them.

THE SOLUTION

PROMOTE ENFORCEMENT OF LOCAL LAWS BY DELEGATING ENFORCEMENT AUTHORITY: Limited resources for local enforcement agencies does not have to mean limited enforcement of local consumer and employment protection laws. To increase enforcement capacity, municipal agencies can delegate their enforcement powers to individual residents. Those individuals can then act on behalf of the city to bring suit against violators on behalf of all similarly situated people (e.g., all workers at the same company). Because the claim is brought in the city's name, it cannot be forced into arbitration.

In 2004 California enacted the Private Attorneys General Act (PAGA) which authorized aggrieved employees to file lawsuits to recover civil penalties on behalf of the State of California for Labor Code violations. This delegation of power has proven a powerful tool in enforcing labor laws. This year New York considered the Empowering People in Rights Enforcement (EMPIRE) Act, which would authorize aggrieved employees or representative organizations to initiate public enforcement action for violations of labor law or consumer protection statutes, on behalf of the state. In general, the majority of penalties recovered in these actions revert to the government, generating more revenue for public investigation and enforcement activities.

These types of policies increase the city's ability to protect its marketplace, ensure the strength of important local laws, and deter unlawful abusive practices.

ASSERT MARKET POWER AND REQUIRE TRANSPARENCY OF GOVERNMENT CONTRACTORS: Cities can protect their interest in effective and responsible marketplace participation by refusing to contract with businesses that use forced arbitration. Contracting only with corporations that allow workers and consumers access to court allows cities to make informed choices based upon past corporate practice. This policy would ensure that local dollars are spent to procure quality goods and reliable services from entities that do not engage in patterns of undesirable or unlawful conduct.

Alternatively, cities can require contractors that use forced arbitration to disclose data about claims that result in arbitration. Relevant data could include types of claims, counter claims, decisions and any award ultimately issued by the arbitrator. Access to this type of information will allow cities to identify favorable or unfavorable practices when considering contracting for a service.

LANDSCAPE AND RESOURCES

For more information on forced arbitration, see The Center for Popular Democracy's report, **Justice for Sale: How Corporations use Forced Arbitration to Exploit Working Families** or contact Rachel Deutsch (rdeutsch@populardemocracy.org).

NOTES

1 "The Arbitration Trap: How Credit Card Companies Ensnare Consumers," Public Citizen, September 2007, http://www.citizen.org/documents/ ArbitrationTrap.pdf, 4.

2 Katherine V.W. Stone and Alexander J.S. Colvin, "The arbitration epidemic," Economic Policy Institute, December 7, 2015, 19.

3 "Lost in the Fine Print," video, Alliance for Justice, 2014.

4 "Justice for Sale: How Corporations Use Forced Arbitration to Exploit Working Families," The Center for Popular Democracy, May 2017, 8.

EXPANDING VOTING RIGHTS

THE PROBLEM

America's arcane voter registration system, along with other barriers to voting, hinders democratic participation and voter turnout. Voter turnout in the United States remains low compared to other democracies. In the 2016 presidential election, only 60.2% – 139 million – of eligible Americans voted[1] and 92.6 million eligible voters did not.

Voter turnout is dramatically lower in non-presidential and non-federal elections. In the 2014 election, just 36.6% of eligible citizens voted, the lowest in a midterm since World War II.[2] Mayors are often elected with single-digit turnout and scholars estimate that local elections generate an average turnout of approximately 25-30% of the voting age population.

Moreover, more than a decade of attacks on voting rights and democratic participation by state legislatures and the Supreme Court have added additional barriers to voting in many states including voter ID requirements, restrictions on non-profit voter registration drives, and reduction of early voting and polling places on Election Day. These restrictions have a disproportionate impact on young voters, low-income voters, and voters of color.

The economic dimension of this problem is significant: in 2014, "only 36% of those whose family income was less than $50,000 turned out, compared to 64% of those from households earning more than $75,000."[3] This gap in voting is aggravated by the influence of corporate lobbying and spending on elections and has profound consequences for public policy. A recent study of congressional votes "reported that legislators were three times more responsive to high-income constituents than middle-income constituents and were the least responsive to the needs of low-income constituents."[4]

THE SOLUTION

A wide array of policies to increase voter participation should be adopted by state governments, including automatic voter registration, same-day registration, expansion of early voting and no-fault absentee and vote by mail statutes, voter registration modernization, and restoration of voting rights for formerly incarcerated citizens.

But cities and counties have a key – and underappreciated – role to play in this movement. When it comes to voter registration and voting, counties and cities are where the rubber hits the road – where voters are registered, election machinery is operated, and voters cast their ballots. And cities are where people live; 48% of US residents live in the 35 largest metro areas. Changing voting policies in large cities can potentially expand access to voter registration and voting for tens of millions of people.

Innovative local leaders can adopt reforms that will facilitate increased civic participation, strengthen the responsiveness of local government to community needs, and provide models for state and federal reform.

Moreover, in the aftermath of the 2016 election, we expect new attempts in Congress and in some states to further restrict access to registration and the ballot, including congressional attempts to federalize voter restrictions like voter-ID and proof-of-citizenship and more aggressive voter suppression laws in several states. Although cities and counties cannot directly reverse the restrictive voting laws passed by the state legislatures or Congress, some jurisdictions have legal authority to expand access to voter registration and the ballot box for local residents. The following represent some examples of creative solutions that cities have adopted:

FACILITATE AND INCREASE VOTER REGISTRATION

Local Agency Registration: City and municipal agencies, as public entities should integrate voter registration as part of all their agency transactions. As an example, in December 2014, **New York City** (NYC) passed two pieces of legislation that strengthened the city's Pro-Voter Law and expanded voter registration opportunities in the city. Only half of NYC's 8.5 million residents are registered to vote. One of the laws ensured that NYC public agencies covered by the Pro-Voter Law, but currently

in gross noncompliance,[5] will be required to offer New Yorkers the opportunity to register to vote as part of their agency transaction. City agencies must also comply with requirements for language access and training for agency staff.[6] Twenty-six NYC agencies are currently required to offer voter registration, provide voters assistance in completing registration applications, and increase language assistance for limited-English-proficient citizens. Instead of shying away from a diverse voting populace, NYC has embraced access, as a model for cities across the country. Specifically, all cities should ensure that voters are given the opportunity to register at public libraries, community centers, police stations, housing departments, and the other places where citizens interact with municipal government.

Renter Registration: Cities and counties can make voter registration easier. **Madison**, WI and **East Lansing**, MI adopted ordinances requiring landlords to provide their tenants with voter registration forms.[7] These laws will help the cities' large number of college students register and stay registered to vote. Such requirements are also valuable because renters are disproportionately lower income and/or people of color.

High School Registration: Local governments can also play a key role in ensuring that high school students register to vote when they become eligible. For example, in **Broward County**, FL, the Supervisor of Elections conducts an annual high school registration drive, which in 2016 registered approximately 12,000 students.[8] School boards can support voter registration efforts by requiring opportunities be available for high-school students on school grounds.

EXPAND THE FRANCHISE TO NEW VOTERS

Pre-Registration of High School Students: In some states, municipalities have the legal authority to set voter eligibility requirements for local elections. Youth Voting: Fifteen states and Washington, D.C. permit 16- and/or 17-year olds to preregister to vote, so that they will be eligible to vote at the first election after they turn 18.[9] Where legally possible, cities should move further and fully enfranchise youth, as **Takoma Park**, MD recently did.[10] Research shows that voting is habitual and that norms related to political participation in high school have lasting impacts, so that promoting participation among 16- and 17-year-olds will increase turnout for years to come.

Restoring Voting Rights for Formerly Incarcerated Citizens: Approximately 5.3 million Americans in 48 states are denied the right to vote because of a past felony conviction.[11] Many of these policies were adopted after the Civil War with the explicit purpose of disenfranchising ex-slaves. These laws continue to have a tremendously harmful impact: 13% of black men are disenfranchised– 7 times the national average.[12]

Takoma Park granted all previously incarcerated felons the right to vote in municipal elections once they complete the prison sentence, before the State of **Maryland** recently restored voting rights to all people with felony convictions upon release from incarceration.[13] In **Minnesota**, law restores the right to vote to ex-felons after completing probation or parole but the state does not provide individuals with notice when their rights have been restored. **Minneapolis** adopted a "Restore Your Voice" initiative to "inform disenfranchised ex-felons of their voting rights."[14]

PUBLIC FINANCING OF LOCAL ELECTIONS

The overwhelming evidence is that our system of campaigns funded by private dollars skews public policy in favor of the wealthy and forces elected officials to spend time raising money instead of focusing on governing. This system also distorts political representation, limiting who can run, who can win and who governs.

Cities and states cannot ban political spending, but they can reduce the outsized influence of wealthy contributors and democratize campaign funding through public financing. In **New York City**, candidates for mayor and city council receive $6 in matching funds for every $1 that they raise from a city resident (up to a limit of $175 per resident). Candidates who participate in the program commit to limit their total spending. The program reduces the influence of moneyed interests, permits middle-class candidates to run competitive races and win, and engages a broader segment of the population in the electoral process.

LANDSCAPE AND RESOURCES

The **Center for Popular Democracy** works with national partners, base-building organizations and state and local allies around the country to defend and expand voting rights at the local and state levels. **The Brennan Center, The Pew Charitable Trusts Elections Initiative**, and **Demos** have excellent resources on voter registration modernization and campaign finance reform. The Brennan Center also has examples of cities and municipalities that have implemented early voting and on cities trying to support voting capacity, such as Los Angeles, as they work to design their own system. For cities looking for ballot design ideas, The Brennan Center offers examples from Florida counties that are working to increase ballot usability. **CIRCLE** has valuable information on youth participation.

INTERACTIVE CITATIONS AVAILABLE ONLINE AT WWW.LOCALPROGRESS.ORG/NOTES

Local Progress gratefully acknowledges the guidance and input from experts at the Brennan Center for Justice on this piece.

PARTICIPATORY BUDGETING

"Participatory budgeting can create more equitable public spending... and increased levels of public participation, especially by low-income and politically marginalized residents."

—Participatory Budgeting Project

THE PROBLEM

Trust in government is approaching an all-time low. Too often, democratic practices in the United States are inaccessible and unresponsive to the public. This leads to inequitable distributions of government funding and disillusionment with the political process. Many people also feel like government isn't listening, and they face obstacles to political engagement related to age, race, financial resources, criminal histories, and immigration status.[1]

THE SOLUTION

Create new structures for participation. Participatory budgeting (PB) is a grassroots democratic process in which community members directly decide how to spend part of a public budget. Residents and taxpayers work with government to make budget decisions that improve their lives. Participatory budgeting has been used to distribute city, county, state, school, university, housing authority, and other agency budgets.

Participatory budgeting builds real community power over real money by letting people make real decisions over spending. Engaging the community in budgeting builds trust and understanding between elected officials and their constituents.

Participatory budgeting can create more equitable public spending, greater government transparency and accountability, democratic learning, and increased public participation, especially by low-income and politically marginalized residents.[2]

Participatory budgeting addresses inequity in political power and spending by giving everyone, including marginalized individuals, an equal voice while increasing civic engagement in local politics by training new leaders. The process is typically designed to allow all to participate, regardless of age, immigration status, experiences with the criminal justice system, and financial resources. In addition, underrepresented groups are often targeted in the engagement process through partnerships with local organizations that are already organizing in underrepresented communities.

Participatory processes also allow fewer opportunities for corruption, waste, or costly public backlash. The inclusivity of the process leads to fairer and more redistributive spending that is responsive to community needs.

POLICY ISSUES

VARIATIONS IN PARTICIPATORY BUDGETING: There are significant variations in the institutional design of the different models of participatory budgeting that have spread across the country and the world.

The most inclusive and transformative models give residents decision-making power over general budget funds and enable all residents to participate and vote on priorities. Providing a budget for outreach broadens participation.[3] These models produce the best poverty reduction, declines in corruption, and extensive and representative participation from local residents.[4]

Other processes give citizens decision-making power over a smaller portion of the budget or an individual Councilor's "discretionary funds."[5] For example, in **New York City**, participatory budgeting is used to allocate $35 million of City council discretionary funds.[6]

Local councilmembers may unilaterally decide to use participatory budgeting to spend their discretionary budgets, as officials have done in **Chicago, New York City, St. Louis, San Francisco, San Jose,** and **Long Beach, CA**. Since officials are allocating individual discretionary funds, no new legislation is required.

Alternatively, **Vallejo, CA**, City Council enacted a

resolution to institute participatory budgeting at the citywide level to allocate $3.2 million in revenue from a new city sales tax. With help from Council Members and the Participatory Budgeting Project the city created a steering committee that established rules and guidelines. The city also allocated $200,000 for administration to ensure robust engagement.[7] City governments in **Boston, Seattle, Cambridge,** and **Greensboro, NC**, have also instituted citywide PB processes with general fund money. In **Boston** and **Seattle**, these processes have been designed specifically for youth, ages 11-25.

PB is also being used to allocate school funds in high schools in **Chicago, Phoenix, Sacramento,** and **San Jose.** In **New York City**, PB is being done for the first time (in the U.S.) with public housing funds through the New York City Housing Authority.

On the federal level, the Obama Administration included participatory budgeting as a best practice in its National Action Plan on Open Government, and the Department of Housing and Urban Development has embraced PB as a tool for enhancing public participation at the local level in the Community Development Block Grant (CDBG) program.

EXAMPLES OF LOCAL PARTICIPATORY BUDGETING: In **New York City**, individual city councilors agreed to allocate a portion of their discretionary capital funds to be decided through participatory budgeting.[8] Over 167,000 residents in 28 Council Districts have engaged in participatory budgeting, funding everything from laptops for schools, playground improvements, solar-powered greenhouses, transportation for seniors, installation of security cameras, and a community resource center. Participatory budgeting has involved a higher percentage of low-income residents (40%) than have local elections (29%), as well as a higher percentage of people of color and residents whose primary language is not English. Funds distributed through participatory budgeting have also often been more likely to go to projects in low-income areas than traditional discretionary funding allocations.[9]

Currently, over 5,600 residents of seven wards in **Chicago** decide each year how to spend $1 million of their aldermen's "menu money" for capital projects.[10] Communities in **Chicago** have elected to construct new street lights, repair cross-walks and bike lanes, and redevelop a community garden and playground.[11]

The **City of Vallejo** established the first citywide participatory budgeting process in the U.S. through a City Council Resolution. In Vallejo's first PB cycle in 2013, over 4000 community members decided how to spend $3.2 million. Projects in **Vallejo** can be implemented by a city department, a non-city agency, or a local non-profit, and have included community gardens, small business grants, park improvements, a youth job training program, city clean-up efforts, and transitional housing for the homeless.[12]

In **Boston**, the city launched a participatory budgeting process to engage youth directly on how to spend $1 million of the city's capital budget. Over 2000 youth have participated. **Seattle** is currently in its first cycle of a citywide youth PB process run out of the city's Department of Neighborhoods.

In **San Francisco**, after a city Supervisor learned about PB through the Local Progress national convening, three districts participated in PB and 1500 participants allocated $100,000 of discretionary funding for capital projects in each district. In **Long Beach, CA**, a Councilmember and Local Progress member started PB in his district with $250,000 of capital discretionary funds, leading two other local Councilmembers to launch processes in their districts.

In **Greensboro, NC**, the first city in the South to do PB, residents are allocating $500,000 for capital projects citywide.

In **San Jose, CA**, students, parents, staff, and teachers at Overfelt High School are deciding how to spend $50,000 of the principal's budget. Smaller budgets are also being decided by high school students in **Phoenix, Chicago, and Sacramento**.

LANDSCAPE AND RESOURCES

The **Participatory Budgeting Project** empowers people to decide together how to spend public money. It supports local elected officials and local organizations in creating participatory budgeting processes that deepen democracy and make public budgets more equitable and effective.

NOTES

1 See The Participatory Budgeting Project, participatorybudgeting.org .
2 Participatory Budgeting Project, "Mission & Approach," available at: http://www.participatorybudgeting.org/who-we-are/mission-approach/ .
3 Ellyn Fortino, "The Votes are In," Progress Illinois (May 10, 2013).
4 Melisa Mark-Viverito, "Participatory budgeting in year two," Huffington Post (January 28, 2013).
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7 See Participatory Budgeting Project, "Participatory Budgeting at the City Level" (November 2013).
8 Soni Sangha, "Putting in their 2 cents," New York Times (March 30, 2012).
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10 Josh Lerner and Megan Wade Antieau, "Chicago's $1.3 Million Experiment in Democracy," Yes Magazine (April 20, 2010).
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12 See Vallejo's Participatory Budgeting Rule Book: http://www.ci.vallejo.ca.us/common/pages/DisplayFile.aspx?itemId=160934.
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Co-authored by the Participatory Budgeting Project

STRENGTHENING OUR PUBLIC SCHOOLS

THE PROBLEM

Our nation's public school system is characterized by dramatic inequities along racial, ethnic and socio-economic lines. Poor children and children of color are more likely to live in communities where decades of disinvestment have led to high rates of poverty, pervasive unemployment, and a range of threats to health of individuals as well as community cohesion. These systemic challenges limit the ability of communities to generate the property tax revenues necessary to employ and retain high quality teachers, support an engaging, challenging and relevant curriculum, provide an array of enrichment activities, clean, safe and attractive facilities and meet the full set of student needs that serve as barriers to learning.

However, misguided federal, state and local policies created and supported by corporate-supported foundations and lawmakers still support and fund the closing of public schools, expansion of privatization, and the dismantling of democratically elected school boards. Mississippi, Texas, Louisiana, Georgia, Arkansas have all passed or are in danger of passing laws that hand over whole segments of their public schools to the private sector whose primary goal is profit, not the education of our most vulnerable students. Where these policies support the proliferation of charters, they disregard the lack of evidence that these institutions improve on traditional public schools. In doing so, they advance a larger agenda of privatization that threatens to undermine hard-won victories in the areas of civil rights, workers' rights, and good government.

SOLUTION

Quality and equitable education is a long-term public safety strategy. Measures to reduce school dropout, increase access to health and mental health services, and improve employment prospects are proven alternatives to expensive, and often inhumane attempts, to reduce crime via criminalization and incarceration. Studies show that a 10 percent increase in the graduation rate leads to a 9.4 percent reduction in the crime rate. This effect may also be multiplied, as an increase in graduation rate will also lead to an increase in real wages and lower unemployment rates. Moreover, a one-year increase in education level reduces the crime rate by 1.7 percent. A new report from the Alliance for Excellent Education finds that the nation could save as much as $18.5 billion in annual crime costs if the high school male graduation rate increased by only 5 percentage points.[1] The future of democracy and the health of our economy both depend on our ability to provide a high-quality education for all the nation's children.

Despite potential danger to educational equity precepts implicit in devolution of policy back to the states, the new Every Student Succeeds Act (ESSA) provides multiple opportunities to create positive school change.[2] For example, it mandates states to include additional measures for school success within accountability systems, including measures on school climate which pave the way for more restorative justice programs. Because the new law does away with federal mandates on everything from assessment, accountability and evaluation, state legislatures will be playing a decisive role in determining how ESSA is implemented. It's now up to the states to work with local stakeholders and districts to design, for example, new and better assessments and accountability systems and follow-through on identifying and filling opportunity gaps.

There is a need for policies that give parents, teachers, and members of the broader community real power to improve struggling schools. But this only becomes reality if parents and communities engage with their local jurisdictions to demand The Public Schools All Our Children Deserve. The Alliance to Reclaim Our Schools (AROS) – an alliance of community organizing groups, teachers unions and research and policy organizations is coordinating strategies around the country to make sure this engagement takes place.

POLICY ISSUES

The following are important issues to consider in designing local policies to improve education through meaningful parent, teacher, student and community involvement. Policy-makers can tailor their proposals to the political realities of their communities.

Where **charter schools** exist, local policy-makers should strongly advocate for school board oversight and pass a resolution adopting the Annenberg Public Charter Accountability Standards that will ensure maximum transparency and accountability to the community as the charter schools begin to operate.[3] If charter schools express interest in starting, the standards should be passed and the compliance should be a condition for authorization.

For districts looking for a strategy that improves student well-being and academic outcomes, pilots for **community schools** (or an expansion) should be a top priority. Board members should pass a resolution supporting community schools and prioritize funds to support a Community Schools Site Coordinator for each school. Districts should consider the implementation of all six strategies that contribute to the success of community schools in their district.[4]

Districts should analyze and take advantage of **opportunities available to them through ESSA**. The law offers ample opportunity for districts to define their priorities, decide how to allocate resources to support their lowest performing schools and determine a more diverse portfolio of measurements upon which student outcomes are judged. Districts should collaborate closely with district administrators, educators, parents, students and community leaders to design improvement plans and make decisions on accountability and financial priorities for investment. ESSA offers a number of opportunities for district boards to take a leading role in crafting policies and priorities to fit the needs of their community, in fact it requires community and stakeholder input.

LANDSCAPE AND RESOURCES

The **Alliance to Reclaim Our Schools (AROS)**, **The Center for Popular Democracy and the National Education Association (NEA)** all have resources available that elaborate on holistic and successful school improvement strategies.

NOTES

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