Yearning to Breathe Free

Understanding Immigration and HIV

September 30, 2019 By Olivia G. Ford

Does the U.S. Customs and Border Patrol (CBP) believe that a parent's HIV-positive status alone is enough to justify the separation of a child from that parent? Yes, CBP chief Brian Hastings told the House Judiciary Committee during a July hearing. The reason, he said, is that HIV is a communicable disease. Hastings supplied this answer despite the fact that in 2010, U.S. Citizenship and Immigration Services removed HIV from the list of diseases that bar immigrants from entry into the United States.

The questioning followed reports that in 2018, three sisters were permanently separated from their father, who is living with HIV, after entering Texas via Mexico. The man was deported back to Honduras, and the girls, ages 11, 12 and 14, have not seen him since.

On social media, advocates responded swiftly and sternly, shaming CBP for ignoring government policy, science and morality in enforcing such deportations. House members are now demanding clarification and a renunciation of this discriminatory practice, best described by ACT UP New York as "evil and ignorant!"

"In the immigration system, through this administration, things are getting worse," says Bamby Salcedo, cofounder, president and CEO of Translatin@ Coalition and its service-provision arm, the Center for Violence Prevention and Transgender Wellness. Advocates for people living with or affected by HIV and immigration—like Salcedo—are frontline witnesses to the deluge of anti-immigrant behavior that Donald Trump's presidency has spurred in the United States and beyond.

"Immigration laws and policies have always been something to not rely on—not very safe or trusted," explains Nathaly Rubio-Torio, executive director of the HIV and violence prevention service organization Voces Latinas in New York City, where the highest number of undocumented immigrants in the United States reside, according to recent Pew Research Center statistics. The client base at Voces Latinas is at least 70% undocumented. "When [anti-immigrant actions] happen, it just makes it even scarier."

Nathaly Rubio-ToriBill Wadman

The U.S. medical system can be hard to understand, and limited English proficiency and experience with trauma can make it even more challenging to navigate. The immigration system rivals health care as a morass of steps and potential missteps. “Lack of information, distrust of the system, and just not knowing the whole system and how to begin are keeping people away from connecting [to care],” Rubio-Torio says.

Veronica Dominguez, a mother of four and a longtime Voces Latinas client, arrived in New York City as a teenager. Back then, she was already guarded and distrustful, due in part to abuse she witnessed back home, and she endured danger on her journey from Mexico. She says the father of her two oldest children abused her and threatened her life regularly. When she finally summoned the courage to report his violence, authorities were dismissive of the peril she faced. One officer asked whether her partner was a boxer because of the injuries to her face from his beatings. The restraining order she obtained was ineffective—the abuse continued.

Dominguez’s partner eventually got sick and entered the hospital, where he died within a week. Several years later, Dominguez became ill as well and went to a doctor. “They told me HIV, but I had never really heard that word,” she shares, with support from a translator. “They didn’t explain to me what that meant.” One doctor told her that once she learned English, he would tell her about HIV. Dominguez first learned about her health condition on television, where she gathered that it was a death sentence.

Even though she eventually began taking HIV medications that worked, she was afraid to learn more about HIV, expecting the worst, until she encountered Voces Latinas at a health fair at her church in Queens. Dominguez began attending support groups and educational activities

organized by Voces Latinas, equipping herself with knowledge about HIV. “It wasn’t so bad,” she says with relief. “What kills is ignorance.”

Veronica DominguezBill Wadman

Rubio-Torio also speaks of fear. “We have a lot of women that, because of their domestic violence situations, [are] living in fear, not only of immigration but also of their abusive partner,” she says. She describes how challenges navigating health care can extend to other complex systems like child welfare or criminal justice, with potentially dire consequences, including losing one’s children. “It seems like the systems are constantly being set up to fail our community,” she says.

[Editor’s note: Click here for more about Veronica and the personal stories of the other clients spotlighted on the cover.]

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Under the current administration, engaging the immigration system, which often receives people at the most desperate points in their lives, can be arduous. The president has wielded the immigration system as a weapon in countless ways—from his first campaign speech in June 2015, when he spread lies about Mexican immigrants, through his comments about African and Caribbean nations, to actions by white nationalists who share his views, including a mass shooter in El Paso, Texas, in July 2019 who explicitly targeted Latinx immigrants.

A well-documented current of racism fuels the actions of the Trump administration. This is especially stark where immigration is concerned. “No one from Norway or Germany is getting pulled in in the numbers that everyone else is,” quips Amanda Lugg of the African Services Committee, which serves African and Caribbean immigrants living with and affected by HIV in New York City, about 90% of whom are undocumented.

To many, including Micheal Ighodaro, Trump-era bias is not new. “The realization of what it is to be Black in America: I got it the first day I got out of JFK [airport] in 2012,” says Ighodaro, who is from Nigeria and relates that when he first arrived, he was stopped by law enforcement in the subway or the airport just as often as he is nowadays. “It’s like people were trying to be cool [in the Obama years] and are now being given the opportunity to show their biases and show who they really are.”

Ighodaro, who tested HIV positive in 2011, had been organizing young gay men in his country since his teen years. He attended the 2012 International AIDS Conference in Washington, DC, to discuss his work with gay men living with HIV in Nigeria. An online news story from that conference revealing that he was gay garnered attention in his country. When he returned, Ighodaro and his home were attacked. He returned to the United States on the visa that got him here for the conference. He applied for asylum and has been living here since. “People are freely coming out [with their racism] now,” Ighodaro says. “It’s like a coming-out party.”

Gloria MaldonadoBill Wadman

“We didn’t have a great president when it came to immigration,” Salcedo comments, even before Trump. The Obama administration may be remembered by many HIV advocates as the one under which the ban against people living with HIV entering the United States was removed and a U.S. national HIV/AIDS strategy was enacted. But to those working on or affected by immigration, Obama was the “deporter-in-chief,” removing or returning more than 5 million people from the United States—a considerable number, but several millions fewer than his predecessors, according to the Migration Policy Institute. But those consulted for this article seemed to sense something more insidious occurring under Trump.

“I am very afraid when someone knocks on the door; being undocumented puts us at risk,” says Dominguez. “I go to domestic violence groups with other women who are HIV positive, and there are many women living like this—thinking in whatever moment they can be separated from their children. It has taken away our peace.

“[Trump] refers to us like we are the worst, but we are not the worst,” Dominguez asserts. “We are human beings, just wanting a chance at life.”

In July 2019, the Customs and Border Protection (CBP) chief of law enforcement operations, Brian Hastings, claimed at a congressional hearing that a parent’s HIV-positive status was grounds for separation from their children at the border due to HIV being a “communicable disease.” He was asked about the policy after an article published on Quartz.com earlier that month described a man living with HIV who was separated from his three young daughters—tragically, they had

already lost their mother to AIDS in Honduras.

“Not only does separating families cause increased stress and potential psychological trauma to the children, but it also lacks any medical validity,” says Lucy Horton, MD, MPH, who provides acute medical care to asylum seekers at the border in San Diego—a port of entry between the United States and Mexico that is among the world’s busiest. Part of her role is to screen for conditions that are actually communicable in close quarters, such as scabies and the flu. HIV does not fall under that umbrella.

HIV was removed from the list of diseases barring entry in 2010. Furthermore, no rule requires the separation of families unless parents pose a threat to their children, Human Rights Watch reported. Needless to say, a parent’s HIV status, on its own, is not a threat to children. Yet the Trump administration continues to separate families on the flimsiest of premises, Michelle Goldberg wrote in The New York Times in June 2019.

Hastings’s comment incited an outcry by HIV, public health and human rights advocates. He revised his statement, but the episode is one of many examples that betray the Trump administration’s lack of regard not only for protocols and regulations but also for the lives of people in vulnerable communities.

In fact, the program where Horton is site director was started in December 2018 after Immigration and Customs Enforcement (ICE) ceased to provide basic support and transportation for asylum seekers upon their release. “They dropped people off at the bus station and in parks and other public spaces,” Horton describes. “Often, people didn’t know they were in San Diego. They had no money, no food. They had no way to get across the country to their sponsors, where they had a court date [for asylum] in two weeks.”

Emily Trostle, the lead attorney for the Southeast Immigrant Freedom Initiative at the Southern Poverty Law Center (SPLC), called the incident with the CBP chief “typical Trump.” She says, “You think these things have been handled, but they just keep coming back.”

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In August 2019, the Department of Homeland Security announced its final rule expanding the definition of a “public charge”; under U.S. immigration policy, this means someone who is primarily dependent on government assistance. Being a public charge can affect your ability to enter the United States or adjust your immigration status.

According to the National Immigration Law Center (NILC), the revised definition penalizes use of certain health care, food and housing assistance programs—the kind that many people living with HIV depend on to help make ends meet. Low income, limited English skills, or a physical or mental health condition become negative factors in a public charge determination.

“Immigrants with disabilities or preexisting medical conditions, such as HIV/AIDS, would be required to show proof of unsubsidized health insurance— i.e., no Medicaid, ADAP or Obamacare,”

wrote Lugg, of the African Services Committee, on TheBody.com in May 2018, after a draft of the proposed changes was leaked to The Washington Post.

The rule will not take effect until October 15, but it has inspired fear among immigrants living with HIV and many others since word of the coming changes first spread. “People were coming in, saying ‘You’ve got to take me off my benefits because if I’m on any of these benefits I won’t be able to eventually file for citizenship,” explains Lugg. This includes stopping HIV meds. “The public health implications are really chilling,” she adds.

Anecdotal reports are confirmed by an Urban Institute survey that found more than one in five adults in low-income immigrant families avoided accessing benefits in 2018 because of the proposed rule change.

Resistance to the expanded rule continues as of this writing, with NILC and other immigration groups, as well as many states, filing suit to challenge the Trump administration in court. Congressional Democrats are amassing support for a bill introduced in June 2019 that would withhold funds for enforcement of the new rule.

“These changes will only fuel the toxic, racist narratives about who deserves to live in this country and will only exacerbate racial, health and economic disparities,” reads a statement from Positive Women’s Network–USA about the final rule.

The current administration's intensification of immigration enforcement has resulted in ballooning numbers of people in ICE detention—more than 54,000 as of July 2019, compared with 34,000 in 2016, Mother Jones reports. Several news outlets have revealed dangerous, unsanitary conditions in facilities used to imprison people who have done nothing wrong.

"A system that was already far from perfect and pristine has been stretched to its limits in this expansion," says Elissa Johnson, who works on conditions of confinement as a senior supervising attorney at SPLC. "It is unknown whether ICE has increased its staff in [medical care–related] areas at a commensurate rate with how it has increased its population."

This may affect the care people living with HIV and other conditions receive in ICE facilities. "For a person who comes in knowing that they have HIV, they know their care," Johnson continues. "It's making sure they have access to continue that care in an environment where they do not have control, so it is the responsibility of ICE to make sure they get that."

As of June 2019, according to an NBC News analysis, under this administration, about 28 people—at least seven of them children—have died in immigration detention or soon after release. Two detainees, both trans women, are known to have died from complications of advanced HIV.

"They died because of the lack of attention to and even the understanding about how AIDS works," Salcedo says. Her organization offers reentry services for trans people, including those in immigration prisons. Roxsana Hernández Rodriguez of Honduras, who died in May 2018 at age 33, was en route to Cibola County Correctional Center in New Mexico, where ICE created a unit, or "pod," for trans women who have been detained.

Alma Rosa Silva-Bañuelos, New Mexico program director at Translatin@ Coalition and a post-release specialist at Santa Fe Dreamers Project, works with women in the pod. "[Roxsana] was so sick by the time she arrived that she wasn't even admitted to the unit for trans asylum seekers," Silva-Bañuelos says.

Hernández was quickly admitted to a hospital, then airlifted to a medical center in Albuquerque, where she died alone, according to Silva-Bañuelos. "She passed away in our backyard, and we could have been there to support her." An independent autopsy showed she had been physically abused and was severely dehydrated before her death, The New York Times reports. The other woman, Johana Medina Leon, 25, of El Salvador, died in a Texas hospital in June 2019 soon after her release, according to ThinkProgress.

The Cibola pod was created as a response to the mistreatment of trans women in the detention system. "But just because they are together [does not mean] all of the needs have been met," says Silva-Bañuelos.

This summer, 29 trans women imprisoned in the Cibola pod mailed a handwritten letter to Arizona-based advocacy organization Trans Queer Pueblo, detailing abuses at the hands of officials in the pod—including inadequate medical care for HIV and other conditions, denial of necessary medications, mistreatment by guards and excessive use of solitary confinement, according to the

Phoenix New Times.

While the number of people unjustly imprisoned keeps multiplying, the current administration has curtailed numerous avenues to fight for immigrant rights. For instance, SPLC's Trostle explains, ICE once had guidance detailing who was not a priority for detention that attorneys could use to argue that a person need not be detained. "We could have this back-and-forth with ICE, and sometimes it worked," she says. "That has completely gone away now."

"Why is this person in detention?" Trostle and colleagues find themselves asking. "[People with] no criminal history, U.S.-citizen children, a U.S.-citizen partner, single moms, people with health issues, pregnant people. It's insane."

Trostle remembers a recent client, a trans woman who, after escaping horrific violence in her home country, arrived in the United States with a strong asylum case. She eventually asked to be deported after being detained with men, terrorized, and then placed in solitary confinement when officials identified her as trans. For some clients, Trostle says, "even when the likelihood of them being harmed, tortured, persecuted, raped is really acute and clear and [has] caused them to flee across countries, the trauma of detention becomes unbearable."

It is also worth noting that conditions forcing people to leave their homes in pursuit of a safer, better life are often connected to previous U.S. intervention.

"The migration crisis stems not from foreign nations duping the United States," wrote scholar Sarah Sklaw in The Washington Post in 2018, "but rather from American economic development policies designed primarily to promote goals—including anti-communism, unregulated foreign markets and, later, drug control—that have exacerbated the poverty, despair and violence such policies were supposed to alleviate."

"Regardless of who is in the administration at this point, we paved this road many years ago," Silva-Bañuelos notes. "The least we can do is to welcome [immigrants and asylum seekers] home here and share community."

Elia RiveraBill Wadman

In addition to various forms of support and advocacy for women while they are in the Cibola pod and following their release, a key aspect of Silva-Bañuelos's role is infusing a bit of tenderness into a vicious experience, bringing "a piece of humanity back to them, a sense of community, a sense of laughter, creative outlets," she says. "Breaking bread together is so critical in building community."

When Silva-Bañuelos delivers special meals, she offers food to the women as well as the officers serving the pod. "For that moment, we all get to see each other in a human way. That really takes away that dynamic of power."

In the past several years, the staff at Voces Latinas has expanded services to include health literacy training and accompaniment to medical and other appointments, until clients are able to understand and navigate complex systems on their own. "We are from these countries that people are arriving from," says Rubio-Torio. "Some of my staff is living with HIV. They were here undocumented, not being connected to services. It's that identification that we build up with a client. The trust is there almost spontaneously."

Beyond services and information, Rubio-Torio muses, Voces Latinas offers clients something akin to sanctuary. "People are coming here alone. They're lonely. They're missing home," she adds. "To be able to offer a space where you can rebuild your support network, where you can rebuild your friendships, hear from others that have been here longer than you is the best kind of healing and treatment that we can provide."

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