

OUR WISH LIST FOR THE NEW ADMINISTRATION

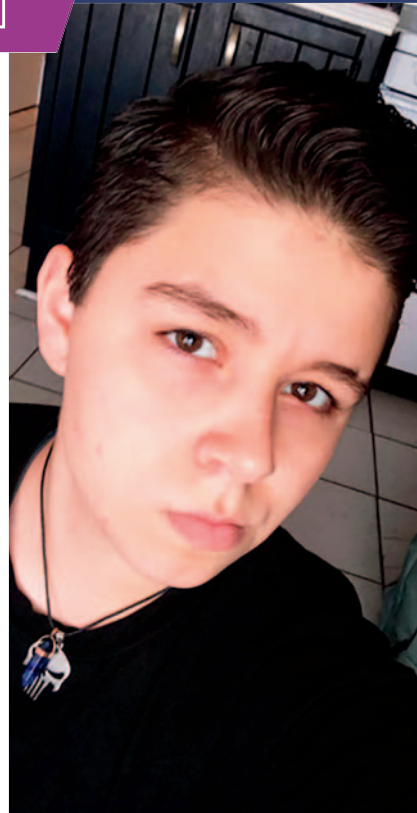
It's a new era. But there is a lot of damage yet to repair, and a lot of work that remains to be done.

Hours after his swearing, President Joseph R. Biden Jr. made it clear: we're dealing with a very different administration.

He signed an executive order confirming antidiscrimination protections for LGBTQ people. Its significance cannot be overstated. The order not only called for full implementation of protections for LGBTQ employees; it directed federal agencies to apply the historic *Bostock* ruling to protect LGBTQ people from discrimination wherever federal law prohibits sex discrimination. This includes education, housing, credit and health care.

Days after that, Biden reversed one of the Trump administration's most notorious attacks on the LGBTQ community, its ban on open military service by transgender people. When the ban came down, Lambda Legal sprang into action. We immediately sued the Trump administration to block it. We got a federal court to halt its implementation for many months, before the Supreme Court allowed the ban to take effect. Even after that setback, we kept fighting to take the ban down, and won key battles that kept pressure on the government.

In all, Lambda Legal filed 46 federal lawsuits against the Trump administration to beat back its efforts to harm LGBTQ people and everyone living with HIV. When policies erased who we are and invited discrimination against the most vulnerable among us, we fought for equal recognition and access. When lawmakers attempted to push us out of workplaces, schools, and businesses, we fought to protect our rights—all the way to the Supreme Court.



Un-Banned Valor (clockwise from upper left): Drew Layne, Staff Sergeant Cathrine ("Katie") Schmid, Ryan Karnoski and Petty Officer Second Class Phillip Stephens are among the clients in Lambda Legal's lawsuit against the transgender military ban.

Biden's executive orders have been a breath of fresh air. But more is needed. Below are some of the most important actions the Biden-Harris administration can take immediately to restore and safeguard the rights and dignity of LGBTQ people and everyone living with HIV.

REPAIR THE DAMAGE TO OUR COURTS

The Trump administration moved with devastating swiftness to damage the federal judiciary, packing it with right-wing extremists who oppose LGBTQ rights, reproductive rights, and civil rights more broadly. Now, almost one-third of federal appellate judges are Trump appointees, and forty percent of them have records that demonstrated hostility towards the LGBTQ community. Throughout, Lambda Legal meticulously researched these judicial nominees, sounded the alarm about their anti-LGBTQ records, furnished lawmakers and the media with our findings, and tracked the overall progress of the damage. To repair the damage to our courts, we urge the Biden-Harris administration to move quickly to fill judicial vacancies with federal judges who are competent, fair-minded, and reflect the diversity of our nation.

PROTECT MARRIAGE EQUALITY FROM ASSAULT

With a Supreme Court and lower federal courts dramatically altered by Trump's appointments, we have every reason to believe our opponents will seek to undermine marriage equality for same-sex couples. Indeed, since *Obergefell*, Lambda Legal has had to take action to protect same-sex couples who were still being denied the promise of full equality. We won two class action lawsuits on behalf of surviving spouses and partners who could not, because of discriminatory marriage bans, marry in time to qualify for social security survivor's benefits, a lifeline for older adults, and were thus robbed of millions of dollars in hard-earned benefits. We also won judgments on behalf of two married same-sex couples whose marital children, born outside the U.S., were deemed to be "born out of wedlock" by the State Department and denied recognition of their U.S. citizenship since birth. Now more than ever, we need a robust ally in the White House who will vigorously defend and fully implement marriage equality, and ensure that LGBTQ families are treated like all other families.

STOP THE GRANTING OF "LICENSES TO DISCRIMINATE"

At every turn, the Trump administration invited discrimination against LGBTQ people from health care providers, social service agencies, and private businesses, often times under the guise of "religious freedom." These rule changes imperiled lives and livelihoods during a devastating pandemic and mass job loss. In 2020, Lambda Legal sued the Trump administration to stop the attempt by its Department of Health and Human Services (HHS) to carve out LGBTQ people and other vulnerable populations from regulatory antidiscrimination protections under the Affordable Care Act. We also took on taxpayer-funded foster care agencies who, citing "religious objections" in the face of a burgeoning child welfare crisis, deny same-sex couples the ability to even apply to become foster parents. Religious freedom does not include the freedom to harm people because of those beliefs. The Biden administration must reassert protections for LGBTQ people, especially when we are at our most vulnerable in hospitals, homeless shelters, nursing homes, and foster care. The new administration must end the effort to grant a blanket "license to discriminate" in the name of religion.



Julio Aguilar

Justice on and in court: WNBA MVP Candace Parker (pictured), Billie Jean King and Megan Rapinoe were among the signers on Lambda Legal's amicus brief concerning an Idaho law banning transgender girls and women from school sports.

REVERSE RACIST EXECUTIVE ORDERS

The Trump administration has called efforts to train people on the pernicious effects of systemic racism and implicit bias “un-American” and issued an executive order prohibiting the federal government’s millions of contractors and grantees from instituting workplace trainings that address and acknowledge systemic racism, sexism, and implicit bias. On November 20, Lambda Legal sued and in December obtained an injunction to halt the implementation of this patently racist order. We welcomed President Biden’s announcement on Day 1 that he was rescinding this Executive Order, along with other racist Executive Orders like the Muslim travel ban. But we know that there is still much work to be done, not only to reverse four years of racist and xenophobic policies from the last administration but to acknowledge and root out other forms of systemic racism, including the abuse of Black and brown people in our criminal justice system and the inhumane treatment of immigrants.

STOP ATTACKS ON TRANS YOUTH

On his first day in office, President Biden signed an executive order clarifying that the protections against sex discrimination in our federal educational opportunity law prohibit discrimination against transgender students in all aspects of their education, including restrooms, the locker rooms, and sports. But we know that opponents of LGBTQ equality will continue to target transgender youth in state legislatures and threaten their safety and well-being through litigation aiming to deny and erase their identity. They are going after transgender kids’ equal opportunity rights in school, and will try to criminalize the health care that they need. Lambda Legal has fought time and again for the rights and dignity of trans people, including trans youth in schools, child welfare settings and beyond. Our work to protect and defend trans youth will continue even with a more supportive administration in Washington, D.C. School is tough enough without

government bullying. The Biden administration must get the entire federal government—including the Departments of Justice and Education—back in the business of protecting the civil rights of all people, and particularly our LGBTQ youth.

DEFEND OUR HEALTH CARE

The Trump Administration was relentless in its efforts to destroy the Affordable Care Act. It also rolled back regulations clarifying that the ACA’s nondiscrimination protections guarantee equal treatment for LGBTQ people. Lambda Legal successfully sued to block the HHS from implementing key aspects of the rule. We also filed a brief before the U.S. Supreme Court supporting the constitutionality of the ACA and explaining, once again, the importance of the ACA for people living with HIV. But we will need definitive action from the Biden administration on this and other matters to end the Trump administration’s legacy of undermining our health care in our courts, and to reassert HHS as a defender of quality health care, free from discrimination.

STOP THE SEPARATION OF FAMILIES

The Trump administration showed total disregard for family ties when it did not approve of the families involved—such as immigrant families and those headed by LGBTQ people—and it used the power of the government to separate and undermine such families. The Biden administration moved quickly to reverse or halt some of the previous administration’s most egregious anti-immigrant policies, including its attempt to end DACA and to complete the border wall. The Biden administration must respect—not target and persecute—all families by immediately working to reunite families separated at the border, by creating a pathway to citizenship that allows families to stay together with greater security, and by ensuring that LGBTQ families are treated the same in the eyes of the law as all others.

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END DISCRIMINATION IN THE MILITARY

As commander-in-chief of the military, one of the world's largest employers, President Biden showed the leadership that we need by ending the ban on open service by transgender people. He directed Pentagon leadership to take steps to ensure that all people who are otherwise qualified to serve can do so without fear of discrimination because of their gender identity. We have been fighting this hateful ban from the moment it was announced, and will not stand down until we have confidence that the President's order has been fully implemented. We also continue to fight for servicemembers living with HIV, who also face irrational discrimination by the military. For reasons that have everything to do with HIV-phobia, ignorance and hysteria and nothing to do with science, the Pentagon's current policies prevent enlistment, deployment or commissioning as an officer any person living with HIV. We need President Biden to take similarly decisive action in support of servicemembers living with HIV, to ensure that our military's policies are informed by facts and not outdated and stigmatizing views about who can serve our country safely, with honor and distinction.

PROVIDE SAFE HARBOR FOR LGBTQ REFUGEES

In one of its final blows against LGBTQ people and people living with HIV, the Trump administration published a sweeping rule change which would have made it virtually impossible for LGBTQ people and people living with HIV fleeing persecution in their home countries to secure asylum in the United States as our laws promise. With partners Immigration Equality and the Kramer Levin law firm, Lambda Legal raced into federal court on behalf of five organizations that represent and serve LGBTQ refugees and secured a preliminary ruling that blocked this "death to asylum" rule from taking effect. But we need the Biden administration to step up now and honor both U.S. law and our international human rights treaty obligations by establishing new, coherent asylum rules explicitly protecting those seeking safety from repression and violence because of their sexual orientation or gender identity by allowing them refuge in the United States. **LL**

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