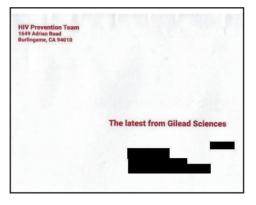
HIV INFORMATION: HANDLE WITH CARE

Gilead Mailing Breaches HIV Privacy Rights

An Alabama man was mortified when an envelope for him with the return address HIV Prevention Team in bold red letters turned up in his workplace mailroom.

An Indiana man so protective of his confidentiality that he fills his HIV-related prescriptions at a different pharmacy chain from where he gets his other medications was shocked to receive the same mailing.

The two men are plaintiffs in a federal class action lawsuit filed May 21 in the U.S. District Court for the Northern District of California, alleging that the California pharmaceutical company Gilead Sciences Inc. illegally compromised the privacy rights of people taking its



medications by recklessly mailing the inappropriately marked envelopes after promising its customers confidentiality.

The case is eerily reminiscent of a federal class action lawsuit three years ago in which the AIDS Law Project and its partners won a \$17 million settlement against insurance company Aetna.

The exact number of Gilead customers who received the mailing is not immediately known.

Continued on Page 6

Transgender Woman Settles Privacy Case

The AIDS Law Project is pleased to have settled Doe v. SunRay Drugs on behalf of Jane Doe, a transgender woman living with HIV.

The lawsuit, filed in November in the Court of Common Pleas of Philadelphia County, claimed SunRay violated the woman's privacy rights and Pennsylvania's Confidentiality of HIV-Related Information Act.

It alleged Doe, a Delaware County woman who used a pseudonym throughout the proceedings to protect her identity, became the subject of gossip in her previously supportive community after her pharmacy left her HIV and gender transition medications in a publically visible location

Continued on Page 2



The new normal: A staff meeting on Zoom.

Serving Clients Remotely

The AIDS Law Project of Pennsylvania was created in response to a public health crisis, so earlier this year when the dimensions of the coronavirus pandemic became clear we knew from experience we had to act quickly.

Our clients who live with uncontrolled HIV are at increased risk of serious health consequences if they get COVID-19, just as other people with pre-existing medical conditions.

Yolanda French Lollis, the AIDS Law Project's managing attorney, led the effort to prepare to work remotely. It was all

Continued on Page 6

NSIDE

PANDEMIC ALMOST ENDS VITAL BENEFIT

A trip to visit family in South Carolina complicates what usually would have been an easy fix.

Page 2

SAFEHOUSE EFFORT IS LEGAL

A federal judge affirms the legality of supervised injection sites while ordering pause on opening. Page 5

LEGAL SERVICES IN 2019

The AIDS Law Project provided assistance to 1,526 clients on 2,304 legal issues in 2019.



IN MEMORIAM: AUDREY HOANG AI

A volunteer who brought people together dies at age 41.

Page 7



FROM THE EXECUTIVE DIRECTOR

We've Been Here Before

The AIDS Law Project of Pennsylvania was born in a public health crisis much like the one we are experiencing now. In 1988, AIDS-phobia was at an alltime high. Effective treatment options were limited.

Then as now, clients turned to us as a trusted source to advise them of their rights and how to safely navigate their needs. By paying attention to science, we were able to understand the risk. We quickly learned that people living with HIV didn't pose a threat in workplaces or casual settings. We learned that HIV is only transmitted in specific ways. Armed with facts instead of hysteria, we confidently worked to assure that our clients had full rights and opportunities.

Earlier this year, as we started to hear about the spread of COVID and as public places began to close, the Centers for Disease Control and Prevention said the risk for people with HIV getting very sick is greatest for those with a low CD4 cell count and not on HIV treatment.

Although HIV medications have controlled the virus for many of our clients, we interpreted the CDC's risk assessment as a call to redouble our efforts to ensure that all our clients have uninterrupted access to health care and to secure, affordable housing. Working remotely, we created new ways for clients to reach us – adding phone numbers, online intake forms, and confidential email addresses.

In 1988, our plan was to use our legal skills to support our clients as we waited for treatment options to become available. In 2020, our plan is the same.

Konda

Take care, stay safe.

Pharmacy Continued from Page 2

of her apartment building.

The pharmacy alleged that it followed Doe's delivery instructions, despite the fact that it was not a secure location and the bag containing the medications identified its contents.

While neither living with HIV nor being transgender are anything to be ashamed of, disclosure is a personal choice that is up the individual. Stigma and discrimination are persistent and the consequences of losing control over private information can be far-reaching, according to Staff Attorney Adrian M. Lowe, who represented Jane Doe along with Ronda B. Goldfein of the AIDS Law Project of Pennsylvania and John J. Grogan of Langer, Grogan & Diver P.C.

The settlement is a reminder to providers to ensure the protection of sensitive information in everything they do.

The case settled for an undisclosed amount. The pharmacy denies Doe's allegations and liability.

NAVIGATIN

A Vital Benefit Is Almost Lost

TRAVEL DURING VIRUS PANDEMIC PUTS
77-YEAR-OLD MAN'S SNAP BENEFIT AT RISK

It was supposed to be a chance to spend a couple of months with his daughter in the warmer climes of South Carolina.

The 77-year-old man thought he had made all necessary arrangements before he left Philadelphia in late January. A relative was going to pay his bills and rent and water his beloved plants.

Then the coronavirus pandemic hit.

In addition to HIV, the man had a history of severe lung disease. His doctor said taking a bus from South Carolina to Philadelphia was a terrible idea and he should stay put.

All was well and good until he got some startling news in April. A relative collecting his mail noticed a letter from the County Assistance Office, which she sent to him.

It said his SNAP benefits, also known as food stamps, were about to be cut off. The man used a SNAP "access card," similar to a credit card, to buy food, which he had been using in South Carolina.

Those transactions flagged him to the County Assistance Office as someone who may have moved out of state. He contacted the office immediately but was told he was now ineligible unless he could prove he still lived in

Philadelphia.

That is when he called **Adrian M. Lowe**, a staff attorney for the AIDS Law Project who he had worked with before.

In normal times it would have been a relatively easy problem to fix. But these are not normal times. The County Assistance Office is closed to the public and operating with a reduced staff.

"How to reach anyone on any given day is tricky," Adrian said. "I reached out to every conceivable contact I had at the office."

Adrian finally reached someone at the office, but the next step also was difficult. The man's case manager was working from home and had limited ability to help. The social worker usually posted at his apartment building also was working remotely, so could not provide a copy of the man's lease.

Finally the County Assistance Office agreed to accept a note from his doctor and rent receipts as proof he still lived in Philadelphia.

It was a great relief to the man, who didn't want to be a burden to his family and needs his SNAP benefits when it is safe for him to return home.

"It wasn't complicated, but COVID made everything hard," Adrian said.

GOOD COUNSEL BY E-MAIL

Want to get the newsletter electronically? Sign up at **AIDSLawPa.org/e-newsletter**.

THE SYSTEM



Advice From a Trusted Source Prevails

NEW WORK REALITY
REQUIRES ADJUSTMENTS

In the early days of the coronavirus pandemic there was a lot of fear and confusion.

Beyond the medical aspects of the pandemic, many people were thrust into new situations. They weren't sure what the implications were for many aspects of their lives, from work to school to socializing.

A social service worker sought help from **Yolanda French Lollis**, the AIDS Law Project's managing attorney.

Her doctor told her she should not be going into the office where she worked. She applied for Family and Medical Leave (FMLA), a federal law that requires some employers to provide employees with job-protected and unpaid leave for qualified medical and family reasons.

Then the woman — who is Black — realized some of her White colleagues were starting to work from

home, which she did not know was an option. She decided that was a better fit for her, so she asked her employer to allow her to work from home full time.

The employer offered her five, not eight hours a day of remote work. In order to get eight hours a day covered, she would need to use three hours of her accrued Paid Time Off daily.

"She felt victimized by COVID-19," Yolanda said.

She also felt she was being discriminated against. She had experienced racism in the workplace in the past and believed it was happening again.

She wrote a fiery message to her employer. Luckily, before sending it she showed it to Yolanda, who was sympathetic to her fears and suspicions. She explained that in this situation the different treatment was not based on race, but job duties. The White colleagues were all doing administrative work, which could be

done remotely. The Black woman had a more hands-on position and could not perform all her job activities remotely

Yolanda was concerned about the consequences if the client alleged race discrimination, where the facts did not support the claim.

"I wanted her to keep her job and have a good relationship with her employer," Yolanda said.

Yolanda carefully explained her analysis to her client, pointing out the distinctions in the job responsibilities.

Hearing Yolanda's explanation that different types of jobs, even in the same workplace, can permissibly have varied work requirements helped her understand what was happening to her

With a clear understanding, she was willing to accept the employer's offer, but also felt better that her workplace was not treating her differently based on race.

At-Risk LPN Seeks Safe Path Through Pandemic

WHEN GOING TO WORK CAN BE UNHEALTHY

The 58-year-old licensed practical nurse was already having a hard time before coronavirus swept through New Jersey.

In addition to HIV, she had pulmonary conditions, including asthma and pneumonia. By February she had accrued about three weeks of intermittent absences at the nursing home where she worked in South Jersey.

Her primary care physician wrote to her employer recommending she remain home from March 1 to April 6 so she could more fully recover from her bouts of asthma and pneumonia.

On the basis of her doctor's letter, she applied for Family and Medical Leave (FMLA), a federal act that requires some employers to provide employees with job-protected and unpaid leave for qualified medical and family reasons.

Her employer accepted her application on March 12, so she thought she was set.

But then on March 30, her infectious disease doctor recommended she get additional leave until May 4 so she could self isolate in light of the pandemic and her co-morbid conditions, including obesity, high blood pressure and the pulmonary issues. Her employer was unaware of her HIV status.

Then things got even more complicated.

Her employer rejected the extended FMLA request, saying the act requires the employee to actually be sick. Trying to avoid becoming seriously sick was not covered, the employer said. She was told that if she did not return to work by April 22 she would be terminated as a voluntary quit.

To make matters worse, the nursing home where she worked announced it was converting to a dedicated COVID-19 recovery site.

That is when she talked to **Charlotte Hollander**, senior staff attorney at the AIDS Law Project's South Jersey office. She was worried she would not be eligible for unemployment if she resigned.

"At one point she had hoped to go back to work, but that no longer seemed wise" Charlotte said. "She said she just didn't feel as if she could go back."

Charlotte told her about the new federal CARES Act, which had been adopted just weeks earlier in response to the coronavirus epidemic. One of its provisions allows an employee to collect unemployment insurance if the employee's doctor recommends self-isolation due to a pre-existing health condition.

With Charlotte's assistance, our client was able to stay safe without sacrificing her income.

Good Counsel / Spring 2020

INSIDE THE AIDS LAW PROJECT

New Public Benefits, HIV Advocacy Manual Available

We are pleased to announce that the 2020 edition of our popular Public Benefits and HIV Advocacy Manual is updated and available on our website, www.aidslawpa.org.

For more than 20 years, the AIDS Law Project has used the manual to present biannual public benefits and HIV advocacy training for medical case managers. It's a definitive resource for people living with HIV and their advocates, including case managers, peer counselors, health care providers, harm reduction specialists, social workers, and drug and alcohol counselors.

The 2020 edition has up-to-date information on access to public benefits, including SSI, SSDI, cash

assistance (TANF benefits), Supplemental Nutrition Assistance Program (formerly known as Food Stamps), Medical Assistance, Medicare, Social Security Retirement, Affordable Care Act (Marketplace insurance), and Subsidized Housing.

Each chapter explains the program, its eligibility requirements, the application process, and how to appeal if denied. We also explain how immigrant status or criminal record history may affect eligibility to receive federal and state public benefit.

Also included are many practical advocacy tips.

Thanks to the financial support of the AIDS Activities Coordinating Office of the Philadelphia Department of Public Health, we are able to provide this valuable resource without charge.

New Special Projects Director

Rebecca Richman has joined the AIDS Law Project as director of special projects. She first worked with us in 2012 as a paralegal and returned shortly after earning her Juris Doctorate with a certificate in criminal law from Brooklyn Law School. In her new role, Rebecca coordinates our representation of Safehouse and assists with



the AIDS Law Project's grant writing and development. Rebecca's approach to her work is informed by her experiences working, volunteering and interning with and for vulnerable populations in public interest legal organizations and social justice focused research initiatives.

BRIEFLY NOTED



THANK YOU: Former intern **Simon Caskey** returned to the AIDS Law Project for the third time at the beginning of 2020 for a limited engagement as a data entry clerk. He was a volunteer, then an intern in 2016 as a student at Grinnell College. We wish him well in his fellowship at Work First teaching employment skills to people on public assistance.

THANK YOU: We are grateful for the pro bono hours provided by graduating Drexel University, Thomas R. Kline School of Law students: **Jacob Saltz, Ryan Lim,**

Khendel Ruffin, Scott Adams, Francis O'Neil, Haidong Ding and Lee Klein. We wish them good luck on their legal careers.

THANK YOU: Evan Meduna, a Master of Social Work student at Westchester University, interned with us from August 2019 to Spring 2020.

WELCOME: We are happy to be joined this summer by law student interns – from left, **Tess Berkowitz**, Rutgers Law School, Class of 2022; **Kat Contreras**, Temple University Beasley School of Law, Class of 2021; **Elizabeth Grun**, Temple University Beasley School of Law, Class of 2022; and **Ayanna Humphrey**, Penn State Law-University Park, Class of 2022.









IN MEMORIAM: AUDREY HOANG AI

The AIDS Law Project was devastated by the death in May of **Audrey Hoang Ai** at age 41.

Audrey, who worked as a beautician, was a volunteer at many of our fundraising events,

always bringing a splash of glamour as she made guests feel welcome and comfortable.

Sean Doan, her dear friend of 20 years and a fellow volunteer, said Audrey loved bringing people together. She enjoyed cooking and often entertained friends in her home.

As a trans woman, she faced many challenges in her

life, but never grew bitter, Sean said.

"She lived the way she wanted, which was so inspiring," Sean said.

Audrey was an organ donor and after her death her friends learned she was a perfect match for two people awaiting transplants.

"She lives on through those two people," Sean said. "That's exactly what she would have wanted."

4 www.aidslawpa.org

THE AIDS LAW PROJECT AT WORK

Federal Judge Affirms: Safehouse Effort Is Legal

On June 24, Judge Gerald McHugh of the Eastern District of Pennsylvania made it clear that he stands by his analysis that efforts by the nonprofit Safehouse to open the nation's first supervised injection site in Philadelphia do not run afoul of the Controlled Substances Act.

In an order painstakingly detailing the public health research that reinforces the arguments Safehouse has been making for two years, Judge McHugh ordered a pause on opening a site, citing the ongoing pandemic and civil unrest over police brutality.

Although Philadelphia is experiencing an overdose crisis of overwhelming proportion, U.S. Attorney William McSwain has opposed this public health approach to overdose prevention. Most recently, he filed a motion to prevent Safehouse from opening and an appeal to the 3rd Circuit Court of Appeals, where the case is pending and oral arguments may be heard this fall.

Support for Safehouse is strong: 160 individuals and organizations filed 12 amicus briefs in the appeals court. Those voices include: 85 former and current criminal justice leaders; 10 states; five cities; faith leaders; national, state, and local public health groups; the ACLU and the CATO Institute; residents, business owners, and a political action committee: Philadelphia's mayor and health commissioner; friends and families of those struggling with addiction; groups that assist people living with or at risk of HIV; LGBT individuals; harm reductionists; people experiencing homelessness; and a Constitutional scholar.

In October 2019, Judge McHugh issued an opinion that "(t)he ultimate goal of Safehouse's proposed operation is to reduce drug use, not facilitate it." And on Feb. 25, 2020, he ruled that Safehouse's overdose prevention model does not violate federal law. Safehouse then announced it had legal authority to open a life-saving site and intended to do so in South Philadelphia. Emotions ran high, with strong support and loud opposition, and the effort was put on hold.

Building on its longstanding legal representation of Prevention Point Philadelphia, the city's successful syringe exchange program, the AIDS Law Project of Pennsylvania has assigned four of its attorneys to a team representing Safehouse: Ronda B. Goldfein, Yolanda French Lollis, Adrian M. Lowe, and Jacob M. Eden. Also on the Safehouse legal team are: Ilana H. Eisenstein, Courtney G. Saleski, Ben C. Fabens-Lassen, Megan E. Krebs of DLA PIPER: Peter Goldberger of Law Office of Peter Goldberger; and Seth F. Kreimer.

Ronda is vice president and secretary of the Safehouse board of directors. **Jose A. Benitez**, executive director of Prevention Point, is president and treasurer of the Safehouse board.

In addition to McSwain, the federal government is represented by: Gregory B. David, assistant U.S. attorney and chief of the Civil Division; John T. Crutchlow, Bryan C. Hughes, Erin E. Lindgren, assistant U.S. attorneys.

For all the court filings and other details about the initiative, go to: Safehousephilly.org.

ABOUT US

WHAT WE DO

The AIDS Law Project of Pennsylvania is a non-profit, public-interest law firm. We publish *Good Counsel* semiannually for our friends, volunteers and colleagues committed to protecting the rights of people with HIV and those at risk of HIV. Last year, we worked on 2,304 legal issues, nearly all from people with HIV. We help people navigate the legal system, the welfare system, the housing system, and the worlds of public and private insurance. We provide education and training to professionals who work with people with HIV.

WHO WE ARE

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Jacob M. Eden, Esq. Adrian M. Lowe, Esq. John C. Marrero Saybria Nelson Rebecca R. Richman, J.D. Scriabin Rimerman, CPA Arlene Vasquez Jeni Wright, Esq.

John J. Grogan, Esq. Sarah Schalman-Bergen, Esq. Of Counsel
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Mark Spencer Paul Spencer Editor/Writer Newsletter Designer

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On the web: On Facebook: On Twitter: www.aidslawpa.org

AIDS Law Project of Pennsylvania

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HOW TO HELP

Remember us at workplace giving time. When you donor-designate in your workplace giving campaign, remember your neighbors served by the AIDS Law Project of Pennsylvania.

United Way of SEPA: Specific Care Option #09067 **Combined Federal Campaign:** Donor Option #36027

THE AIDS LAW PROJECT AT WORK

Gilead continued from Page 1

The plaintiffs from Alabama and Indiana, who do not know each other and who are listed with pseudonyms to protect their confidentiality, retained a litigation team of Ronda B. Goldfein of the AIDS Law Project, Shanon J. Carson of Berger Montague PC, and John J. Grogan of Langer Grogan & Diver P.C.

"The Aetna case put a spotlight on the obligation to safeguard confidential HIV information," Ronda said. "We hoped that the Aetna case would put an end to faulty mailings by companies holding this sensitive information. Mail delivery should not strike fear in the hearts of people who live with HIV or are at risk of getting it."

Ronda said it was important to file the lawsuit as quickly as possible after learning of the mailings to discourage Gilead from sending more.

The AIDS Law Project and Berger Montague PC filed the case against Aetna after more than 12,000 customers received large-windowed envelopes revealing they had prescriptions for HIV medications. Aetna settled that case for more than \$17 million.

Gilead, a biopharmaceutical company headquartered in Foster City, Calif., develops and sells prescription drugs, including for the treatment and prevention of HIV. They include Truvada and Descovy, the only drugs available for the prescribed medication regimen known as pre-exposure prophylaxis (PrEP), for people who want to avoid contracting HIV.

The plaintiffs in the lawsuit are participants in Gilead's Advancing Access Program, a patient-assistance program offering discounts on the expensive PrEP drugs. Gilead customers who signed up for the program were promised confidentiality and did not expect or agree to receive mail from Gilead that would link them to HIV.

Stigma surrounding HIV can lead

to discrimination in employment, housing, education, and health care, and even violence. Fear of that stigma is widely recognized as contributing to the AIDS epidemic by discouraging people from getting tested.

To ensure that people feel safe to come forward to be tested and treated for HIV, many states have adopted laws that protect the confidentiality of HIV-related information and provide for statutory damages. The lawsuit demands that Gilead reform its mailing procedures and pay monetary damages to the plaintiffs and class members.

Shanon said his law firm has constantly fought on behalf of its clients in cases involving serious data breaches and violations of consumers' privacy rights.

"Ironically, while many of these cases involve consumer data stolen by third parties, the violation of privacy rights in this case is wholly self-inflicted by Gilead," he said. "Indeed, our clients report that when they called Gilead to complain about the above mailing at issue, the company acknowledged responsibility."

Gilead has apologized for the incident, but denies the assertions in the complaint.

The plaintiffs are represented by: Ronda B. Goldfein, Yolanda French Lollis, and Adrian M. Lowe of the AIDS Law Project of Pennsylvania; Shanon J. Carson, Sarah R. Schalman-Bergen, Benjamin Galdston and John Albanese of Berger Montague; and John J. Grogan and David A. Nagdeman of Langer, Grogan, & Diver, PC.

Those affected by Gilead Sciences' privacy breach should contact the AIDS Law Project of Pennsylvania at 215–587–9377 or by using the contact information below. Additional information about this lawsuit is available at www.aidslawpa.org and www.bergermontague.com/gilead.

Remote Continued from Page 1

hands on deck, beginning with a staff meeting on March 6. After a hectic week, everyone started working from home on March 13.

"Setting up to work remotely was a challenge," Yolanda said. "The biggest concern was for our clients being able to reach us. Thanks to the quick thinking and diligence of our staff, we have not missed a single day of intake."

In the first days of our remote operations, call volume was high as people with HIV asked about their right to not go to work and other COVID-related questions. After a few weeks, the new client calls decreased as folks began to orient themselves to their new normal.

Now that Philadelphia and surrounding counties have transitioned into the "green" phase, the volume of calls has increased as clients are concerned about returning to work and school.

Juan Baez, deputy managing attorney,

"Thanks to the quick thinking and diligence of our staff, we have not missed a single day of intake."

Yolanda French Lollis Managing attorney determined what additional technology the staff would need to work from home. Some laptop computers and printers were purchased and some laptops were donated.

Juan developed new ways for clients to contact us, including additional phone

numbers, email addresses, and on-line intake forms. Recognizing that people staying home may have diminished privacy on shared computers, he created confidential alternative email addresses that do not use include the acronym AIDS.

The AIDS Law Project's technology consultant, **David Talento**, of LegalTechVision.com, responded quickly when asked for help with the technical aspects of the plan. Among other things he purchased new equipment and refurbished donated laptops.

David said he was impressed with the plan the staff had developed.

"They totally made it work," he said.

Although staff members say they miss seeing each other on a day-to-day basis,

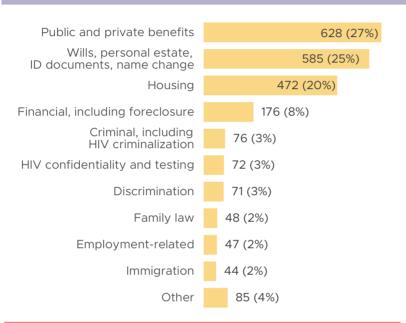
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LEGAL SERVICES IN 2019

Last year, 1,526 people contacted the AIDS Law Project of Pennsylvania and its program, the AIDS Law Project of Southern New Jersey, seeking assistance on a total of 2,304 legal issues. Nearly all requests came from people living with HIV. The following charts provide additional information on the types of legal issues we worked on and the clients who requested assistance.

LEGAL ISSUES WORKED ON BY TYPE



Remote continued from Page 6

everyone keeps in touch at the twice-weekly Zoom intake meetings and at the weekly staff meeting.

To educate the public, a Coronavirus Bulletin Board was added to www.aidslawpa.org featuring updates to Pennsylvania, New Jersey and federal benefits and services.

The new reality has often meant the staff has had to think creatively about how to serve our clients. Several clients, for example, needed important documents signed, witnessed and notarized, but didn't have the technology to do it remotely.

Paralegal **John C. Marrero** contacted each client to determine a safe and private place for him to meet them. He showed up with plastic bags containing

facemasks, gloves and pens.

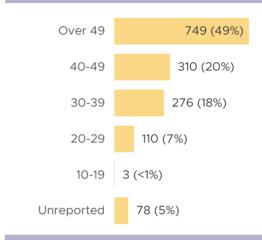
Since two witnesses were required for the signatures, he contacted Yolanda on FaceTime so she could be the second witness. He then notarized the documents and mailed them to Yolanda for her to sign.

"All the clients were very grateful that we thought outside of the box to help them with what they needed," he said.

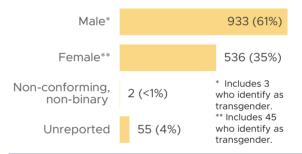
With so many government and other organizations working remotely, the staff has put in extra effort to get things done, often relying on the contacts and relationships they have developed over time.

The AIDS Law Project plans to work remotely until clients and staff can confidently return to the office.

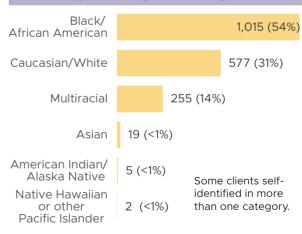
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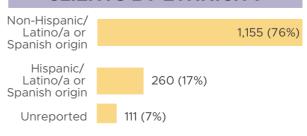
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Ronda Goldfein Michael Ippoliti

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