



# EDITOR'S NOTE

## BLUEPRINT

A magazine of research, policy, Los Angeles and California

AS A MEMBER OF THE UNITED STATES SENATE, Alabama's Jefferson Beauregard Sessions was a stern defender of his state's rights and prerogatives. He cheered when the United States Supreme Court overturned a section of the Voting Rights Act that gave the federal government authority to oversee elections, and he questioned federal authority to protect civil rights. No more. Sessions now chastises states, including California, for legalizing marijuana and protecting immigrants, among other things. Earlier this year, Sessions infuriated California leaders by filing a lawsuit to challenge the state's sanctuary policies toward illegal immigrants. It's hard to imagine the Alabama senator cottoning to such an intrusion on his state.

In fairness, consistency is not the hallmark of American federalism. Liberals who demanded that states yield to federal authority on voting and school integration now find themselves more accommodating of states that dare to challenge the Trump administration.

But if consistency is not the centerpiece of federalism, experimentation is. In theory, and within limits, states act as testing grounds for policy — laboratories of democracy, in the words of Supreme Court Justice Louis Brandeis. States have experimented with work rules, wages, taxes, policing, environmental regulations and, most notably in recent years, health care, with Massachusetts providing the model for what became known as Obamacare. Innovations that began in the states were emulated and sometimes federalized.

What naturally arises from such experimentation is the question of limits. How far may a state go in pursuit of a policy that might diverge from the direction of the federal government?

California is at the forefront of testing that question. Long a leader in emissions control, Sacramento now confronts a president who mocks climate change. Settled and populated by immigrants, some who arrived illegally, California has acted to protect them from harassment by Washington. Historically loose in its regulation of private behavior, California recently legalized recreational marijuana use, sales and possession.

None of which is making the president happy. Donald Trump has made fun of California, derided Gov. Jerry Brown and even threatened to withdraw immigration enforcement agents in the hope that it would spur a wave of crime — to teach California and its leaders a lesson.

Trump rarely does what he says, and few take seriously the notion that he could or would deliberately inflict harm on California to punish those who live here. Nevertheless, tension between Sacramento and Washington has escalated since Trump's election. The Resistance includes the entire western United States, but it is centered here.

This issue of Blueprint breaks that tension down, examining research in four areas that are fiercely contested: health care, climate change, marijuana and immigration. In all four, California is experimenting with policy that either challenges or diverges from that of the federal government.

This issue attempts to examine the best research in these areas and to assess the coming clash: Will California's more egalitarian, humanistic approach to these questions prevail, or will Washington's more traditional, law-and-order views carry the day?

We'll see. Soon.

**JIM NEWTON**  
Editor-in-chief

## INSIDE BLUEPRINT

ISSUE #7 / SPRING 2018



### LANDSCAPE

#### 02 HOUSING

A case-study in LA gridlock

#### 04 TUNNELS

Will the governor prevail?

#### 05 POLL

To change or not to change



### PROFILE

#### 06 MICHAEL DUKAKIS

Governor, candidate, teacher

### INFOGRAPHIC

#### 10 ACROSS THE NATION

States try out new ideas

### FEATURED RESEARCH

#### 12 HEALTH CARE

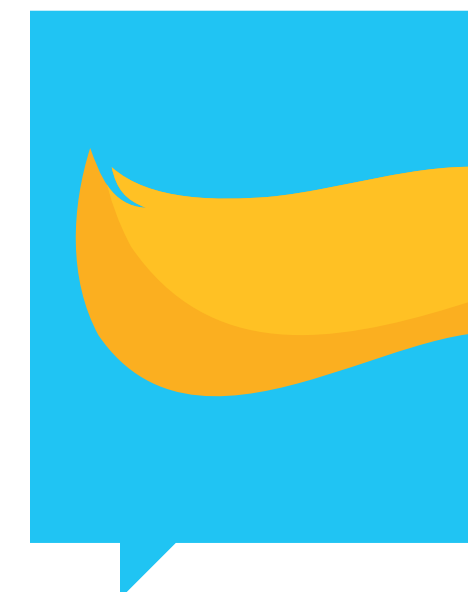
How federalism makes care possible and vulnerable

#### 16 IMMIGRATION

Sanctuary vs. deportation

#### 20 MARIJUANA

What California permits, Washington opposes



#### 24 CLIMATE CHANGE

California defies skeptics

### MAP

#### 28 WHO VOTED FOR MARIJUANA?

How California weighed in on weed



### TABLE TALK

#### 30 GEORGE GASCÓN

Man in a maelstrom



### CLOSING NOTE

#### 34 BATTLE LINES DRAWN

PAST ISSUES OF BLUEPRINT  
CAN BE FOUND AT  
**BLUEPRINT.UCLA.EDU**



PHOTO BY GENARO MOLINA. COPYRIGHT © 2018 LOS ANGELES TIMES. USED WITH PERMISSION

VIETNAM VETERAN FRANK COSTA LIVES IN A PEDESTRIAN TUNNEL UNDERNEATH PARKING LOT 731 IN VENICE. TWO NON-PROFITS, VENICE COMMUNITY HOUSING AND HOLLYWOOD COMMUNITY HOUSING CORP., HAVE BEEN SELECTED TO DEVELOP THE LOT, WITH PLANS FOR 140 HOUSING UNITS.

## L.A. GRAPPLES WITH HOMELESSNESS, NOT ALWAYS WELL

Los Angeles voters have approved measures raising many millions of dollars for construction of housing for the homeless living on the streets of the Los Angeles area. Yet their numbers grow, and little has been done to provide them shelter.

Weary of the vague and bureaucratic explanations of elected politicians and other officials, I dove into the details of a single project, Los Angeles city parking lot 731, located at Pacific Avenue and Venice Boulevard.

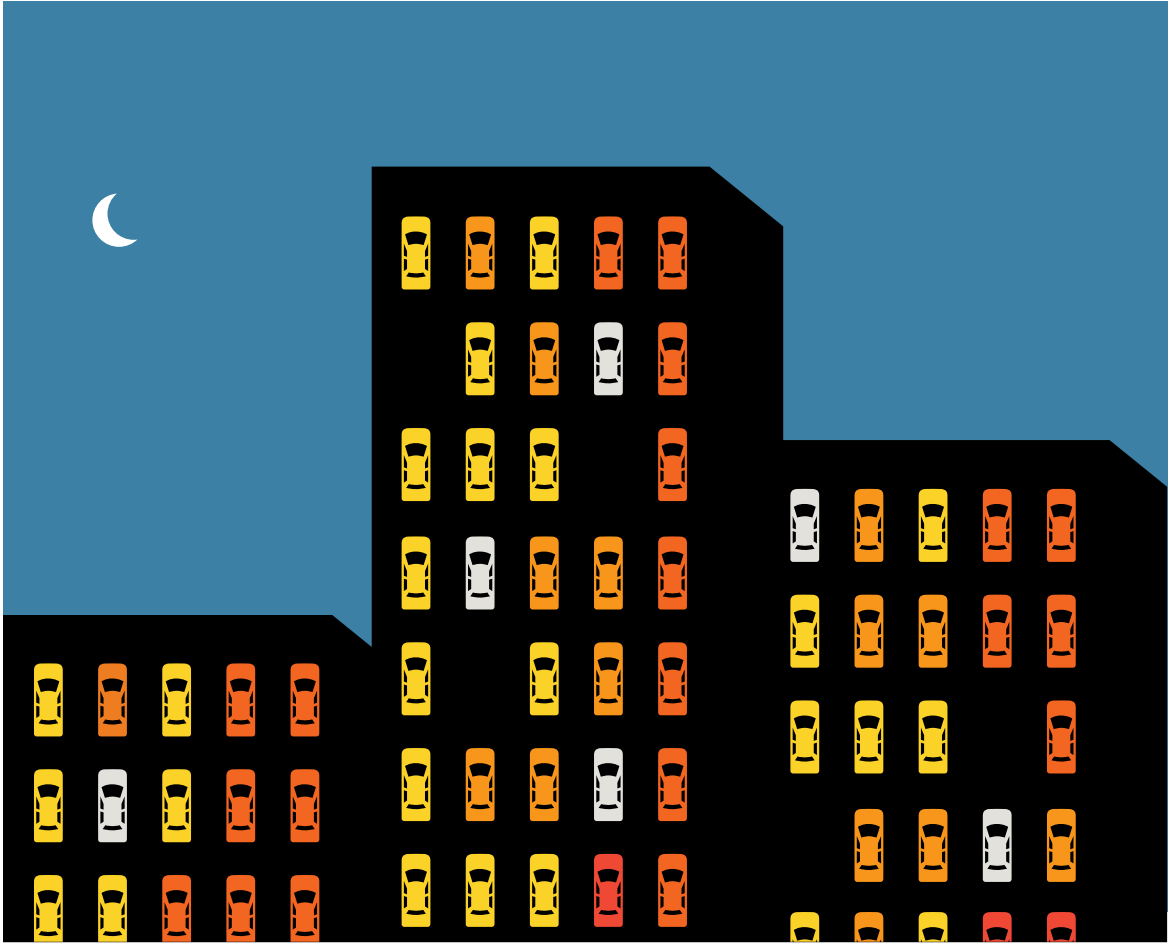
Nonprofit housing organizations Venice Community Housing, led by respected homeless housing advocate Becky Dennison, and Hollywood Community Housing Corp. have been selected to develop 140 housing units on the public lot, with parking spaces to replace those lost to the new apartments. Nonprofits build many such projects, assembling packages of public and private funds. The Los Angeles Times has powerfully called attention to homelessness, and housing enjoys broad public support.

Why, then, is the property still a parking lot? The answers are complicated, and they explain why the bond measure and a 2017 countywide sales tax increase, intended to raise \$350 million a year, have not translated into housing for those made homeless by mental and physical illness, drug and alcohol use, family breakups and, to an increasing extent, high rent and a shortage of affordable housing.

It takes more than two years of hearings, negotiations, red tape and construction to complete such a project. By then, many of the women and men now on the streets will be dead. “Victims of natural disasters are not left to sleep on our streets, but refugees from economic hardship, gentrification, a housing shortage, domestic violence, sexual abuse, addiction and mental illness are left to fend for themselves in the elements,” said Los Angeles City Councilman Mike Bonin, who is trying to win approval for the parking lot project. “That is unacceptable and intolerable.”

Homelessness in Los Angeles County has increased by 23% since the money-raising measures were approved. Today, almost 60,000 people are living on the streets of the county. In the city of Los Angeles, homelessness is up 20 percent; 34,000 people are without residences. But just 615 apartments for the homeless and other poor people are in various stages of planning, with most of them not scheduled for completion until 2019 or 2020.

The Venice parking lot seems ideal for a city-sponsored affordable apartment project. At 121,000 square feet, it’s one of the city’s biggest parking lots, large enough for 188 vehicles. The city owns the land so no lengthy condemnation proceedings or haggling over price is needed. But Councilman Bonin, who represents the area, has struggled to get



the project off the ground. In a report to constituents, he related this tangled story:

*Venice Community Housing held more than 30 “listening sessions” to win over reluctant neighbors, without much success. The Venice Neighborhood Council, generally suspicious of low-cost housing for the homeless, represents the neighbors and will weigh in on the project. Venice property owners are already campaigning against it.*

After the neighborhood council comes a hearing before a high-ranking city planning department official, the zoning administrator. If she or he favors it, the city council planning committee is the next stop, followed by the full city council and Mayor Eric Garcetti. They must also vote on an environmental impact report. Because of the project’s proximity to the beach, the Coastal Commission probably will also have to consider the project. Two more city departments will have a say in the allocation of funds.

Other homeless projects are sponsored by the county. These require permissions from two separate county departments involved in the issue.

Supposedly overseeing this bureaucratic nightmare, but with no real power to issue orders, is the Los Angeles Homeless Services Authority, a combination of city and county officials. The authority, which also approves funding for housing organizations, is in charge of finding prospective tenants. This is done through a process so cumbersome that it seems like a cruel joke on the people for whom the housing is intended.

Field workers are dispatched to areas where the homeless can be found. The workers, strangers to their target

audience, ask the homeless more than 80 questions, many of them highly personal. Those considered most in need are put at the head of a list — only to then wait up to two years for a place to live.

“It is a bureaucracy to end all bureaucracies,” said Zev Yaroslavsky who, in two terms as a county supervisor, became the leading expert and advocate for homeless housing.

“There is no silver bullet to solve this problem,” said Yaroslavsky, now teaching at UCLA’s Luskin School of Public Affairs. But he added, “There ought to be a sense of urgency in getting something built.”

Many solutions have been offered. Rooms in half-vacant rundown motels could be leased, as envisioned in a pending Los Angeles ordinance. Temporary living spaces with tents or small wood dwellings with bathrooms and showers could be put up on city- and county-owned spaces. Churches and synagogues could be persuaded to open their parking lots at night to those living in vehicles. Owners of private property could be paid by the city or county to build small houses for the homeless in their back yards.

In the end, it’s up to Mayor Garcetti. He has said he favors legislation to ease state environmental impact report requirements. But he must do more. He must meet face to face with NIMBY homeowners and overly cautious public officials and get them to agree to build affordable housing throughout the city.

Garcetti should visit every encampment and bring do-nothing officials with him. He should ditch the meetings and memos. Bang heads. Be tough, aggressive and inspirational. My advice to the mayor? See the film “Darkest Hour,” and channel Winston Churchill. In the meantime, Lot 731 remains vacant.

— Bill Boyarsky



# TIME RUNNING ON CALIFORNIA'S WATER FUTURE

As time runs out on his fourth and final term as California governor, Jerry Brown has been devoting much of his time to reaching a long-held goal — redoing the state's important but troubled north-south water system.

California WaterFix, as the latest iteration is known, seeks to improve the quality and reliability of water supplied via the Sacramento-San Joaquin Delta to Central Valley farmlands and 25 million Californians. It also promises to mitigate at least some of the many ecological problems in the bucolic delta, where years of water diversions have introduced non-native species and endangered native fish. Rising sea levels driven by climate change threaten to overwhelm the Delta with saltwater, and the possibility of a major earthquake could destroy its 50-year-old levees.

The proposed solution is to build up to two four-story-tall tunnels, some 150 feet beneath the Delta, which would carry water from the Sacramento River for about 35 miles to connect with state and federal water project canals.

WaterFix would augment the California Water Project, spearheaded by then-Gov. Pat Brown, Jerry Brown's father, in 1960. It also recalls Jerry Brown's earlier attempt to replumb the Delta during his first tenure as governor, from 1975 to 1983. The Peripheral Canal proposed a large bypass around the Delta. Voters rejected it in 1982.

Now the enormous size of the proposed tunneling — the biggest water supply project in the state in decades — has brought comparisons with Boston's underground highway "Big Dig" and the undersea "Chunnel" that links England and France.

"It's a fairly big deal," said Jay Lund, director of the Center for Watershed Services at UC Davis. And an even bigger deal in Southern California, which, he noted, gets up to one-third of its water supply from the Delta.

"The problems of the Delta are manifold, with land subsidence, quake vulnerability, endangered species and ecosystem problems, plus the sea level rise. People are rightly concerned about this," Lund said.

The tunnel project would "make quite a few of the water supply problems easier and may help some of the environmental problems," Lund said.

But, like earlier proposals for the Delta water system, the tunnel plan has encountered obstacles. Environmental groups, including the Sierra Club and the Natural Resources Defense Council, are adamantly opposed; some others have yet to decide, perhaps weighing the prospects for the project's coming to fruition before taking a stand.

Delta interests, including growers who feel their generations-old enterprises would be threatened, also are lined up against the project.

The \$17-billion price tag has prompted the agencies that back the project — including the Metropolitan Water District in Southern California and the huge agricultural interests in the Central Valley — to reconsider paying for it.

A recent state auditor's report found the project lacked sufficient economic and financial analyses, providing more fodder for its opponents.

Meanwhile, the main candidates to succeed Brown are either opposed or keeping the issue at arm's length.

And this is not a matter that has caught the attention of most Californians.

"What it doesn't have is a groundswell of support," said Jeffrey Mount, a senior policy analyst at the Public Policy Institute of California, who, as a professor at UC Davis, sounded an alarm about the vulnerability of the Delta's water supply system in a 2005 analysis.

Timing is crucial now because "it's Jerry Brown's last year in office," Mount said, "and nothing like this happens without leadership from the top."

All this has left the Brown administration to aggressively lobby the MWD and others to pick up the tab. The administration also has pushed to complete four major permitting and environ-

mental requirements and expects to have the seven remaining in hand by the end of the year, according to a spokeswoman for the California Natural Resources Agency.

Even if financing and permitting hurdles are cleared before Brown leaves office, the project won't be completed for at least 15 years, the estimated time needed for land acquisition and construction. And that's not accounting for expected lawsuits and resulting delays.

"Someone will litigate, no matter what," said Lund.

If the project gets derailed at some point, don't look for a quick or inexpensive alternative, said Mount, who claims he is "agnostic" about whether WaterFix should go through.

"If you want to maintain a good quality, reliable water supply from the Delta for the 25 million people who depend on it, then you have to build this facility," Mount said. "Otherwise, the forces arrayed against the Delta are going to overwhelm it."

But whether protecting the water supply is worth the expense and the cost to the environment "is a policy question," Mount said, one left to elected officials — or voters.

— *Jean Merl*



# ANGELENOS AND CHANGE

To those envisioning the Los Angeles of the future, the present poses a problem. Year after year, as measured in the UCLA Luskin School's quality of life survey, headed by former County Supervisor Zev Yaroslavsky, residents consistently cite the protection of their own neighborhoods as an idea they value very highly; they regularly rank it alongside race relations and health care as among those things people here most strenuously care about. This year is no exception.

How should a planner interpret that response? What if certain kinds of development — multi-family, with simple access to public transportation — would improve race relations, decrease traffic and improve the environment, but challenge the historic character of some communities?

That's the rub. According to this latest survey, more than two-thirds of Angelenos would prefer to limit new apartment construction to parts of the city that already are zoned for multi-family units. There are distinct differences by age on that question — younger people are more accommodating of apartment buildings — but even younger residents question the wisdom of adding apartments in some communities. This is in a larger context of a poll that finds growing concerns about the cost of living in Los Angeles — especially among young people.

It's not that community preservation is necessarily racial — most, in fact, is not. But resisting change is fundamentally conservative, so community protection can come at the expense of diversity. And what's good for small communities may not be the best course for a major city. Some parochial interests must give way if Los Angeles is to meet its other demands — increasing independence from fossil fuels, a more efficient transportation network and real-life, nose-to-nose racial integration.

This does not mean that Los Angeles is en route to becoming Manhattan — or that Manhattan is the gold standard of responsible development. Los Angeles is too big, too diverse, too interesting to become Manhattan. It's en route



APARTMENT BUILDINGS IN KOREATOWN, LOS ANGELES, CA.

to becoming itself, not a copy of something else. And it's the attitudes of those who live here that will determine what the future looks like — hence the importance of this annual poll.

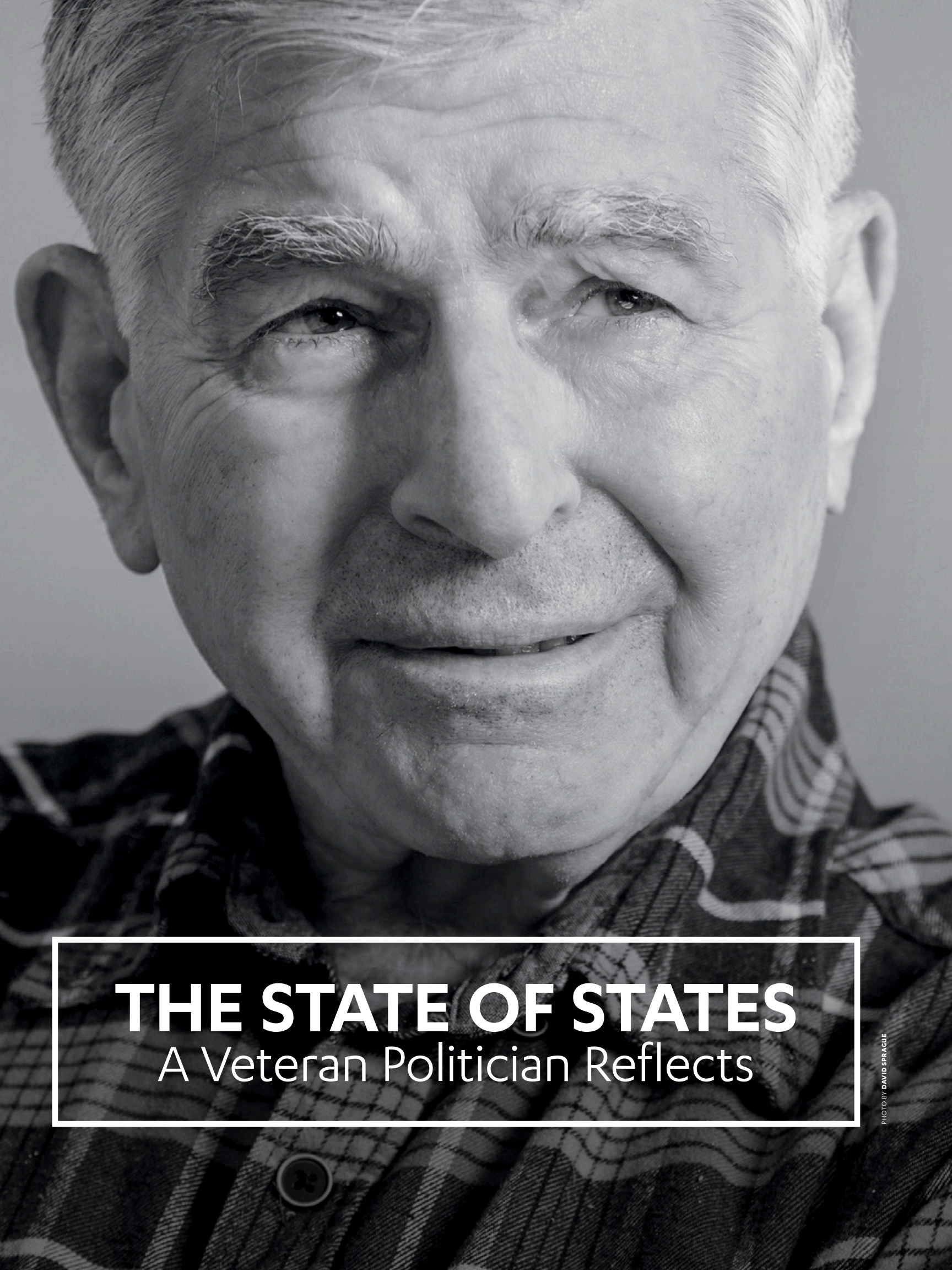
Los Angeles has another saving grace: It is really, really big. Density downtown or along the Wilshire Corridor or in Westwood doesn't impinge on the single-family homeowner in Sherman Oaks or Baldwin Hills. There is room within this city for both waves of apartment construction and single-family homes. In fact, as Bill Boyarsky's piece in this issue suggests, there's demand for both.

More housing is needed in Los Angeles because people want to live here. That's a good thing. Most of the growth will occur in transit corridors and areas already amenable to high-rise, multi-family construction. That's good, too, and, if properly considered by the city's leadership, it will create vibrant stripes of urban life while preserving single-family homes and established communities. We can have subways and swimming pools, but only if we insist that leaders demand both. This poll makes it clear that they can.

— *Jim Newton*

PHOTO BY ABBIE BERNET ON UNSPLASH





# THE STATE OF STATES

## A Veteran Politician Reflects

PHOTO BY DAVID SPRAGUE

MICHAEL DUKAKIS TALKS WITH THE ENERGY AND PRECISION that I remember from our first encounter 43 years ago, when he was governor of Massachusetts. At the time, I was working on a story for the Los Angeles Times about a new generation of governors like Dukakis and Jerry Brown, who were trying to shed the New Deal orthodoxy of the Democratic Party. Today, Dukakis is still questioning orthodoxy, now from the classroom.

We met recently in his office at the UCLA Luskin School of Public Affairs, where he teaches half the year. He spends the other half at Northeastern University in Boston. Dukakis is now, as he was then, a fit, diminutive man. He was dressed in a button-down sport shirt and khaki pants. He has an engaging, lively manner, well suited for this generation of students and their short attention spans.

Nothing about him suggests retirement, old age or a retreat from the busy world. "How old are you?" he asked me. "I'm 83," I replied. "I've got a year on you," he said. "I'm 84 and still at it." Observing me taking notes and recording him, he said something that revealed a lot about his outlook on life: "How are you enjoying it?" he asked. "Keep at it. What you're doing makes life a hell of a lot more interesting than sitting around."

He teaches two courses at UCLA. "One is an undergraduate course, which I co-teach with Dan Mitchell," he said. "Been doing it for 21 years. He's a labor economist, and it's called California Policy Issues, which is a lot of fun. We have 60 students, divide them in half. It's pretty intense. It's a very popular course, and we cover the whole range of issues affecting California, which are the issues affecting the country."

.....

"Interesting" is a word that doesn't do justice to our times. On campuses around the country, students are demonstrating for gun control and for young immigrants threatened with deportation. It brings back memories of when California was a leading incubator of the anti-Vietnam War movement.

**"HE DOESN'T UNDERSTAND THE ROLE THE MEDIA PLAY IN THIS, THE IMPORTANCE OF HAVING A VIGOROUS, OPEN, FREE PRESS THAT CAN INFORM US OF WHAT IS GOING ON."**

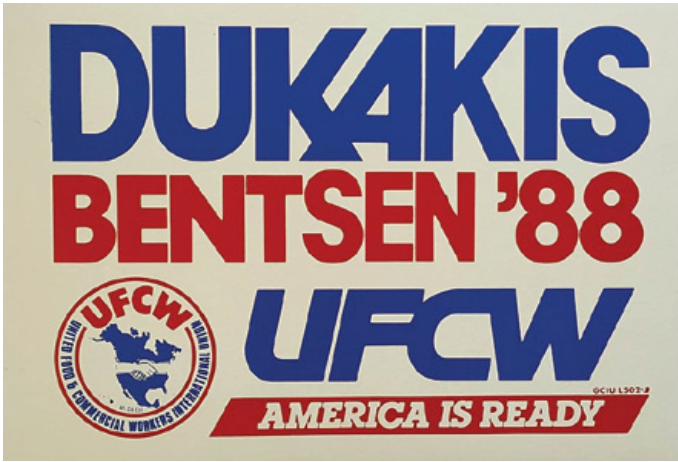
— Michael Dukakis on President Trump

"Remember Vietnam?" Dukakis said. "You and I were young in those days. What happened? We got into that damn war, it wasn't going well, we lost 55,000 Americans and God knows how many Vietnamese on both sides. It was the young people who finally started the process of getting us out of there."

Activists were considered on the fringe when they first opposed the war. Democratic leaders supported our invasion of Vietnam. But young people rallied behind the antiwar candidate, Sen. Eugene McCarthy, an austere, somewhat remote figure, who was an unlikely magnet for rebellious youth. The press and the party establishment dismissed McCarthy and his young supporters. But their campaign laid the groundwork for political opposition to the war, although the conflict lasted for six more painful years.

WRITTEN BY  
BILL BOYARSKY





IN 1988, DUKAKIS WON THE DEMOCRATIC NOMINATION FOR PRESIDENT. HE SELECTED AS HIS RUNNING-MATE, LOYD BENSTEN.



Does Dukakis see a parallel? Yes, he does. Because of the Florida shootings, he said, young people “are mad as hell, and they ought to be. Kids at school have become regular targets of shooters all over America, and I hope we’re going to see, coming out of this, the same kind of youth-driven leadership that we got during Vietnam. It was the young people who basically shut that war down. And I hope they are going to do the same in this case. And they have a perfect right to do so because they are the targets — they and their teachers. This isn’t some far-off mythical story here. Kids are getting killed, and their teachers who were supposed to shield them.

“Will this kind of awaken the conscience of the country? Will it be young people who drive this debate? I think so. I hope so. We’ll see. But I don’t think it’s just more of the same. I don’t think these young people are willing to accept this.”

President Donald Trump, Dukakis said, is “a threat to democracy. He doesn’t understand it. He doesn’t understand what democracy means. He doesn’t understand the role you guys [the media] play in this, the importance of having a vigorous, open, free press that can inform us of what is going on. He seems to resent this. This fake news thing. Where did that come from? What’s he talking about?”

.....

Dukakis has experienced politics from the Massachusetts legislature to the governor’s office to his loss in the presidential campaign of 1988 against George H.W. Bush. Although polls had Dukakis ahead at the beginning of the campaign, he fell victim to a savage attack orchestrated by a Republican dirty tricks pioneer, the

late Lee Atwater, who blasted Dukakis with two television ads that doomed him. The most devastating was the infamous Willie Horton ad, featuring a black Massachusetts inmate, Willie Horton, who raped a white woman while on a state prison weekend pass. The other featured Dukakis in an unfortunate campaign stunt, driving a tank to convince voters he was as hawkish as Bush. His dress shirt, visible under military attire, combined with his short stature, didn’t add up to the image of a tank driver. Atwater got the footage and ran with it.

Dukakis, after losing, returned to his governor’s job, finished his term, quit politics and became a college professor. He is deeply involved in teaching public policy. On his classroom agenda are efforts by state and local governments in liberal states like California, Massachusetts and New York to pursue progressive policies in the face of the Trump administration, which is trying to stifle them. Dukakis is finding a receptive audience.

“In a sense, Trump has got these kids hopped up for public service,” he said. “They don’t like him. They have been really energized. Kids come into my office every day asking, ‘How can I get into this? What can I do? How did you get started?’ Lots of them, both here and on the other coast. And I spend a lot of time working with them, trying to see if I can be helpful in terms of a career path, and we push them hard on internships, that kind of thing, and they are very serious about this.

“Fabulous young people are coming out of here, and they want to do public work. They are excited about it. They are committed to it. It helps to have folks around who can kind of open doors for them. I spend a lot of time making phone calls to people. If I had my druthers, every kid in America takes civics. We don’t teach civics. And they would do an internship with a local official.”

Dukakis starts his students thinking about what stimulating times these are and how challenging they are for politicians, particularly those in liberal cities and states.

He and his students discuss federalism — power-sharing between Washington and the states — an issue exemplified by California’s resistance to Trump. Dukakis talks about the power of city and state governments to influence policies such as controlling global warming. He cites the

“WILL THIS KIND OF AWAKEN THE CONSCIENCE OF THE COUNTRY? WILL IT BE YOUNG PEOPLE WHO DRIVE THIS DEBATE? I THINK SO. I HOPE SO. WE’LL SEE. BUT I DON’T THINK IT’S JUST MORE OF THE SAME. I DON’T THINK THESE YOUNG PEOPLE ARE WILLING TO ACCEPT THIS.”

work of former New York mayor Michael Bloomberg and his Bloomberg Philanthropies, whose philosophy is that Americans cannot rely on national governments or international bodies to solve global warming, and that change must start at the local level.

“Now, given what is going on in Washington, you’ve got this interesting development in which states like California and others get help from Mike Bloomberg,” Dukakis said. “He and his foundation are basically proceeding to develop a set of policies nationally and internationally, which are obviously very different than the ones coming out of the White House, and you’ve got the governor of California meeting the president of China to talk about the Paris treaty.”

The separation of federal and state power has been a defining American issue since the beginning. But Dukakis feels the issue has now changed. “In these days, it’s quite scrambled,” he said. “Traditionally conservatives have been states’ righters, right? So we now have a situation

where a very conservative bare majority in the House wants to prevent my state from enforcing the toughest gun laws in the country — which, by the way, have produced the lowest homicide rate in the country — which is a strange way to go about supporting states’ rights. If states don’t have the ability to protect themselves from people who are running around with concealed handguns, for that matter automatic weapons, what kind of states’ right is that?” The states, he said, have “a fundamental police power, the ability to protect your own citizens, and we’re now being told that violates some kind of overriding federal priority.”

Dukakis recommended listening to police officers when they say they can do a better job of keeping communities safe than citizens can who are armed with guns. “It is pretty obvious it’s got nothing to do with states’ rights,” he said. “It never was about states’ rights. It was about ideology.”

And racism?  
“I think the guy who is currently attorney general, Jeff Sessions, believes that immigration laws should be enforced and ignoring their violation is a disservice to law enforcement, the rule of law and that kind of thing. But he is not going after states that make it very difficult for people of color or poor people to vote. So what’s this all about? There’s no principle here, it seems to me. Is there a racist element to all of this? Of course there is.”

.....

A compelling part of the Dukakis story is his openness about his wife Kitty’s fight against depression and how she has been helped by electroconvulsive therapy. The treatment involves brief electrical stimulation of the brain while a person is under anesthesia. “Some are helped by drugs,” Dukakis told me. “Kitty is one [who was] never helped by antidepressants.” But electroconvulsive therapy worked. “This treatment literally saved her life,” he said. Now she has ECT maintenance treatments every six weeks or so, either at Massachusetts General Hospital or at UCLA. And she devotes much of her time to counseling those with depression and explaining ECT treatment. She speaks at events, hosts support groups at their home and has written a book: *Shock: The Healing Power of Electroconvulsive Therapy*.

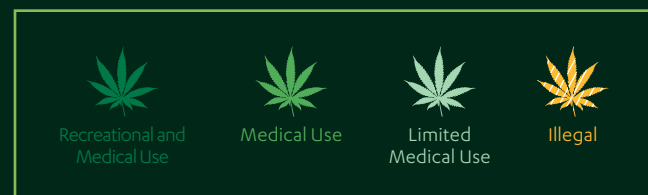
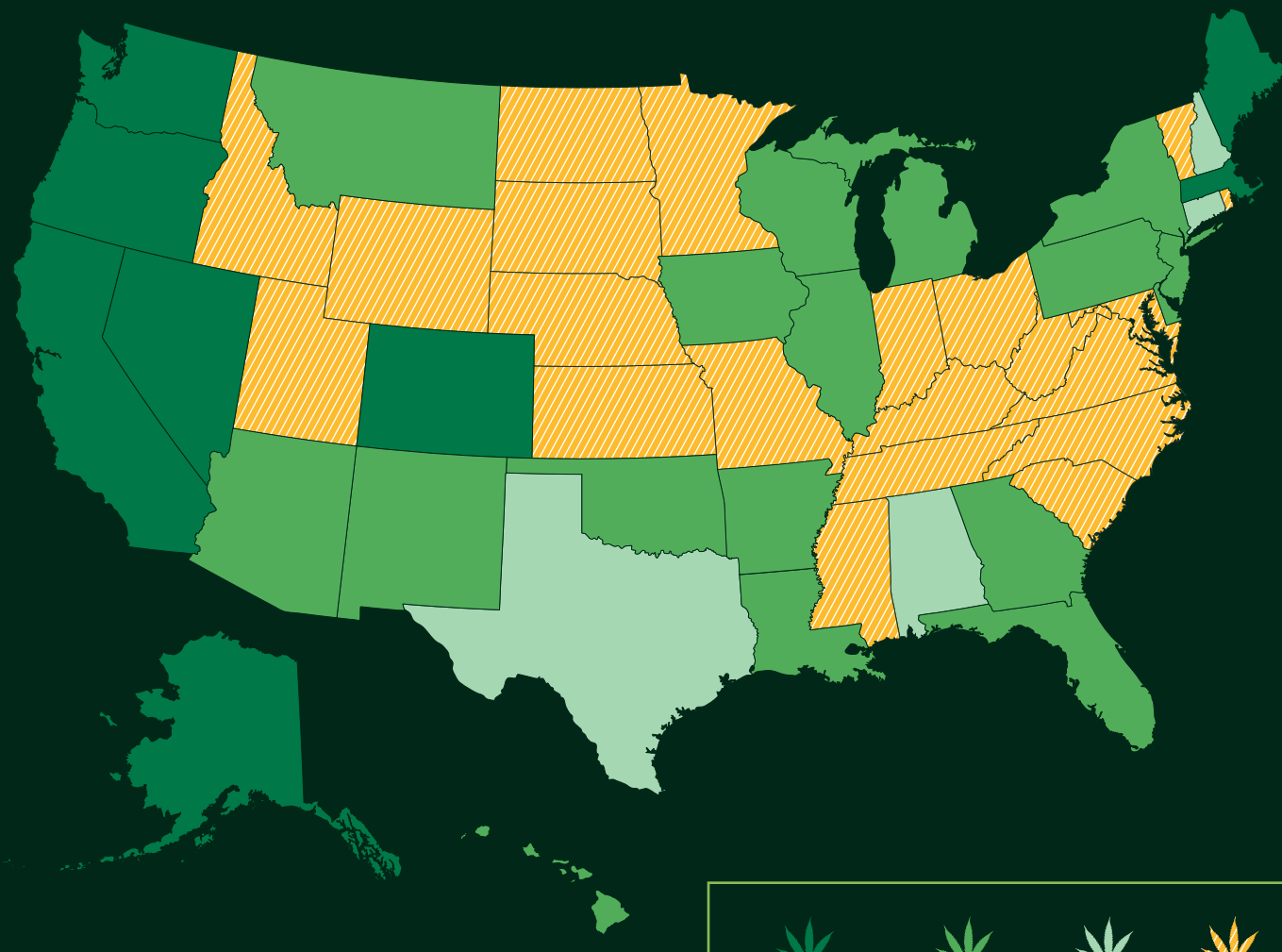
“There must be thousands she has helped,” Dukakis said. “People will pick up the phone and talk to her. I’m very proud of her.”

When my visit to his office ended, Dukakis put on his stylish — but not L.A. skinny — brown leather jacket, picked up his briefcase and headed across campus on a busy schedule, a man still on a mission after all these years. ►

# ACROSS THE NATION

## Marijuana

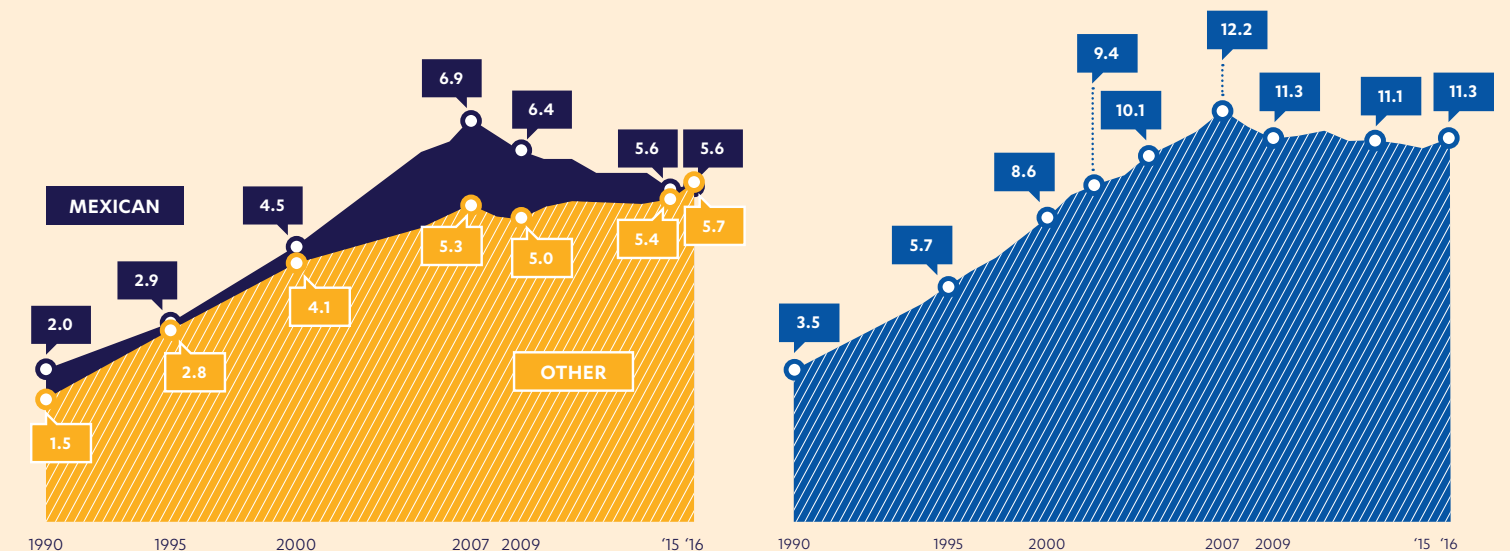
AMERICAN STATES VARY WIDELY IN THEIR APPROACH TO REGULATION OF MARIJUANA. THOUGH IT REMAINS A SCHEDULE 1 DRUG UNDER FEDERAL STANDARDS, SOME STATES HAVE LEGALIZED IT FOR MEDICAL USE AND SOME, INCLUDING CALIFORNIA, HAVE LEGALIZED RECREATIONAL SALE AND POSSESSION.



Source: <http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>

## Immigration

ALTHOUGH ILLEGAL IMMIGRATION AND THE BORDER WALL ARE MAJOR TOPICS OF AMERICAN POLITICAL DEBATE, FEWER PEOPLE ARE ENTERING THE COUNTRY ILLEGALLY IN RECENT YEARS.



Among unauthorized immigrants, Mexicans may no longer be the majority

NUMBERS IN MILLIONS

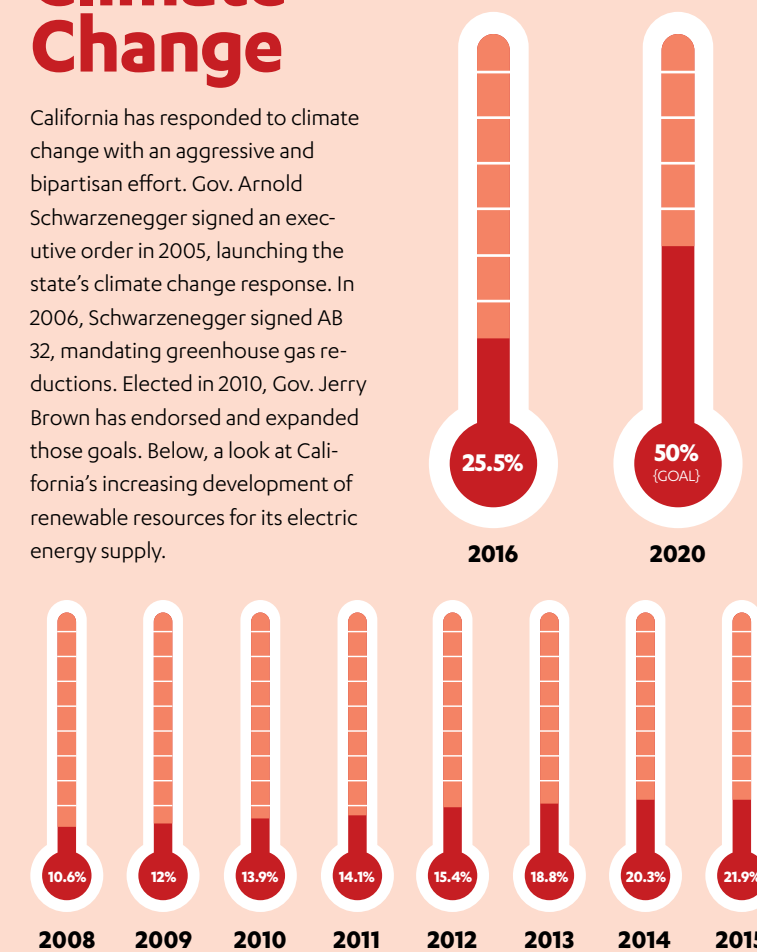
Estimated unauthorized immigrant population in the U.S. lower in 2015 than in 2009

NUMBERS IN MILLIONS

## Climate Change

California has responded to climate change with an aggressive and bipartisan effort. Gov. Arnold Schwarzenegger signed an executive order in 2005, launching the state's climate change response. In 2006, Schwarzenegger signed AB 32, mandating greenhouse gas reductions. Elected in 2010, Gov. Jerry Brown has endorsed and expanded those goals. Below, a look at California's increasing development of renewable resources for its electric energy supply.

TOTAL SYSTEM ELECTRIC GENERATION  
(PERCENT RENEWABLES)



## Health Insurance

Since the passage of Obamacare, the percentage of Californians who are uninsured has dropped by nearly 50%.

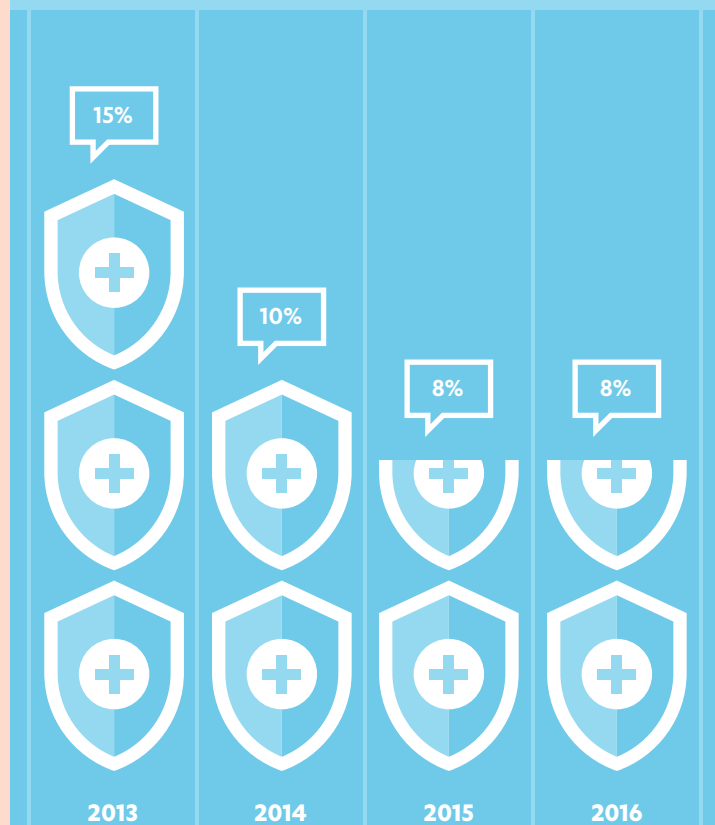






PHOTO BY DAVID SPRAGUE

# WILL OBAMA CARE SURVIVE?

WRITTEN BY  
RICHARD E. MEYER

## FEDERALISM IS MESSY.

Power-sharing between Washington and the states makes Obamacare possible. But this power-sharing also makes it vulnerable. Because of federalism, Obamacare will always be in danger.

Mark A. Peterson, an authority on American government and federalism and a leading expert on health care legislation, considers Obamacare, more formally the Affordable Care Act, the most important advance in health protection since the creation of Medicare and Medicaid.

Peterson, professor of public policy, political science and law at UCLA and former chair of the Department of Public Policy, is finishing his third book, *Hardball Politics, Hobbled Policy: Contexts, Choices and Consequences in U.S. Health Reform*. It shows how intense political dynamics, as well as strategic and tactical choices by presidents, thwarted health care reform in the past but ultimately made Obamacare possible — in a context that also prompted legal and political attacks against it.

During a round of interviews in his corner office at the Luskin School of Public Affairs, Peterson, 62, gracious, lightly bearded and tall enough to play

forward for the Bruins, spoke of his optimism, nonetheless, that ultimately the United States will have universal health insurance coverage like other developed nations — what many call Medicare for all.

Peterson's fascination with politics and government began at his family's dinner table. He was born in Washington, D.C., and grew up in suburban Garrett Park., Md. His watched the news during meals. When he was 10, his father, a section head at the National Cancer Institute, was invited to the University of Uppsala for a year. He took the family to Sweden. They had health care simply by virtue of being there. "Full access to a modern medical system," Peterson said. "Universal coverage."

Back home, he demonstrated against the Vietnam War. In 1973, he went west to attend Pomona College in Claremont. In succession came Watergate, the Yom Kippur War, the Saturday Night Massacre and President Richard Nixon's resignation. Claremont seemed far away and isolated. Peterson transferred to



the University of Michigan, which was more politically active. But he resisted majoring in political science; he had other interests, including architecture. Finally, he gave in. As a student, he campaigned for a Democrat running for Congress, then became a precinct captain, ward chair and a deputy registrar.

Michigan did not register voters by party. “I registered a guy at his apartment,” he recalled, “and then, a few weeks later, I was in the Diag, the core of the central campus, and I heard a fife and drum group coming around the corner of the library, and I saw this fellow I had registered. He was in the Revolutionary Communist Youth Brigade, marching across the Diag, and I said to myself, ‘I’m not in Claremont anymore.’”

Peterson earned his A.B., A.M. and Ph.D. at Michigan. He went to Harvard as an assistant professor and ran its undergraduate program in government and political science for three and a half years. In 1993, he left for the University of Pittsburgh, where he was a professor of public affairs, political science and, in keeping with a growing interest, public health. From Pittsburgh, he came to UCLA. He has served twice as chairman of the Department of Public Policy and holds joint appointments to the Department of Political Science and the School of Law.

.....

In addition to academic credentials, Peterson brought practical experience in both federalism and health care. While he was at Michigan, he took part in an intergovernmental analysis that traced the flow of money — and with it, power — throughout the federal government and the states. While he was at Harvard, he worked as a congressional fellow in the office of Sen. Tom Daschle (D-S.D.), where he became a legislative assistant for health policy. He participated in drafting the American Health Security Plan of 1992, the Clinton administration’s proposal for comprehensive health care reform.

It went nowhere, as had President Harry Truman’s earlier proposal for national health insurance and a plan by Nixon and a group of Democrats to build an employer-based system and combine it with a public program. Bill and Hillary Clinton would fail, as well, in their effort to provide broader health coverage. Some states would expand coverage, but it was not until Barack Obama became president that anyone won approval for a health care plan designed to insure everyone in the United States.

Without federalism, Obamacare “probably would not have passed,” Peterson said. Federalism “derives from popular sovereignty. The Constitution starts with, ‘We, the people,’ and the theme in the social contract is that we, the people, have come together, and in this Constitution, we are granting certain powers and authorities to the federal government; we are granting certain powers and authorities to the state governments; and those powers that are not explicitly conveyed to the federal government are held in reserve by the states or the people.”

Federalism has been compared to a layer cake. More recently, with an increased diffusion in the flow of power, the metaphor has changed to a marble cake. “I joke in my class in American Political Institutions about desert analogies,” Peterson said. He agrees with David K. Jones, an assistant professor at the Boston University School of Public Health, who has written that “federalism is messy.” Members of the House of Representatives represent the interests of people in individual districts, while members of the Senate represent the interests of people in states as a whole. The House plan for Obamacare, for example, called for the sale of health insurance on a national exchange. Even some Democrats in the Senate, conservatives such as Ben Nelson of Nebraska and Joe Lieberman of Connecticut, “would have had a really hard time doing that,” Peterson said. “As long as there was a Senate, the Affordable Care Act probably wouldn’t have passed without having a greater role for the states.”

The Senate left it to states to establish their own exchanges. Senators expected most of them to do so. “They probably thought 40 or 45 states would set up exchanges, and that the federal government would have to come in and backfill for only five or seven, whatever it might be,” Peterson said. But Republican states rebelled, and when enrollment opened, only 16 states had established exchanges. “The federal government had to ramp up and backfill more quickly than they thought,” he said, “and when the federal exchange launched and crashed, the impact was politically devastating.”

Because the Senate version of Obamacare became the foundation of the law, it deferred to the states in other ways, too. It left Medicare alone, except to close a gap in prescription coverage, but it expanded Medicaid, administered by the states, to increase coverage at lower income levels. When it established exchanges, it emulated a health care program in Massachusetts, which had a state exchange. The Massachusetts plan had been approved by a Democratic legislature and signed into law by Gov. Mitt Romney, a Republican, and it was up and running. “It was complex,” Peterson said. “There were lots of moving parts. But they had managed to do it. It expanded coverage. And it worked. There’s some evidence that people are now healthier in Massachusetts than comparable people in border states.”

That was proof of concept, Peterson said, and it was a uniquely American approach. “[Supreme Court Justice] Louis Brandeis, in a famous dissenting opinion, talked about the wonders of the laboratory of democracy, where a bold state can try something, without doing any harm to anybody else, and see whether it works or not. This was federalism as the engine of innovation, and it was federalism as a way to accommodate diversity of views.”

Obamacare adopted the Massachusetts plan as its framework. Then it added and adapted. Alongside state exchanges, Obamacare built upon employer-based insurance, but modified it to allow children to stay on their parents’ insurance up to age 26. It forbade insurers to deny benefits because of pre-existing conditions. It required companies with 50 or more full-time employees to offer affordable insurance, and it said that all plans had to offer maternity, mental health and preventative health coverage. It provided government subsidies to help lower-income people buy insurance. To sustain the program financially, it mandated that everyone had to participate, including the healthy.

In this way, Obamacare became a collection of disparate reforms. “It meant that if you were trying to figure out what this thing did, you had to be aware of all those moving parts,” Peterson said. “It was incredibly complicated to explain to people. That is why President Obama and the Democrats had — and continue to have — such difficulty getting people to understand it.”



DR. MONICA BROWN TREATS A PATIENT WITH A CUT THUMB AT U.S. HEALTHWORKS URGENT CARE, A VAN NUYS MEDICAL FACILITY.

The same principles that enabled the creation of Obamacare by giving the states a role in it, Peterson said, “also gave the platform and the authority to people at the state level to challenge it.” The states, which had been crucial to shaping and approving Obamacare, now became a path to resistance.

.....

Congress passed the Affordable Care Act in 2010. Obama signed it on March 23. It was attacked immediately.

First, in the courts. Opponents sued. “A large number of attorneys general went after it for being an unconstitutional federal overreach,” Peterson said. Ultimately the Supreme Court ruled that Obamacare was constitutional, but not its expansion of Medicaid. “With the Supreme Court decision,” he said, “there was even more confusion. Upwards of about 18 or so states have not expanded, although some of them are currently in negotiation with the Donald Trump administration about possibly expanding Medicaid — but only if they can impose work requirements on the recipients.”

Second, in Congress. By now, Obama’s party had lost control of the House. “Republicans, starting in January of 2011, held about 60 different votes,” Peterson said. “About a half dozen were on full repeal, and the rest were on various kinds of dismemberment. It didn’t go anywhere because Democrats still had the Senate.” But then the states sent more Republicans to the Senate, and the Democrats lost control in 2014. The Senate enacted, along with the House, a full repeal. “But the president was still Obama,” Peterson said, “and he wouldn’t sign it. Then we got to the 2016 election, and Trump was on board with repeal — but then the Republicans realized, ‘Oh, my God, this is real. You can’t just suddenly say to 25 million people: ‘You’re not going to have health insurance.’ Or: ‘If you have a pre-existing condition, it’s not covered.’ It turned out that the Republicans had never formally sat down and developed a replacement plan, and when things started getting real, you started hearing, particularly in the Senate, ‘We don’t want to get rid of this pre-existing condition protection,’ and, ‘Having your kids on insurance until age 26 is not so bad.’ At the same time, from the right, the conservatives wanted to eviscerate Medicaid — not just the expansion but the program itself. So they were not able to do repeal and replace.”

Third, Obamacare came under attack from the Trump administration, which chipped away at it administratively. The mandate to have insurance imposed a fine. Unless individuals or families could show that the cost of insurance would be a prohibitive percentage of their income, they had to pay a penalty. “The Trump administration used administrative procedures to effectively suggest that the Internal Revenue Service ignore the penalty,” Peterson said. Ultimately, the House, joined by the Senate, passed the Tax Cuts and Jobs Act of 2017, which did away with the penalty altogether.

There were other dynamics as well. One was partisanship. When Obamacare passed, not a single Republican voted for it. “Of the something like 28 attorneys general who participated in lawsuits against the Affordable Care Act,” Peterson said, “all but one were Republicans.” And they were united in their antipathy toward Obama. “Obama was the ‘other,’” Peterson said. “He was the African American president. He also was a social activist. Without issues of race or anything else, Obama represented the liberal expansionist state.” Obamacare was “the heavy hand of government, the regulatory state, the interventionist state.” These divisions, Peterson added, “were deep and dark and tribal.” In Pew Research Center studies, he said, “something like 35% to 40% of Democrats thought Republicans were a threat to the future of the country, and something like 30 percent to 40 percent of Republicans thought Democrats were a threat to the future of the country. That’s pretty intense.”

Finally, confusion played a part. “At the time, I said to a friend who was high in the ranks of the Department of Health and Human Services that I thought the president should have a 15-minute televised speech once a week in which he’d say, ‘Tonight I’m going to speak to those of you who have your health care insurance through your employer and tell you what the Affordable Care Act does for you.’ Next week would be, ‘Those of you who have children who are young adults and are not yet in jobs that are providing them with health insurance, let me tell you what this act will do for you.’ It would have been kind of the FDR fireside chat for different elements of health care reform.”

It did not happen.

.....

It is Peterson’s guess that the states are going to become increasingly assertive in challenging Obamacare. Does this mean federalism will make lasting health care reform in the United States impossible?

“I don’t think so,” he said. “There are a couple of scenarios. One is that we end up for a period of time continuing to be unable to either sustainably expand coverage or restrain cost in the system and promote efficiency in the system. More and more resources will continue to be devoted to health care, lots of people will remain out, and disparities will be significant, if not worsened. But there will be a moment when a version of Medicare for all will be what makes the most sense and gets political traction. It’s going to take a while. It will take a lot of pain and some institutional disruption and collapse, but I don’t think it’s an outlandish notion.

“The other scenario is that we’ll continue spending twice as much as everywhere else, and we don’t reach a critical juncture. But I will be a UCLA optimist and think that, in fact, we will get closer to a more favorable resolution, rather than spin out of control. We’ll get some version of Medicare for all, and by that I mean the federal government will take on more responsibility for financing health care coverage for people and try to include everybody in it.”

Some Democrats in Congress, for example, have begun expressing an interest in expanding eligibility for Medicare and Medicaid. In late February, Sen. Tim Kaine (D-Va.) told The Los Angeles Times: “We need to come up with the next set of ideas about how to improve coverage and affordability.”

Indeed, it might be that states lead the way toward reform. Peterson said there might be a “new Massachusetts, in a different form, that provides the basis — or maybe even a compact of states. Who knows? We’re thinking way outside of the box now, but in 10 years, maybe there will be a compact of Western states that will do this together.”

Meanwhile, the nation will pay what Paul E. Peterson, a former colleague of Mark Peterson’s at Harvard, titled one of his books: *The Price of Federalism*. Federalism creates opportunities to fit policy to politics, Mark Peterson said. “But the price of federalism is all the ways in which rationality can be subverted by the marble cake that emerged over the 200 years of American history.

“The price of federalism,” he said, “is the messiness that goes with it.” ►

**“THERE WERE LOTS OF MOVING PARTS. BUT THEY HAD MANAGED TO DO IT. IT EXPANDED COVERAGE. AND IT WORKED. THERE’S SOME EVIDENCE THAT PEOPLE ARE NOW HEALTHIER IN MASSACHUSETTS THAN COMPARABLE PEOPLE IN BORDER STATES.”**

— Peterson, on Mitt Romney’s health care law for Massachusetts

# CALIFORNIA OFFERS “SANCTUARY”

WRITTEN BY  
MOLLY SELVIN

SESSIONS DEMANDS ENFORCEMENT

IF THE FEDERAL GOVERNMENT IS “GOING TO WAR” WITH CALIFORNIA, as Gov. Jerry Brown has said, a lawsuit filed against the state in March by U.S. Attorney General Jeff Sessions makes immigration enforcement the fiercest and perhaps most consequential battleground.

Sessions’ suit targets three laws at the heart of California’s sanctuary policies. The laws forbid police from alerting Immigration and Customs Enforcement (ICE) agents so they can pick up undocumented immigrants when they are released from state or local custody; prohibit business owners from voluntarily helping ICE agents find undocumented workers; and require state inspection of federal detention centers to prevent mistreatment and abuse.

For state Attorney General Xavier Becerra, as well as for many other legal experts, the clash over immigration is about nothing less than upholding the balance of power between states and the U.S. government, which is baked into the U.S. Constitution. Becerra and others accuse Sessions and the Donald Trump administration of an illegal and unwarranted power grab.

This very bitter public fight between the administration and California, as well as a handful of other states, is hardly surprising. During a telephone interview from Boulder, Colorado, where he is spending part of his sabbatical, Professor Hiroshi Motomura called the role of states and cities in immigration enforcement a “huge gray area.” Sessions’ lawsuit, which could eventually end up before the U.S. Supreme Court, may clarify, if not significantly alter, the federal-state relationship.

Motomura, a Berkeley law graduate who joined the UCLA Law School faculty in 2007 and serves as vice chair of the board of directors at the National Immigration Law Center, has written extensively about that relationship, particularly with respect to immigration and citizenship. He said state and local leaders assert their authority over immigrants indirectly as well as directly. “These officials are saying, ‘We’ll treat you like you live here, regardless of your immigration status. You and your family have the right to the same police protection as anyone else,’” Motomura said. This position “is less pro-enforcement than protecting local prerogatives.”

By trying to enlist local police to assist federal immigration agents, Motomura said, the Trump administration is draining resources from other policing needs. The “gray area,” he and other experts said, has now become furiously contested ground. Lack of clarity in this contest centers upon interpretation of the 10th Amendment, which reserves to “the states respectively, or to the people,” those powers not “delegated to the United States by the Constitution, nor prohibited by it to the states.”

Immigration was a central theme of Donald Trump’s campaign for the presidency and, according to opinion polls, a major factor in his victory. He promised to build a wall along the U.S.-Mexico border and detain and deport anybody who entered the country illegally. As president, Trump has asserted a muscular and virtually unchecked view of the federal government’s authority to do so.

Within days of taking office, he issued the first of several executive orders banning immigrants from predominantly Muslim nations from entering the United States, including those with visas and green cards. Judges have blunted enforcement of those orders, and legal challenges continue. In September, Trump said he would end the Deferred Action for Childhood Arrivals (DACA) program, which protects an estimated 800,000 people brought to this country illegally by their parents as young children. He gave Congress six months to determine what to do about the Dreamers, as they are known. Congress has done nothing, and courts have so far allowed the program to continue. Motomura has assisted in challenges to Trump’s DACA order and travel bans. Meanwhile, under orders from the departments of Justice

“FEDERAL LAW IS THE SUPREME LAW OF THE LAND.”

— Attorney General Jeff Sessions



# “LOCAL POLICE ARE NOT GOING TO BE IMMIGRATION OFFICERS.”

— Prof. Matt Barreto, UCLA professor of Political Science and Chicana/o Studies

and Homeland Security, agents from ICE have taken undocumented immigrants into custody, including those without criminal histories, as they dropped off their children at school, worked cash registers at 7-Eleven stores, or arrived in court to testify as witnesses to a crime or pay traffic tickets.

This marks a major departure from the George W. Bush and Barack Obama administrations, which focused upon undocumented immigrants who had committed violent or other serious crimes. Both Bush and Obama made it a point to defer to state authority in at least some areas of immigration control and enforcement.

While the federal government is clearly responsible for issuing visas, patrolling borders and setting rules for naturalization and citizenship, several states insist that their police powers require them to protect the health and welfare of all residents, regardless of legal status. California, Illinois, New York, Colorado, Nevada, Oregon, Washington state and dozens of cities are “clarifying that they’re not going to be immigration officers,” said Matt Barreto, UCLA professor of Political Science and Chicana/o Studies, whose research examines the political participation of racial and ethnic minorities.

No one thought much about state and local authority in immigration enforcement until Trump became president, noted Los Angeles city attorney Mike Feuer. But “the world has changed,” he said. “My office, historically, was never involved. Now we’re knee deep in these issues.”

The federal government’s aggressive stand against immigration strikes Abel Valenzuela, professor of Chicano studies and urban planning, as particularly misguided, given a decrease in the number of people entering the United States illegally or overstaying their visas. The drop has been documented by a number of research institutions,

including the Center for Migration Studies in New York. Valenzuela, director of UCLA’s Institute for Research on Labor and Employment, said the decline, which began during the Obama years, is partly the result of stepped-up border enforcement, which has made crossings far more perilous. Valenzuela calls the Trump administration’s forceful position “a huge overreach.”

Many California public officials consider the integration of immigrants into their communities an important goal that furthers the immigrants’ ability to educate their children, work and pay taxes. As a result, state and local leaders have adopted a number of policies that assist immigrants. California allows the undocumented to apply for a driver’s license. It makes them eligible for in-state tuition at state colleges and universities. Last year, both Los Angeles city and county joined with charitable foundations to create a \$10 million L.A. Justice Fund, which provides assistance to immigrants facing deportation who cannot afford a lawyer.

Local and state officials also have

minimized cooperation with ICE to protect from deportation immigrants who have not committed a crime. Only days after Trump’s election, Los Angeles Police Chief Charlie Beck reaffirmed his department’s commitment to Special Order 40, adopted in 1979, which prohibits officers from initiating contact with people solely to determine whether they are in this country legally. Last year, State Labor Commissioner Julie A. Su directed her staff to turn away ICE agents who do not have warrants. Her directive followed reports of agents seeking information about workers who had filed claims against their employers.

After reports last year that ICE agents appeared to be stalking undocumented immigrants in court-

houses to make arrests, California Chief Justice Tani Cantil-Sakauye sent a strongly worded letter to Attorney General Sessions and then-Secretary of Homeland Security John Kelly, requesting that “you refrain from this sort of enforcement.” In response, Sessions scolded the chief justice, insisting that federal law authorizes ICE agents to make arrests “where probable cause exists to believe that such aliens are in violation of federal law.”

The courthouse raids, as well as other ICE actions, have prompted UCLA to post guidance online should immigration agents seek entry to student dormitories or ask campus employees to produce information about fellow employees or about patients at the UCLA Medical Center. Valenzuela, the Chicano studies professor, said campus police have assured university officials that ICE will not conduct raids on campus, but “by no means do I sleep well.”

State Sen. Ricardo Lara (D-Bell Gardens) has introduced legislation barring immigration agents from entering schools, courthouses and state buildings to question or arrest people without a warrant. The measure has passed the Senate and is before the Assembly. “We want to empower our immigrants to know their rights,” Lara said, adding, “California is entirely within our rights under the 10th Amendment.”

Lara, Becerra and other state officials worry that immigrants will retreat into the shadows and be easily victimized. The officials point to data indicating a significant drop in reports of workplace violations, domestic violence and crime within immigrant communities since Trump took office.

Gov. Brown’s decision last year to sign the laws cited in Sessions’ lawsuit is the state’s most

pointed assertion of broad authority to protect all of its residents.

To Sessions, the laws are a brazen and intolerable act of defiance. “Federal law is the supreme law of the land,” Sessions declared in a speech delivered the day after he filed his suit in federal court. He accused California of using “every power the legislature has to undermine the duly established immigration laws of America.”

Sessions looks to an Obama-era ruling by the U.S. Supreme Court to support his case. That decision, in 2012, overturned some provisions in a controversial Arizona law permitting local police who lawfully stop someone for an unrelated reason to demand proof of that person’s legal status and making it a misdemeanor for an immigrant to be in Arizona without carrying the requisite documents.

Motomura and other legal experts say the California laws differ from the Arizona law in key ways: The California laws were drafted to safeguard the constitutional rights of all California residents by making sure that federal priorities don’t override state priorities, Motomura said. By contrast, the Arizona law was an effort by the state to become actively involved in federal immigration enforcement. The California statutes, which Motomura believes are more accurately called “rule-of-law laws” rather than sanctuary laws, regulate state and local law enforcement, as well as private companies doing business in California, something the state has the right to do.

Sessions’ lawsuit cites these California laws:

» SB 54, which bars police in many cases from notifying ICE agents so they can take undocumented migrants into

federal custody when they are being released from state or local custody.

» AB 450, which makes business owners liable to fines if they give ICE agents without a judicial warrant access to non-public areas of their establishments, share information with the agents about their workers, or fail to alert workers if agents are going to examine their records. Becerra said the fines could be as high as \$10,000.

» AB 103, which mandates state reviews to prevent mistreatment at all facilities where immigrants are being held by the federal government.

Sessions said the laws violate the U.S. Constitution by interfering with federal immigration enforcement. If successful, his suit could affect immigration enforcement in other states and cities across the country.

In a telephone press conference immediately after Sessions filed his suit, Becerra emphatically dismissed his arguments. “There’s nothing really new here,” Becerra said. “California stands on strong legal footing because of the Constitution, and we won’t have our resources commandeered by the feds to do their bidding.”

In April, U.S. District Judge Manuel Real ruled that Sessions was indeed violating the Constitution by making it harder for police departments to receive federal funds if they refused to notify ICE before releasing inmates targeted for deportation or if they barred ICE agents for access to inmates and their records.

“We are not in the business of deportations,” Becerra said, adding: “We’ve seen this B-rated movie before.” ▀



STATE LABOR COMMISSIONER JULIE A. SU TOLD HER STAFF TO TURN AWAY ICE INQUIRIES UNLESS ACCOMPANIED BY A WARRANT.

PHOTO BY GENARO MOLINA. COPYRIGHT © 2018 LOS ANGELES TIMES. USED WITH PERMISSION

# WILL CALIFORNIA GET ITS WAY ON MARIJUANA?

WRITTEN BY  
KATHLEEN KELLEHER

IT TOOK JEFF SESSIONS ONLY THREE DAYS.

In November of 2016, California legalized recreational use of marijuana. This New Year's Day, even the sale of cannabis for enjoyment became lawful. On January 4, the attorney general of the United States issued a stern memo to all U.S. attorneys. It "rescinded immediately" the Obama administration's hands-off guidance on enforcing a federal law against marijuana.

With that, Sessions put Washington and California into conflict.

"In the Controlled Substances Act, Congress has prohibited the cultivation, distribution and possession of marijuana," Sessions said. Related activities, such as money laundering and unlicensed money transmissions, and the Bank Secrecy Act, which outlaws them, reflect Congress' determination that "marijuana is a dangerous drug and marijuana activity is a serious crime."

Not so in California. Today, people seeking pleasure through pot, as well as those wanting to cultivate, sell or transport it, are permitted to do so by the Golden State.

But the matter does not rest there.



In April, Sen. Cory Gardner (R-Colo.) said President Donald Trump assured him that Session’s rescission of the hands-off guidance would not affect Colorado’s legal marijuana industry. “Furthermore,” Gardner told the Los Angeles Times, “President Trump has assured me that he will support a federalism-based legislative solution to fix this states’ rights issue once and for all.” The White House confirmed Gardner’s account.

Citing a Justice Department source, the Times said Trump had not told Sessions before talking to Gardner, reflecting the President’s ongoing disregard for his attorney general. It quoted marijuana advocates as expressing caution. “The agreement itself appears narrow and only applicable to that state,” Aaron Lachant, a Los Angeles attorney who represents marijuana businesses, told the Times. As for other states, it quoted Rep. Earl Blumenauer (D-Ore.) as saying, “We should hope for the best, but not take anything for granted. Trump changes his mind constantly.”

.....

Smoking pot is an exercise in federalism. Under the U.S. Constitution, power is shared between the federal government and the states. The Controlled Substances Act, passed by Congress in 1970 and signed by President Nixon, ranks marijuana as a Schedule I drug, alongside heroin and LSD, and declares it illegal on grounds that it has no known medical value and high potential for abuse. Under Proposition 64, however, approved by the voters, it is lawful in California for adults to use cannabis recreationally.

California is not alone in its clash with the federal government. It was the eighth and the most populous state to legalize marijuana for enjoyment. Vermont approved a recreational, adult-use marijuana law on January 22, becoming the first state to do so legislatively. In all, medical marijuana is legal in 29 states, the District of Columbia, Guam and Puerto Rico. More than half the states in the union, home to half the American people, have legalized marijuana either recreationally, medically or both.

What happens when federal law conflicts with state marijuana laws and with the will of the people?

“State governments can have any marijuana laws they want, and at the same time, the federal government can have any kind of marijuana law it wants and decide how to enforce it,” said Erwin Chemerinsky, dean of the UC Berkeley Law School and co-author of an article in the UCLA Law Review that calls the struggle over marijuana regulation one of the most important federalism conflicts in a generation. “Legally, the federal government can prosecute marijuana violations however they want to,” he said. “The question is, how aggressive does the federal government want to get in enforcing marijuana laws under the Controlled Substances Act? Most people assume that, given priorities, the federal government is not going to do that, but there is no way to know. “And there is no way to stop it from doing so.”

If Sessions were to attempt to preempt California’s marijuana law, Chemerinsky said, “His constitutional argument should fail. States have the right to have any marijuana law — or no marijuana law — as they prefer.”

There is legal precedent for this right. Nearly two years ago, a three-judge panel of the U.S. 9th Circuit Court of Appeals decided unanimously that the federal government cannot prosecute people who grow and distribute medical marijuana as long as they are in compliance with state laws.

In a separate case, the federal government has dropped a civil forfeiture action against Harborside Health Center, a medical cannabis dispensary based in Oakland, among the largest in the nation.

.....

Brad Rowe, a lecturer at the UCLA Luskin School of Public Affairs, cites intent of Congress, along with legal precedent, as guidance for evolving public policy on cannabis and other drugs. But unless Congress acts to change laws, he said, no one should underestimate the power of Jeff Sessions. “He is a whole other animal,” Rowe said. “He has the authority to do whatever he wants.”

“STATE GOVERNMENTS CAN HAVE ANY MARIJUANA LAWS THEY WANT, AND AT THE SAME TIME, THE FEDERAL GOVERNMENT CAN HAVE ANY KIND OF MARIJUANA LAW IT WANTS AND DECIDE HOW TO ENFORCE IT.”

— Erwin Chemerinsky, dean of the UC Berkeley Law School

Rowe, 47, a graduate of the Luskin School, is a former chief executive of BOTEC Analysis, a public policy consulting firm. Affable and animated, he was once an actor. Now his policy specialties include crime, drug laws, drug trafficking, post-incarceration re-entry and disproportionate impact of drug laws, prosecution and incarceration on communities of color. Rowe has overseen medical cannabis market measurement projects for Washington state, helped develop cannabis and hemp policy for Jamaica and moderated discussions about cannabis science and federal impediments to legalization. He recently launched Rowe Policy + Media, a consulting firm focused on policy issues that affect safety, well-being and equity in society. Rowe is helping community members and city councils come to grips with basic concepts of recreational cannabis dispensaries, cultivation and manufacturing businesses. Cities are calculating whether the costs of cannabis regulation and compliance can be offset with fees and taxes, he said. “Instability due to a tough stance on cannabis and instability in flower price and shifting product demand add some unease in moving forward. Just because a lot of people voted for Proposition 64 apparently doesn’t mean they want [marijuana] in their own backyard.”

Although Sessions cited federal banking laws as an indication of congressional intent to oppose state legalization of recreational marijuana, Rowe offers the Rohrabacher-Farr Amendment (also known as the Rohrabacher-Blumenauer Amendment) to a federal appropriations bill as direct evidence to the contrary. Passed in 2014, the amendment forbids using government funds to prosecute people whose medical marijuana possession, cultivation or distribution complies with state law.

Sessions has urged Democratic and Republican leaders in Congress not to support Rohrabacher-Farr. However, Rowe said, “the spirit of the Rohrabacher-Farr Amendment has been upheld through several challenges.” Indeed, members of Congress have introduced more than 15 additional bills to protect recreational and medical cannabis businesses and research from federal overreach. They include measures to shield banks, which are federally regulated, from penalties for providing services to marijuana enterprises that are legal under state laws. They also include tax credits and deductions for such enterprises when they make financial investments in areas that have been hard hit economically by discriminatory drug policies.

Passing such proposals, however, is a struggle — as would be removing marijuana from the Controlled Substances Act. “Removing cannabis from the CSA would be impossible to get approved by representatives from Idaho, Wyoming, Nebraska, Kansas, Oklahoma, Texas, Iowa, Missouri, Wisconsin and the Bible Belt,” Rowe said. “But we’ll likely see 10 or 15 more of the most

highly populated states hop on board in the next four years. At that point, I think the U.S. Congress would have to pull together a coherent regime” of marijuana laws.

Meanwhile, a bipartisan effort, led by Reps. Lou Correa (D-Calif.) and Matt Gaetz (R-Fla.), who introduced a “Sensible Enforcement of Cannabis Act” in February, calls for reinstatement of the Obama administration’s deprioritizing of federal marijuana prosecutions in states where cannabis is legal.

The bill would turn hands-off guidance into federal law, instead of a memo vulnerable to rescission by Jeff Sessions.

.....

For financial institutions, the clash between state and federal marijuana laws, under the aegis of federalism, is particularly vexing. Lack of protection for financial institutions facing federal prohibitions against cannabis is causing a public safety problem. Marijuana business owners, forced to deal largely in cash, are easy targets for assault and robberies.

“Depositing the proceeds of criminal activity in a federally regulated bank is a crime, and it is money laundering,” said Mark A.R. Kleiman, professor of public policy at New York University’s Marron Institute of Urban Management and a professor emeritus of public policy at the Luskin School. “It is generally understood among bankers that it is not good to do business with criminals.”

In an op-ed last October for the Sacramento Bee, Rowe said financial firms that provide pot-related banking services charge excessive fees — as much as \$5,000 to \$7,000 monthly — ostensibly to offset the cost of oversight and extra paperwork the federal government requires. Rowe also estimated that 60 percent to 70 percent of marijuana businesses deal only in cash, a dangerous circumstance when dispensers carry duffel bags of money from one place to another, including to pay taxes.

California Treasurer John Chiang and state Attorney General Xavier Becerra are looking into the possibility of creating a publicly operated depository, perhaps a state bank, to serve marijuana businesses, projected to become a \$7 billion industry. Hawaii is experimenting with an electronic pay system to replace the duffel bags. In Washington state, several financial institutions are serving marijuana merchants. Oregon has a credit union that works with cannabis commerce. A community bank in Maryland is opening accounts for marijuana businesses, but the bank bars them from writing checks or seeking loans because it might draw scrutiny from federal regulators. “It is a risk,” said Beau Kilmer, co-director of the Rand Drug Policy Research Center and co-author, with Kleiman and Jonathan P. Caulkins, of “*Marijuana Legalization: What Everyone Needs to Know.*” “The feds are not taking action, but they could if they wanted to. “It falls under the rubric of cracking down.”

.....

To Kleiman, however, “all this legal nonsense” shifts focus from a problem that nobody wants to talk about: diagnosable marijuana abuse, known as cannabis use disorder.

In 1992, an estimated 8.9 million Americans reported using marijuana within the past month, said Steven Davenport, an assistant policy researcher at the RAND Corporation, citing the National Survey on Drug Use and Health. He said the survey estimated that 11.26 percent of them reported using it daily to nearly daily (on more than 20 days in the past 30). By 2016, he said, the estimates had grown to 23.7 million users, of whom 34.17 percent reported using it daily to nearly daily. Davenport said these numbers might be low because of under-reporting. The criteria for cannabis use disorder include using it more frequently and in greater quantity than intended; trying to cut back but failing; and finding that using marijuana is interfering with responsibilities, keeping users from spending time with people they care about and preventing them from pursuing other interests. Four million U.S. residents, Davenport said, currently report meeting those criteria.

“We ought to be worried about the price falling, now that it is clear that cannabis is going to be widely available in California,” Kleiman said. “The responsible user is of no financial interest to the cannabis industry.” California’s new recreational-use law has provisions for preventing substance abuse, he said, but the production, taxation and marketing of marijuana support expansion of the market at the expense of public health.

Kleiman, who was the leading adviser for cannabis legalization in the state of Washington (the “hemperor,” he jokes), supports legalization in a “health-friendly way.” He favors rational approval for temperate adult use that both minimizes cannabis use disorder and prevents a rise in the number of adolescent users — who, he said, currently smoke their first joint when they are 15 to 16 years old. Kleiman would like to see restrictions against aggressive advertising, especially anything that would appeal to or reach children, as well as a requirement that marijuana advertising include health warnings. He would like such warnings to be clearly printed on packaging of all cannabis products, and he supports higher taxes based on potency.

Other public safety concerns fall to law enforcement officers responsible for keeping youth, communities and roadways safe. LAPD assistant chief Michel Moore has said police officers worry about drivers who are under the influence of marijuana. Moore also has said that officers will crack down on purchases or consumption of recreational cannabis by anyone younger than 21, as well as the use of pot in public spaces.

Both are illegal under the new California law.

The law is still novel. Rowe said it will take a while for it to normalize. It also might take time for marijuana advocates to end the friction between the federal government and California on the matter of legalization. But that chafing could abate.

The American Legion, a socially and politically conservative organization of wartime veterans, has voted in favor of removing cannabis from Schedule I of the Controlled Substances Act. This would lift federal restrictions against research into the drug’s effectiveness in treating post-traumatic stress disorder and other illnesses afflicting military men and women. The federal government has imposed strict limits and regulations on studies involving marijuana, which makes it difficult for researchers to secure funding and to access the drug in sufficiently high quality and quantity for research and analysis. Removing the drug from Schedule I would change that.

It would also be a significant step toward legalization in even more states. ►



A WOMAN HOLDS A GLASS JAR OF MARIJUANA SHE PURCHASED AT A LOCAL CLINIC.

PHOTO BY NITISH MEENA ON UNSPLASH



# BROWN V. TRUMP: WHO'S RIGHT ON CLIMATE CHANGE?

WRITTEN BY **LISA FUNG**

WHEN PRESIDENT DONALD TRUMP pulled the United States out of the Paris climate agreement last year, scientists, politicians and environmentalists decried the move, calling it “shortsighted,” “disgraceful,” even “stupid and reckless.”

But for policymakers already pushing aggressive measures to control greenhouse gas emissions, Trump’s move was a reminder of their important mission. Within a week of the president’s announcement, California Gov. Jerry Brown was in China, meeting with President Xi Jinping and other world leaders in an effort to come up with a unified plan to curb climate change.

“Brown has made clear to the planet — to the global community — that California and other states and cities across the country are going to remain committed to the U.S. climate goals that are part of the Paris Agreement, and he’s played a really important leadership role in showing just how powerful subnational jurisdictions can be,” said Ann Carlson, the Shirley Shapiro Professor of Environmental Law and co-director of UCLA’s Emmett Institute on Climate Change and the Environment.

Federal views on environmental policy shift from administration to administration, and divisions have tended to follow party lines. But the chasm between the Trump administration and supporters of strong regulation is more pronounced than with previous presidents. As a result, states, local governments and institutions are employing a variety of strategies to deal with policy differences, ranging from court challenges to setting

their own environmental agendas on the national and international stage. That all but ensures conflict with the federal government and debate over primacy and the latitude of local government to defy or exceed Washington’s mandates.

“The Clinton administration talked a good game on climate change but didn’t do anything,” said Ted Parson, the Dan and Rae Emmett Professor of Environmental Law and co-director of UCLA’s Emmett Institute on Climate Change and the Environment. “The Bush administration talked a bad game but ended up doing little,” refusing to regulate greenhouse gas emissions and instead urging voluntary reductions among the private sector.

The Obama administration took climate change very seriously, Parson says. But rather than attempting to promote new legislation, given the Republican intransigence in Congress, it moved creatively to take action. Working within the context of existing law, the administration relied on a 2007 U.S. Supreme Court decision, *Massachusetts v. EPA*, which said greenhouse gas emissions are considered pollutants under the U.S. Clean Air Act and therefore could be regulated by the Environmental Protection Agency. Under the authority granted in the court ruling, the Obama administration enacted authorizations and requirements for motor vehicle emissions, power plant regulation, methane regulations for oil and gas operations and other areas.

“Obama did as much as I can imagine anybody being able to do under the constraints he operated under,”



# “OUR LAST REPUBLICAN GOVERNOR, ARNOLD SCHWARZENEGGER, WAS A VERY STRONG PROPONENT OF STRONG ACTION ON CLIMATE CHANGE — AND IT WAS POPULAR FOR HIM.”

— Ann Carlson, UCLA professor and co-director of the Emmett Institute on Climate Change and the Environment

Parson said. “So the Obama administration on this deserves enormous credit. They were dealt a rotten hand, and they got a lot out of it.”

Carlson says it is likely the Trump administration would have done nothing on climate change if it had started with a blank slate. “As it is, it’s trying to repeal most — although not all — of the policies that the Obama administration put into place. We don’t know entirely what they’re going to do across the board.”

.....

What happens when state and federal governments are in opposition?

California stands in a unique position that allows it to avoid some of the harshest consequences of the Trump administration’s moves. Because California has the sixth largest economy in the world, it has been able to move forward on strong environmental policies that pave the way for other states — or even the federal government — to follow.

“We can, for example, issue our own auto standards because we have a big enough market that manufacturers are going to respond to us,” Carlson said. “They’re not going to walk away from the market.”

Through its strong cap-and-trade program, the state has demonstrated that revenue can be raised while acting responsibly with environmentally friendly policies, she says, noting that money received can be plowed back into

programs that help reduce greenhouse gas emissions, such as subsidies for zero-emission or electric vehicles.

A special exemption to the 1970 Clean Air Act, called a “waiver from preemption,” has been key to California’s policymaking power. Because the state historically suffered serious problems with air pollution, in large part because of motor vehicle emissions, state lawmakers enacted tough air quality regulations in the 1950s — long before the federal government did so. The waiver, which remains in place today, allows the state to continue to pursue standards stronger than the federal government’s, with permission to do so from the EPA. Other states may follow California’s air standards as long as they do so exactly. Nearly one-third of the country has opted to do just that.

The waiver, Parson said, means “California has mostly been a leader on environmental policy for decades.”

The state benefits from climate policies that have remained relatively stable and comprehensive. That’s in large part because two consecutive governors — Brown and, before him, Arnold Schwarzenegger — made environmental issues a priority and pushed to share those policies and ideas with leaders in other states and cities around the world.

“Our last Republican governor, Arnold Schwarzenegger, was a very strong proponent of strong action on climate change — and it was popular for him,” Carlson said. “It was probably the thing he is best remembered for, his lasting legacy.”

PHOTO COURTESY UCLA LAW



UCLA LAW PROFESSOR ANN CARLSON

Brown has embarked on a climate agenda with a goal of 1.5 million electric vehicles by 2025 and 5 million electric vehicles by 2030. He is calling for 50 percent of the state’s electricity to be generated by renewable sources by 2030. The state has enacted a strong cap-and-trade system and has pushed efficiency standards for buildings and appliances.

Local municipalities across the country are taking action as well. Los Angeles Mayor Eric Garcetti, for example, has pushed for the city to reduce greenhouse gas emissions by 45 percent by 2025, 60 percent by 2035 and 80 percent by 2050 against a 1990 baseline. In Santa Monica, the city is aiming to be one of the first carbon-neutral cities in the world by setting goals that include water self-sufficiency by 2020, zero waste by 2030 and, by 2050, an 80 percent reduction in emissions. On the East Coast, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island and Vermont have formed the Regional Greenhouse Gas Initiative, or RGGI, to find ways to cap and reduce carbon dioxide emissions from the power sector.

States may enact strong measures, but they still need the blessing of the federal government. In a 2017 interview with Blueprint, California Attorney General Xavier Becerra emphasized that states should follow federal mandates. “We can do anything that we want so long as we’re respecting what the federal law says is applicable to the states on matters that the federal government has the right to weigh in on,” he said. “Typically, when we want to go in a slightly different direction, we need to seek clearance from the federal government.”

This means that much could change if the EPA follows through on threats to eliminate the emissions waiver. EPA administrator Scott Pruitt said he is re-evaluating the standards for cars and trucks in model years 2022 to 2025. Still unclear is what will happen in California.

“If you revoke the federal standards but you don’t revoke the California waiver, then California gets to go ahead and continue, and other states can opt in,” Carlson said.

Without government regulation on the transportation side, Carlson says, emissions will go up.

In addition, Pruitt has set in motion a proposal to repeal the Clean Power Plan, which puts a cap on carbon emissions from power plants and promotes clean energy. The move to repeal the rule, a centerpiece of Obama’s climate plan, is currently open for public comment.

“The only question is how weak the next rule looks,” Carlson said.

.....

Parson says Pruitt has proposed or revised rules to weaken or overturn Obama administration regulations. In addition, he says, Pruitt has stopped enforcing existing laws, proposed budget cuts and has demoralized staff, leading to large numbers of departures or early retirements. “It appears that the EPA is one of the rare instances of competency in the Trump administration,” he said. “Scott Pruitt has proceeded almost entirely under the radar with a set of very damaging actions, only some of which are likely to be able to be overturned or reversed by the courts.”

The courtroom has long been a vehicle to bring about change; significant environmental regulations enacted in the United States are almost always litigated. During his tenure as Oklahoma attorney general, Pruitt filed 14 suits against the EPA. California and other states have sued to stop federal government measures or to force action by the federal government. Since Trump took office, California has taken action in the form of more than 45 lawsuits, amicus briefs, notices, motions and letters, according to data provided to Blueprint by the California Attorney General’s Office. The most recent suit, filed April 10, takes aim at the EPA’s repeal of a longstanding policy that requires major polluters, such as oil refineries and chemical plants, to take permanent action to reduce emissions.

“The Trump administration has been remarkably sloppy in the way that it has tried to roll back a number of rules, and the courts have put a stop to it,” Carlson said. “Over the long run, if they get their administrative procedures together, they can do a lot more harm.”

Congress so far has been unwilling to follow the deep cuts that the Trump administration wants, Carlson says, in part because environmental protection is popular across party lines. “If you clean up the Great Lakes or you make the air quality better in people’s neighborhoods, you can see that,” she said. “Climate change is harder because it’s harder to see.”

Regardless, the path to reducing greenhouse gas emissions will be challenging. “Nobody quite noticed all the measures to get us to 10 percent below 1990 [levels],” Parson says. “They’ll probably notice the ones that get us to 30 percent by 2030 because there will be more restrictions and there will be more effects on consumer prices.”

Brown has taken his climate change message beyond California, encouraging world leaders to take stronger action against rising temperatures. Last year, he and former New York mayor Michael Bloomberg led a U.S. delegation to the United Nations conference on climate change in Bonn, Germany. He also traveled to Brussels, Oslo and the Vatican. And he has scheduled an international gathering next fall in San Francisco to place California at the center of the global conversation.

“Brown has used his bully pulpit really effectively,” Carlson said. “He’s been visionary about seeing the way in which he can use his position as governor to really be a global leader on environmental issues. Trump has given him a big opening, and he’s taken advantage of that.”

The state is likely to remain on track after Brown leaves office in 2019, she says. “But boy would it be nice for the state to have its neighbors participating, and not be the only state that is that far out front.” The Clean Power Plan provided opportunities for other states to participate in and to work together on a national push to reduce emissions.

“If California shows that it works, then the rest of the country can come along,” Carlson said. “California can be a leader — and it’s been a leader, not just in reducing its emissions but in showing other jurisdictions how to do it and do it in a way that keeps the economy growing. This is a global problem. California can’t solve it by itself.” ►

PHOTO BY MIKE GEISINGER



PRESIDENT LYNDON JOHNSON SIGNING THE AIR QUALITY ACT OF 1967, PRECURSOR TO THE CLEAN AIR ACT OF 1970.

SEE BLUEPRINT ISSUE #5 FOR OUR INTERVIEW WITH XAVIER BACERRA

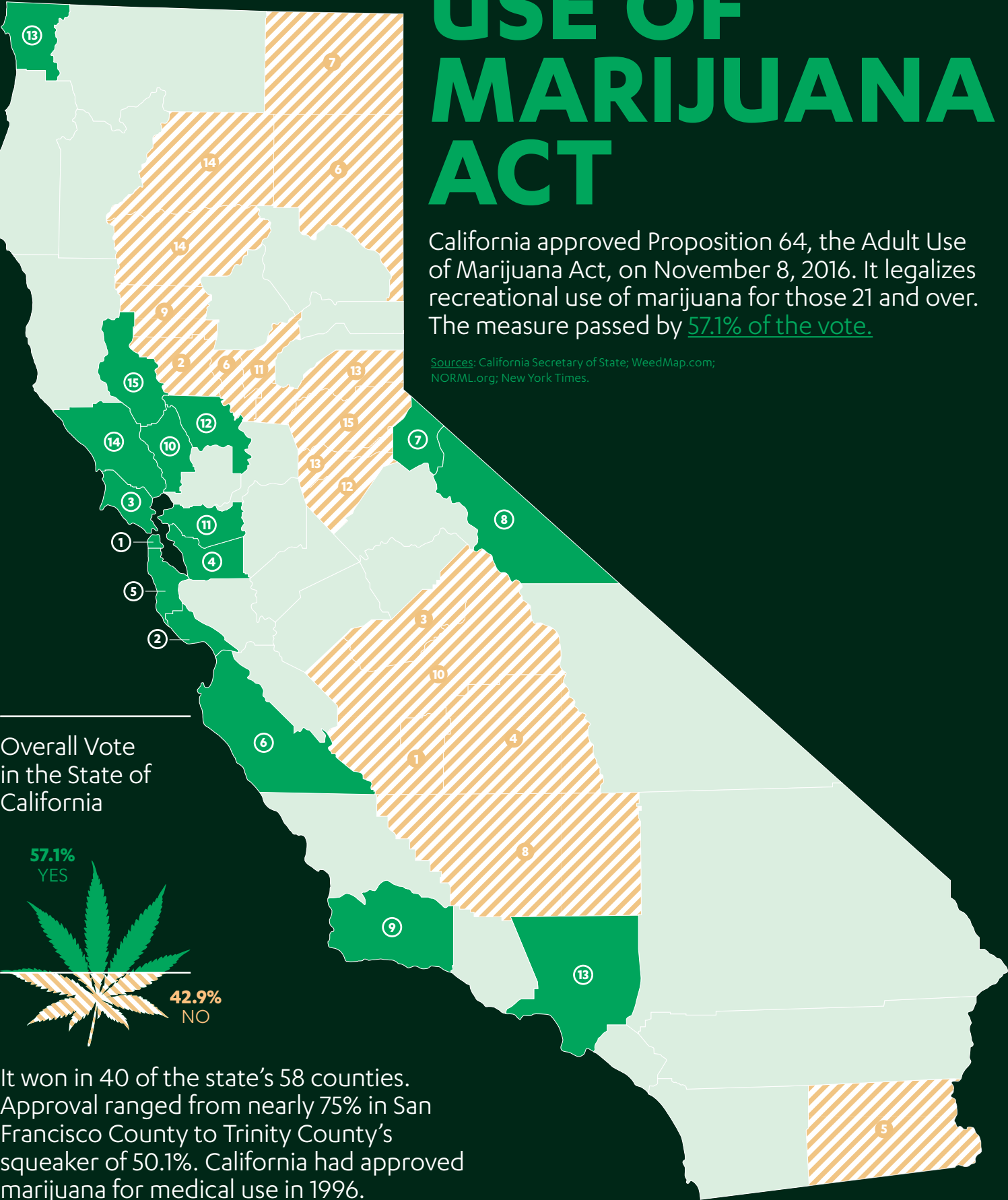
PROPOSITION 64:

THE ADULT USE OF MARIJUANA ACT

Research by  
NONA YATES  
nona@yatesresearchgroup.com

California approved Proposition 64, the Adult Use of Marijuana Act, on November 8, 2016. It legalizes recreational use of marijuana for those 21 and over. The measure passed by 57.1% of the vote.

Sources: California Secretary of State; WeedMap.com; NORML.org; New York Times.



CALIFORNIA COUNTIES THAT VOTED AGAINST PROPOSITION 64 DID SO BY MUCH SMALLER MARGINS THAN COUNTIES THAT VOTED FOR IT. THE SMALLEST MARGINS WERE IN EL DORADO COUNTY, WHERE IT FAILED WITH JUST 50.1% OF "NO" VOTES, AND IN TRINITY COUNTY, WHERE IT PASSED BY A SCANT 50.1% OF "YES" VOTES. HERE IS HOW PROPOSITION 64 FARED IN THE TOP 15 "YES" COUNTIES AND THE TOP 15 "NO" COUNTIES.

TOP 15 COUNTIES IN FAVOR AND PERCENTAGE VOTING

"YES"		
1	San Francisco	74.3%
2	Santa Cruz	69.9%
3	Marin	69.6%
4	Alameda	66.4%
5	San Mateo	63.0%
6	Monterey	62.6%
7	Alpine	62.3%
8	Mono	61.6%
9	Santa Barbara	61.5%
10	Napa	61.2%
11	Contra Costa	60.7%
12	Yolo	60.5%
13	Del Norte	59.5%
	Los Angeles	59.5%
14	Sonoma	59.1%
15	Lake	58.6%

TOP 15 COUNTIES OPPOSED AND PERCENTAGE VOTING

"NO"		
1	Kings	56.4%
2	Colusa	56.3%
3	Madera	55.2%
4	Tulare	55.0%
5	Imperial	54.7%
6	Lassen	54.4%
	Sutter	54.4%
7	Modoc	53.8%
8	Kern	53.7%
9	Glenn	53.4%
10	Fresno	52.9%
11	Yuba	52.7%
12	Calaveras	52.6%
13	Amador	51.9%
	Placer	51.9%
14	Shasta	51.5%
	Tehama	51.5%
15	El Dorado	50.1%

Although a majority of states have legalized or decriminalized marijuana for recreational and/or medical uses, it is nonetheless considered an illegal drug under federal law. The U.S. government classifies it as a Schedule 1 substance, along with drugs such as heroin and Ecstasy. Schedule I drugs are considered the most dangerous, with no recognized health benefits and a high potential for abuse or addiction.





PHOTO BY DAVID SPRAGUE

# THE FIGHT

# FOR JUSTICE

INTERVIEW BY  
**JIM NEWTON**

GEORGE GASCÓN PROBABLY QUALIFIES AS A MODERATE by San Francisco standards, but those standards are hardly the national norm. A former Los Angeles police officer and Mesa, Arizona, police chief, Gascón has been chief of police in San Francisco, as well, and now serves as its district attorney. That puts him squarely in the crosshairs of tension between local and federal priorities. Jeff Sessions wants city police to enforce federal marijuana laws. George Gascón refuses to do it. Indeed, he has removed convictions in marijuana cases going back to the 1970s. Donald Trump wants more deportations and demands that local authorities enforce federal immigration laws. George Gascón refuses to do it. Indeed, he has offered protection to many of those targeted by the federal government.

One might think this would leave Gascón, who is Cuban by birth, in a quandary. One would be wrong. He is determined to enforce the laws of California and San Francisco, and he is willing to court disfavor with Trump and his administration to do so.

Gascón and Blueprint editor Jim Newton met recently in Gascón's San Francisco office to discuss growing pressure on local officials who defy the federal government. They began by considering Special Order 40, promulgated by Los Angeles Police Chief Daryl F. Gates in 1979. It prohibits Los Angeles officers from stopping people on suspicion that they are in the country illegally. Meant to encourage community cooperation with police, it has been attacked as giving sanctuary to illegal immigrants.

***“YOU HAVE A FAILING ADMINISTRATION THAT IS DESPERATE TO DIVERT ATTENTION, AND WE MAKE A PERFECT TARGET FOR THEM BECAUSE, IN THEIR VIEW, WE’RE A POLITICAL ENEMY.”***



PHOTO BY DAVID SPRAGUE



ALTHOUGH GASCÓN TODAY IS DISTRICT ATTORNEY OF SAN FRANCISCO, HE GREW AS A POLICE OFFICER AT THE LOS ANGELES POLICE DEPARTMENT, RISING TO THAT DEPARTMENT'S TOP RANKS.

**Blueprint:** *You grew up in an LAPD that has Special Order 40. Did you ever feel that the order made your life as a police officer more difficult?*

**George Gascón:** No, to the contrary. Special Order 40 not only provided a way for me and the department to establish a certain level of trust with segments of our community, but, more importantly I got to see the reverse. If I can take you back through memory lane, we had the Rampart scandal. Those officers who went rogue would often threaten members of the community that if they did not cooperate with the police, they would take them to the immigration building. And they did. The result was that the community, which already was distrustful of the LAPD ... this put that on steroids. The community knew that the police were not going to be effective, and gangs took over territory.

**BP:** *And did you see similar effects when you went to Mesa as chief?*

**GG:** Yes. Here's a place where I was trying to moderate the process to make sure the community had trust in us, but we were doing it in the background of a sheriff [Joe Arpaio, whose detentions of illegal immigrants made him a national figure and earned him a criminal conviction, followed by a pardon from Trump] who was basically declaring all-out war on the Latino community and immigrants. They were, on a regular basis, coming into my city and picking people up.

It got so ugly that they got search and arrest warrants, and one evening they came in around 1 o'clock in the morning without telling us, and they served warrants at the main public library and the city administration building ... to see whether the cleaning crews had papers.

It was really an attack on me because in the Mesa structure, the police department issued employee IDs and did background checks on contractors appropriate to the jobs they were doing. Somebody accused me of not asking people for their immigration status when issuing these cards.

To make a long story short, they went in — and the reason I know this is that we had closed-circuit TV — they storm in with SWAT gear and large numbers of deputies, asking the janitorial staff for IDs. At the city administration building, everyone had appropriate documentation, so no one got arrested. At the library, there were two women who didn't, who were undocumented, and they got arrested. One was a mother. She was hauled away, and her kids were left alone.

Early on, I had the consul general of a Latin American country come to me asking for help because they had a young woman who had been brutally sexually assaulted. She knew who the assailant was. She was afraid to go to the hospital for services because in Arizona, there were even people being turned over to immigration at hospitals. ... So here is this victim of a brutal sexual assault with a known suspect. She never comes to the authorities. She's even afraid even to get medical help.... The woman eventually went back to her native country. We found out later that this same individual [the assailant] went on to rape another woman who happened to be a U.S. citizen.

I can give you example after example of how this creates a horrible situation at the local level.

**BP:** *How does that compare to today's San Francisco?*

**GG:** This is a sanctuary city. We work really hard to let our community know that they will not be subject to immigration detention if they work with us, but we're having cases where victims of crimes are now refusing to come to court because they're fearful that just coming into the building will lead to their arrest.

**BP:** *I suspect if a representative of the Trump administration were here, he would say that by creating such a protective environment for those who are here illegally, you encourage more people to come, and that deepens your crime problem over time. How do you respond to that?*

**GG:** I think there are fundamentally many things wrong with that train of thought. For one, people migrate from one place to another primarily for economic or political reasons. The immigration that we have had for generations from Latin America, mostly Mexico, and now from Asia, is primarily driven by economics. You have nations that do not have the economic opportunities for their people, and you have an incredible thirst in this country for certain types of labor.

So what you have is a market-driven movement of people. By creating the levels of control that we have without addressing the market drivers, we have actually created a worse problem.

If you go back years ago when people could freely cross borders, a lot of the men who came to work here, their families would stay home, and they would go back regularly. As they started to tighten up the borders, it became increasingly difficult for people to go back and forth. Now they send money back home, but they stay here. And after years, people start to drift further and further from their families. They end up creating a second family here. In Latin America, especially Mexico, you have towns where the men are all gone. You have families without the presence of a father. And then you have the creation of a new family here. The social complexities of that, which very few people understand, are driven by bad immigration policy.

I don't care how big a wall you build, you must address the desperation. My family and I are immigrants. We came from Cuba. We did not have a wall to cross. We had a gulf to cross. And most people in the early years were unsuccessful. They were dying. That gulf never kept people from jumping in with inner tubes, crazy stuff, because there's a human drive that is going to take people from a place where they are unwelcome — whether it's economically, politically or religiously — and they're going to look for a better life for their families. Walls do not stop that from occurring.

That's No. 1. No. 2, that assessment that you're inviting crime is disingenuous. There are a number of studies now that show the immigrant communities are less likely to engage in crime than people who are not immigrants.

**BP:** *I was going to ask you: Based on your experience here in San Francisco, do you have any reason to believe that immigrants are more likely to commit crimes than non-immigrants?*

**GG:** The opposite. ... It's the second or third generation of people in this country who are more likely to engage

**“I DON'T CARE HOW BIG A WALL YOU BUILD, YOU MUST ADDRESS THE DESPERATION.”**

in criminal conduct. Why? Immigrants come here to work. They don't come here to commit crimes. There are always exceptions ... but as a rule, the last thing they want to do is call attention to themselves.

My parents were terrified of even seeing a police car. They were traumatized by the Cuban experience. My mom would start shaking if there was a police car behind us, and she would ask my dad to pull over. They came here to work, and they wanted to keep a low profile. And they at least had legal authority to be here. Imagine if you don't. You're terrified. You don't want to call attention to yourself, and if you start committing crimes, you call attention to yourself.

**BP:** *You mentioned Sheriff Arpaio a moment ago. One thing many people, myself included, have wondered about is why it is objectionable for Arpaio to adopt an immigration policy while it's OK for a place like San Francisco to adopt a sanctuary policy. What's the difference?*

**GG:** The federal government doesn't expect us to enforce Internal Revenue Service rules. We don't go around trying to figure out whether you paid your taxes or not. There's probably more people in this city today cheating on their taxes than those who are undocumented.

At the local level, if we start becoming an arm for the immigration services, then what happens is that when your dishwasher or your cook contracts some kind of contagious disease, they're not going to go to the hospital because they're afraid that will lead to their deportation. So they suck it up, and then it becomes a health problem for all of us.

Just like we don't do tax enforcement, we shouldn't be doing this type of work. ... Quite frankly, the federal government should welcome sanctuary cities and understand the separation of duties.

**BP:** *Obviously, the federal government, at least the Trump administration, does not.*

**GG:** There's a whole area now of federal supremacy that the attorney general is arguing. ... When he was a senator, he was always, always arguing for states' rights. Now he happens to be attorney general, and he's telling California: "Don't do what I did or what I advocated for." I find that disingenuous and hypocritical.

This is all a political stunt. You have a failing administration that is desperate to divert attention, and we make a perfect target for them because, in their view, we're a political enemy.

**BP:** *Imagine if the federal government said, "Homelessness creates crime, so we insist that you arrest all the homeless people in your city." I don't think*

*anyone would conceive of that as constitutional or appropriate or helpful. And yet all you're doing is changing the word from "immigrant" to "homeless."*

**GG:** One of the things I learned in Arizona very quickly was that the term "illegal immigrant ... "

**BP:** *Or "illegal alien ..."*

**GG:** Or, yes, "illegal alien," is a proxy for "I don't like Mexicans. ... I don't like these brown people. I don't want them here." It's all race-loaded.

**BP:** *You don't hear people complaining about French immigrants.*

**GG:** When I was in Mesa, I lived in a community that was very heavily populated by Canadians, who were basically snowbirds. Sometimes they would overstay their visas, and some actually found work. There was nobody looking for illegal Canadians in Mesa.

**BP:** *This isn't really a legal argument, but one of the things I hear people in California say is: "Things are working pretty well here. There's job growth. There's economic growth. The budget's balanced. Why would you want to upset all that?"*

**GG:** Don't touch a good thing.

**BP:** *Did Jeff Sessions give you any notice that he intended to file a lawsuit against the state of California?*

**GG:** Let's just say that I'm not on Jeff's Christmas list.

**BP:** *What would an actual, constructive working relationship with the Department of Justice look like?*

**GG:** A good relationship would start with: "I have a list of 20 people or 30 people who are violent felons." As opposed to: "I have a list of 800 people, 600 of whom have no criminal history, 100 are low-level misdemeanors and 80 or less are serious felons."

I believe I can speak for many others in law enforcement when I say: "I'm looking for this murderer, I'm looking for this rapist or this robber, and we need some help." Those are serious conversations that should be had. But if you bring me a list of 800 people that is going to take 700 dishwashers and cooks and gardeners who are here purely working their butts off ... [then] we're not going to work together. That's not what I'm here to do. It needs to be that kind of conversation at the local level.

I'm not saying, necessarily, on a separate track, that immigration authorities should not do their own job. I'm not an open-borders proponent. I believe that a nation has a sovereign right to determine its immigration policies. What I don't believe in is immigration policies that are driven by race and by hate and by xenophobic arguments. That I do not believe in. ▀



# CLOSING NOTE: BATTLE LINES DRAWN



AS THE RESEARCH FEATURED IN THIS ISSUE OF BLUEPRINT MAKES CLEAR, California is at a crucible moment in its relationship with the federal government: Donald Trump wants to lock up marijuana smokers, deport illegal immigrants, build a wall, deny climate change and strip many Americans of health care. In each instance, California opposes him. Who will win?

As a last resort, the courts — perhaps the U.S. Supreme Court — might be called upon to decide, under terms of the 10th Amendment. (In 1957, defiance hit a snag when President Eisenhower sent the 101st Airborne Division to Little Rock, Arkansas, to enforce the Supreme Court’s decision to integrate public schools.) This could make California’s sanctuary laws

vulnerable in the courts, and meanwhile federal drug agents could enforce national marijuana laws even as California legalizes weed.

But would ultimate victory for Washington be real or merely pyrrhic? It’s hard to see how the federal government could sustain a clash with the nation’s most populous state or impose its will on the sixth-largest economy on Earth. Indeed, the American economy stripped of California’s contribution is not too impressive. California is not only growing and thriving; it is bringing the rest of the country along with it. California needs the United States, but the nation needs California, too.

Try to imagine what a war on California would look like. Would immigration authorities shadow police to make sure they were spotting people who “look illegal”? Drug Enforcement Administration agents could raid pot shops, but could they make Los Angeles police officers, who are sworn to uphold state law, do the same? Does Washington really have the stomach to take away health care from those with pre-existing conditions or from the 25-year-old children of policyholders? Trump may harrumph about climate change, but there’s no sign that California will reduce its commitment to doing what it can to abate it. Why would California do so? Courts might decide that the federal government has the greater power, but political and practical realities place real-world limits on that power.

The researchers in this issue have analyzed history and the law, and they have come up with a wealth of thoughtful insight into this meaningful debate. Yes, federalism, as Mark Peterson and others note, is “messy.” It’s also potentially a way to test new ideas in government — how to provide health care, how to protect borders and immigrants, how much leeway to allow for personal freedom. Gov. Jerry Brown, Attorney General Xavier Becerra, San Francisco District Attorney George Gascón and a host of others are prepared to defy Washington and Trump. They are not without their strengths: They are, for instance, smarter and more resolute than Trump, and they will not be taken lightly.

This issue of Blueprint does not resolve the knotty questions of federalism or declare a winner in the Resistance against Trump. It does, however, suggest that California has a significant opportunity to chart its own way forward.

— **Jim Newton**



A PUBLICATION OF UCLA AND  
UCLA LUSKIN SCHOOL OF PUBLIC AFFAIRS

### SENIOR ADMINISTRATION

**CHANCELLOR**  
Gene Block

**DEAN, UCLA LUSKIN  
SCHOOL OF PUBLIC AFFAIRS**  
Gary Segura

**VICE CHANCELLOR,  
UCLA EXTERNAL AFFAIRS**  
Rhea Turteltaub

### EDITORIAL STAFF

**EDITOR-IN-CHIEF**  
Jim Newton

**SENIOR EDITOR**  
Richard E. Meyer

**ART DIRECTION & DESIGN**  
Rent Control Creative

**ILLUSTRATOR**  
Noma Bar

**PHOTOGRAPHER**  
David Sprague

### PRODUCTION STAFF

**PUBLICATION MANAGER**  
Shilo Munk

**PRINT PRODUCTION MANAGER**  
Michael J. Salter

**USER EXPERIENCE DESIGNER**  
Heather Henderson

**OUTREACH COORDINATOR**  
Elizabeth Kivowitz Boatright-Simon

**OFFICE MANAGER**  
Sarah Rubinstein

### CONTRIBUTORS

**BILL BOYARSKY** was a political reporter, columnist and editor at the Los Angeles Times for 30 years and now is a columnist for Truthdig, the Jewish Journal and L.A. Observed.  
[bwboyarsky@roadrunner.com](mailto:bwboyarsky@roadrunner.com)

**LISA FUNG** is a Los Angeles-based writer and editor who has held senior editorial positions at the Los Angeles Times and The Wrap.  
[lisa.fung5@gmail.com](mailto:lisa.fung5@gmail.com)

**KATHY KELLEHER** is a Santa Monica-based writer who has contributed to the Los Angeles Times, the Orange County Register, Arroyo and other publications.  
[kathykelleher@verizon.net](mailto:kathykelleher@verizon.net)

**JEAN MERL** worked as an editor and reporter for 37 years at the Los Angeles Times, specializing in local and state government and politics and K-12 education. She is a freelance writer and proud Bruin.  
[jeanie.merl@gmail.com](mailto:jeanie.merl@gmail.com)

**MOLLY SELVIN**, a legal historian and former staff writer for the Los Angeles Times, is a freelance writer based in Los Angeles.  
[mselvin@stanford.edu](mailto:mselvin@stanford.edu)

**NONA YATES**, a former research editor at the Los Angeles Times, heads the Yates Research Group in Marina del Rey.  
[nona@yatesresearchgroup.com](mailto:nona@yatesresearchgroup.com)

### SPECIAL THANKS

*Special thanks to Lisa Horowitz, the chief copy editor for Blueprint, whose sharp eye makes this magazine what it is. — Jim Newton*

### FEATURED RESEARCHERS

**MATT A. BARRETO**  
[barretom@ucla.edu](mailto:barretom@ucla.edu)

**ANN CARLSON**  
[carlson@law.ucla.edu](mailto:carlson@law.ucla.edu)

**ERWIN CHEMERINSKY**  
[echemerinsky@law.berkeley.edu](mailto:echemerinsky@law.berkeley.edu)

**BEAU KILMER**  
[Beau\\_Kilmer@rand.org](mailto:Beau_Kilmer@rand.org)

**JAY LUND**  
[jrlund@ucdavis.edu](mailto:jrlund@ucdavis.edu)

**HIROSHI MOTOMURA**  
[motomura@law.ucla.edu](mailto:motomura@law.ucla.edu)

**JEFFREY MOUNT**  
[mount@ppic.org](mailto:mount@ppic.org)

**TED PARSON**  
[parson@law.ucla.edu](mailto:parson@law.ucla.edu)

**BRAD ROWE**  
[bradrowe3@yahoo.com](mailto:bradrowe3@yahoo.com)

**ABEL VALENZUELA**  
[abel@ucla.edu](mailto:abel@ucla.edu)

DO YOU HAVE  
SOMETHING TO SAY?

Blueprint’s mission — to stimulate conversation about problems confronting Los Angeles and the rest of California — doesn’t stop on publication day. We urge you to continue these conversations by contacting us or our contributors or by reaching out directly to the researchers whose work is featured here. We also hope you’ll follow us on the web, where we showcase exclusives and link to ongoing debates in these fields. You can find us online at [blueprint.ucla.edu](http://blueprint.ucla.edu)



[blueprint.ucla.edu](http://blueprint.ucla.edu)



