

**EQUALITY CALIFORNIA INSTITUTE**  
presents



# **REPORT OF THE FIRST CONVENING**

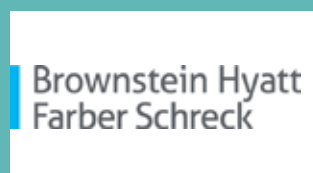
*and Companion Reports of Program Participants*

**JANUARY 14TH 2015, SACRAMENTO, CALIFORNIA**



**Equality California Institute**

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Rick Zbur, Equality California

## LETTER FROM THE EXECUTIVE DIRECTOR



**Dear Governor Brown, Honorable Members of the California Legislature, California and local public policy makers, and members of the community:**

On January 14th, 2015, the Equality California Institute sponsored the first convening of **Fair Share for Equality** in Sacramento. We are proud to present the inaugural report of the Equality California Institute and the companion reports of the program participants from this historic event.

As a result of long-term systemic discrimination and social bias, lesbian, gay, bisexual, and transgender (LGBT) people face significant disparities in their health and well-being compared to the broader community. These disparities include disproportionately high rates of poverty, suicide, homelessness, isolation, substance abuse, violence, police profiling, and criminal convictions, and low rates of health insurance, among other things. These problems are more pronounced for our youth and seniors, communities of color, and the transgender and undocumented communities.

Equality California Institute's groundbreaking **Fair Share for Equality** initiative was created to help address these disparities by educating legislators and policy makers to enable them to better understand how to allocate a "fair share" of budget resources to advance the health and well-being of California's LGBT community. Importantly, it also is intended to bring together leaders and experts to identify the programs most beneficial to the LGBT community, as well as those most in need of resources.

Over 100 individuals attended the first Fair Share for Equality convening, including leaders from the LGBT community and various community organizations, educators, social service experts, and legislators. Experts from organizations across the state were asked to speak on disparities in health and well-being within the LGBT community and to outline critical program and funding needs.

Participants prepared detailed reports offering a range of perspectives on these disparities, and recommendations on how to address them. Equality California Institute thanks the participants and our co-sponsor organizations for their important contributions and for the work and thought that each put into their report. Please read each individual report in its entirety to gain a complete picture of particular challenges and recommended solutions.

After considering the information presented by experts at the convening and Equality California Institute's own public policy expertise and program priorities, Equality California Institute presents a summary report, included with this letter.



**Rick Zbur**  
*Executive Director*  
EQUALITY CALIFORNIA  
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**Data Collection.** One of the central themes that was raised by virtually every panelist was the need for improved data collection. Collecting data with respect to sexual orientation and gender identity in connection with the provision of social services and the implementation of government programs is integral and necessary to evaluate whether government programs are effectively reaching LGBT people and addressing the widespread disparities the LGBT community experiences.

We are proud that overall California has led the nation in advancing LGBT equality. But, sadly, when it comes to collecting the data necessary to address LGBT health and well-being disparities, California has fallen behind other states, including New York. Last year, New York began a comprehensive multi-agency effort to collect the data necessary to adequately care for its LGBT citizens. California has failed to exert leadership based primarily on concerns that printing new forms and requiring government agencies to track sexual orientation and gender identity is too costly. The bottom line is that this data collection is a prerequisite to tackling the disparities that the LGBT community faces. It is time for California “to count” the LGBT community as part of the provision of government and social services, as the state counts other demographic characteristics of importance. **If we are not counted, we do not count.**

**EQCAI Priority Areas.** Taking into account the expert recommendations made at the convening and our own policy priorities, Equality California Institute highlights a number of areas that are in need of significant additional government resources to address LGBT health and well-being disparities. Some of the program areas identified at the convening most in need of additional funding and programmatic attention include those to:

- Address LGBT youth homelessness and create culturally competent foster care and support services for LGBT youth.
- Create safe and culturally competent school environments.
- Reduce substance abuse among LGBT Californians and address high rates of suicide among LGBT youth.
- Reduce violence and differential treatment for LGBT people within the criminal justice system.
- Address the unique needs of LGBT seniors.
- Adequately fund Pre-Exposure Prophylaxis (PrEP), Post-Exposure Prophylaxis (PEP), and HIV prevention and treatment.
- Provide healthcare for undocumented LGBT people.

We encourage you to read our report and the companion reports. We hope they will provide a better understanding of some of the challenges faced by LGBT youth and seniors and by some of the most marginalized members of the LGBT community. **As our leaders and public policy makers, you have the ability to make a difference.**

We thank our presenting sponsor, the law firm of Brownstein, Hyatt, Farber & Schreck, and the program participants and our co-sponsor organizations, which are set forth on the preceding page.

Sincerely,



Rick Zbur  
Executive Director  
EQUALITY CALIFORNIA  
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Equality California is the premier statewide lesbian, gay, bisexual and transgender (LGBT) civil rights organization focused on creating a fair and just society. Our mission is to achieve and maintain full and lasting equality, acceptance, and social justice for all people in our diverse LGBT communities, inside and outside of California. Our mission includes advancing the health and well-being of LGBT Californians through direct healthcare service advocacy and education.

Through electoral, advocacy, education and mobilization programs, we strive to create a broad and diverse alliance of LGBT people, educators, government officials, communities of color and faith, labor, business, and social justice communities to achieve our goals.

Equality California is made up of Equality California (EQCA) and the Equality California Institute. EQCA is an I.R.S. 501(c)(4) organization that utilizes electoral, advocacy, education, and mobilization programs to achieve its mission. The Institute is an I.R.S. 501(c)(3) organization that utilizes advocacy, education, and mobilization programs to achieve its mission.

# EQUALITY CALIFORNIA INSTITUTE, SUMMARY REPORT OF THE FAIR SHARE FOR EQUALITY CONVENING



As a result of the impacts of long-term systemic discrimination and social bias, lesbian, gay, bisexual, and transgender (LGBT) people continue to face significant disparities in their health and well-being compared to the broader community. These disparities include disproportionately high rates of poverty, suicide, homelessness, isolation, substance abuse, violence, police profiling and criminal convictions, and low rates of health insurance, among other things. These problems are more pronounced for our youth and seniors, communities of color, and the transgender and undocumented communities.

Equality California Institute's groundbreaking **Fair Share for Equality** initiative was created to help address these disparities by educating legislators and policy makers to enable them to better understand how to allocate a "fair share" of government resources to advance the health and well-being of California's LGBT community.

Set forth below is our summary report, which has identified the following priorities to address LGBT health and well-being disparities.

## ***Collect data about LGBT Californians in connection with the provision of social services and the implementation of government programs***

Virtually all speakers at the convening agreed that lack of data collection on the LGBT community is a serious impediment to reducing disparities in the health and well-being of the LGBT community. Electronic health records, clinical surveys, census and other data collection surveys, and most government forms, do not track or report gender identity or sexual orientation. Collecting this information is critical in healthcare settings to ensure LGBT individuals get the culturally competent healthcare they need. Collecting this data is necessary to understand the extent to which LGBT people are experiencing disparities in health and well-being and whether government programs are

reaching LGBT people in need of care and assistance. The objective is clear. Data collection regarding sexual orientation and gender identity should be included broadly in connection with all relevant California government forms, applications and programs whenever demographic data is collected with respect to other demographic characteristics. If LGBT people aren't counted, they don't count, and essentially *do not exist* in the eyes of the state and local governments.

Public policy makers, government agencies, and other entities providing social services need to know how many LGBT people live in California, so they can assess whether or not government programs are adequately addressing the needs of the LGBT community and whether LGBT people are experiencing differential or adverse treatment. Both state and local agencies such as educational institutions, housing, employment, and the criminal justice and healthcare systems, among others, should expand their LGBT data collection efforts.

Because data collection from state agencies is crucial to understanding and improving the health and well-being of the LGBT community, better and more extensive data collection is a high priority. New York has already implemented such a program, with a multi-agency, coordinated state effort to expand its data collection procedures. *Now California, which has always been a leader in advancing LGBT civil rights and programs, risks falling behind.*

Collecting and tracking LGBT demographic characteristics has been resisted and failed in California because of the initial costs of modifying forms and computer tracking systems. The costs of these programs are modest in terms of their importance. Moreover, since state and local agencies already track demographic data with respect to other important demographic characteristics, the long-term costs are negligible after forms and computer models are initially modified. Additional government resources for



start up of LGBT data collection are modest and can be minimized by phase-in periods. The bottom line is that these initial and modest expenses are necessary to ensure that *all* LGBT Californians are counted, that our state remains at the forefront of LGBT equality, and that California's LGBT youth, seniors and adults are cared for.

***Address LGBT youth homelessness and create culturally competent foster care and support services for LGBT youth***

Research estimates that 40 percent of Los Angeles' homeless youth, and 20 percent of homeless youth nationally, identify as LGBT. These percentages are significantly higher than the percentage of LGBT youth in society as a whole. LGBT youth are at higher risk of homelessness and related health problems due to social stigma, family rejection, and bullying violence in school and workplace discrimination. Young men of color and transgender individuals face additional risks once on the streets, with high rates of physical and sexual assault, and racial discrimination. Many LGBT youth prefer life on the streets, however, because institutional housing environments are often hostile and discriminatory. Reports of harassment and verbal abuse from peers and staff in homeless youth shelters and drop-in centers are widespread.

Additional government resources are necessary to address the high rates of LGBT youth homelessness and to support safe and LGBT-inclusive foster care and housing programs, which provide permanent housing for LGBT and HIV-positive youth. Such funding will be most effective when administered through programs and organizations that are culturally competent, that *already* provide services to LGBT youth, and that provide holistic programs focused not only on housing assistance, but that provide health, employment and social services as well.

***Create safe and culturally competent school environments***

Bullying in schools across the country is an epidemic that disproportionately affects LGBT or questioning youth. Eight out of 10 LGBT youth report harassment of some kind in school. This exposure to harassment can lead to depression, anxiety, decreased academic achievement, absenteeism, substance abuse, and even suicide. Additionally, mistreatment, ostracism and bullying often lead to LGBT students dropping out of school, increasing the likelihood that LGBT students

end up homeless or incarcerated.

Bullying is not simply a result of cruel youth, but results, at least in part, from lack of cultural competency training within school systems. Teachers in many school districts lack training in cultural competence and administrators often view the bullying as simply "children being children," downplaying the seriousness of such abuse until it is too late. Additional government resources for cultural competency training for teachers and administrators, including those at the California Department of Education; school programs, activities, and facilities that students can participate in according to their gender identity; and the implementation of effective anti-bullying policies across all levels of the education system are necessary to ensure LGBT youth have a safe, successful, and fulfilling educational experience.

***Reduce substance abuse among LGBT individuals, and address high rates of suicide in LGBT youth***

LGBT people experience much higher rates of substance abuse and suicide risk than the general population, largely as a result of societal discrimination, family rejection, homelessness, higher rates of bullying and physical assault, and emotional strife tied to understanding and accepting their own sexuality and/or gender identity. An estimated 20 to 30 percent of the LGBT population suffers from substance abuse, compared to nine percent in the general population. Similarly, LGBT youth are three to four times more likely to attempt suicide than their straight peers, with a shocking 40 percent of transgender youth having *already* made a suicide attempt.

Suicide ideation and substance abuse can provide a sense of escape from the effects of institutional discrimination. Unfortunately, existing drug treatment programs often are not culturally competent and generally focus on strict anti-use programs rather than on the underlying social, familial, or cultural environment that may have caused the higher incidence of substance abuse. Suicide prevention programs need to be designed for *all* LGBT youth, with teachers and counselors receiving appropriate cultural competency training on the unique issues LGBT students face identified and discussed.

Additional government resources are necessary for drug treatment and suicide prevention programs specifically designed to address the needs of the LGBT community. These programs should be administered through

trusted, culturally competent community providers who understand the various forms of institutionalized, systemic and familial bias, discrimination, prejudice and other factors that elicit these coping behaviors.

### ***Reduce violence and differential treatment for LGBT people within the criminal justice system***

LGBT individuals experience police harassment and discrimination within the criminal justice system at higher rates than the general population, with increased rates of incarceration and recidivism, and higher rates of physical and sexual assault in prisons. All three of the previously mentioned issues—homelessness, school safety, and substance abuse—are directly related to the increased levels of LGBT incarceration. Family rejection and unsafe schools often push LGBT youth onto the streets and into homelessness. Increased stress and need for food, money, or housing, can lead to substance abuse as a form of coping or survival. Substance abuse increases the likelihood of LGBT youth being arrested for possession of drugs. This and similar patterns, which have been called the “School-to-Prison Pipeline,” have been widely discussed as a primary reason for a national increase in LGBT incarcerations, particularly for young men of color. Another common occurrence reported by transgender individuals, in particular transgender women of color, is the increased police profiling they experience simply for living openly and authentically—an experience many have come to call “Walking While Trans.”

In order to address these issues, state and local government agencies need to dedicate budget resources not only to improving school safety, but also for cultural competency training for police and others in the criminal justice system. Police departments and prisons need additional government resources to train their officers, deputies, and guards to be more culturally competent when interacting with members of the LGBT community, including transgender individuals.

When it comes to LGBT discrimination within the criminal justice system, government agencies need to recognize the intersectionality of school safety, homelessness, substance abuse, and police profiling. For real and persistent change to take place, these directly correlated issues must be addressed through integrated programs that are adequately funded.

### ***Address the unique needs of LGBT seniors***

LGBT seniors face a unique set of challenges as they

age and head into retirement. Not only do many experience health problems associated with aging in general, but LGBT seniors often have less family and friendship support, may live alone and may be faced with challenging economic and housing needs as a result of family rejection, past social or workplace discrimination, or some combination of factors. Additionally LGBT seniors, especially those living with HIV/AIDS, encounter discrimination and even rejection by assisted living or nursing homes, with many reporting physical and verbal abuse at the hands of caregivers, other staff or residents. The focus on HIV treatment and prevention as central to LGBT healthcare also has overshadowed two devastating disorders associated with aging, Alzheimer’s and dementia, which are simply not part of the conversation when it comes to older LGBT adults, who often have more limited support structures.

With the number of LGBT seniors expected to double by 2030 as the baby boomer generation ages, it is imperative that the California government devote the necessary budgetary resources to promote culturally competent assisted-living programs and retirement homes, train caregivers in proper care and treatment of LGBT seniors, and address the unique health requirements of aging LGBT people.

### ***Adequately fund PrEP, PEP, and HIV prevention and treatment***

HIV/AIDS remains one of the most critical health issues facing the LGBT community in California. The CDC has reported a 132 percent increase in new HIV infections among young gay and bisexual men, ages 13-24, in the last decade, with an estimated 54,000 new infections per year. Men who have sex with men (MSM) accounted for over 63 percent of these new infections in 2010. And young black MSM accounted for over 55 percent of infections in MSM overall. This crisis has been exacerbated by major cuts in government funding for HIV/AIDS treatment and services, primarily the AIDS Drug Assistance Program (ADAP), which provides lifesaving medication to HIV-positive individuals without insurance. In 2009, after the financial collapse, California cut \$85 million in general funds spending on HIV/AIDS programs, going from a total of \$130 million in 2008 to \$13 million in funding in 2014.

Reinvestment in new HIV treatment and prevention methods is critical to reducing new infections among MSM and today three powerful biomedical tools are available to achieve this: TasP, PEP, and PrEP. Evidence



has shown that HIV-positive individuals on treatment, and with an undetectable viral load, have significantly reduced rates of HIV transmission. This “treatment as prevention” (TasP) is fundamental to slowing the spread of HIV, as transmission occurs most often when HIV-positive individuals are lacking treatment and experiencing high viral loads. Post-exposure Prophylaxis (PEP), which involves individuals taking a 30-day supply of anti-retro viral medication after being potentially exposed to HIV, has been shown to be highly effective in preventing sero-conversion, if taken within 72 hours. Finally, there is Pre-exposure Prophylaxis (PrEP), the important new biomedical measure, which involves HIV-negative individuals taking the anti-retro viral medication Truvada preventatively to inhibit HIV transmission by up to 99% when taken once per day.

All of these tools are dramatically changing how people can protect themselves and others, but each depends on budgetary resources and public education aimed at at-risk communities (with a focus on LGBT people of color where programs have not been adequately funded). Another challenge for many low-income LGBT individuals who would benefit from PrEP is the failure of healthcare plans to fully cover these prevention options. Even though coverage is provided under MediCal and Covered California plans, excessively high copayments are required under many plans making these treatment options financially out of reach for low-income members of our community.

A successful road map to ending HIV/AIDS will require increased government funding for HIV-positive individuals who lack treatment, an effective statewide outreach campaign to educate at-risk communities about the new preventative options available, and finally a PrEP-based drug-assistance program (PDAP), similar to ADAP, that would provide biomedical prevention drugs to members of the LGBT community who lack health insurance, or are under-covered.

### ***Provide healthcare for undocumented LGBT people***

Undocumented LGBT people are among the most marginalized members of our community. The majority are Hispanic, between the ages of 18 and 29, who have

fled their country to build a better life for themselves, or to escape persecution or discrimination. Their undocumented status presents a myriad of unique challenges and barriers to obtaining healthcare and general social assistance. The first most and obvious of these is their ineligibility for medical insurance coverage provided through the state’s healthcare exchange, Covered California. Undocumented people are excluded from Covered California unless they fall into the narrow category of individuals eligible for administrative relief under the Deferred Action for Parental Accountability (DAPA) and/or Deferred Action for Childhood Arrivals (DACA) program, and the low-income requirement, to be approved for MediCal enrollment.

Due to fear of deportation many are also afraid to seek out medical services, in some cases even when experiencing life-threatening illness. For those who do go to a clinic or hospital, language and cultural differences prevent them from getting the adequate medical services they require. Additionally, a large number of undocumented people in California earn a meager living as farmworkers in the Central Valley, working under harsh conditions for what often amounts to below minimum wage. This lack of funds is another primary reason that undocumented LGBT people are unable to access the healthcare services they need. Finally, increased discrimination against LGBT people in rural areas, coupled with xenophobia and racism directed at the undocumented community in general, further prevent undocumented LGBT individuals from engaging with healthcare providers, or government-run social services.

It is a high priority that state lawmakers provide adequate funding to allow undocumented LGBT people, and the undocumented community generally, to obtain healthcare within the state of California.

For more information on Equality California Institute or questions regarding this document, please contact Tony Hoang at (323) 848-9801 or [tony@eqca.org](mailto:tony@eqca.org).

Although this report considered the information shared at the **Fair Share for Equality** Convening, it reflects Equality California Institute’s public policy and educational priorities. We thank the Williams Institute, AIDS Project Los Angeles Health & Wellness, the Gay, Lesbian & Straight Education Network, the Transgender Law Center, the Trevor Project and our other co-sponsors for providing statistics and information included within this summary report. We hope this report will educate legislators and policy makers and help them develop and fund valuable programs to address the disparities in health and well-being of the LGBT community. While common themes did arise throughout the course of the Fair Share for Equality Convening, the priorities expressed herein are those of Equality California and Equality California Institute alone and do not necessarily reflect the views of our co-sponsoring organizations or program participants not affiliated with Equality California.

# **FAIR SHARE FOR EQUALITY**

## *Reports from Program Participants*

Each of the following reports were provided by program participants of the Fair Share for Equality Convening on January 14th, 2015, in Sacramento, CA. Each of these reports represent the policy views and perspectives of the author and do not necessarily represent policy or position views of other individuals or organizations participating in the convening.



Geoff Kors, *National Center for Lesbian Rights*

## Risks Related to Stigma

Despite significant advances in legal protections for LGBT individuals including LGBT youth, and social integration of LGBT adults, many LGBT youth continue to struggle in families and institutions that pathologize and disparage their core identities. LGBT youth who are rejected and ostracized at home, in school, by peers, and in the community are at elevated risk for negative health and mental health outcomes, school failure, homelessness, and social isolation. These risk factors combine to create a powerful current that too often sweeps LGBT youth away from their homes and into homelessness or public systems of care.

Schools are notoriously hostile settings for LGBT students, the majority of whom report regular verbal or physical harassment by students or school personnel based on their sexual orientation or gender expression. LGBT students who report high levels of victimization at school also have higher rates of truancy and school failure, lower grade point averages, higher levels of depression, lower self-esteem and fewer plans for secondary education. Youth who identify as LGBT or questioning also experience significantly higher rates of cyber dating abuse and bullying than their peers. Non-heterosexual youth, particularly girls, receive school and criminal sanctions that are disproportionate to their rates of transgressive behavior. Hostile school environments undermine positive social connections and academic engagement, both of which are crucial components of adolescent health and well-being.

LGBT youth who negotiate societal discrimination without the support of their families are particularly endangered. Research by the Family Acceptance Project demonstrates the devastating impact of family rejection on LGBT youth. Lesbian, gay and bisexual (LGB) young adults who reported high levels of family rejection were 8.4 times as likely to have attempted suicide, 5.9 times as likely to experience significant depression, 3.4 times as likely to use illegal drugs, and 3.4 times as likely to have engaged in unprotected sexual intercourse.

Primarily as a result of being ejected from their homes due to conflict over sexual orientation or gender expression, LGBT youth represent up to 40% of the homeless youth population. Homeless youth, in general, experience poor health and mental health outcomes, including substance abuse, high risk sexual behavior, sexual exploitation, physical abuse, and depression. Homeless LGBT youth, however, are at significantly higher risk than their heterosexual and gender conforming peers for these negative outcomes. LGBT youth are also more likely to come into contact with the police.

When their families, schools and communities fail to provide a safe harbor, LGBT youth are often relegated to the care of the state. Research conducted in 2014 by the Williams Institute and Holarchy Consultants confirmed that LGBT youth are significantly overrepresented in foster care. About 19% of youth ages 12-21 in Los Angeles foster care self-identified as LGBTQ. Charged with securing the safety, permanency and well-being of these youth, the child welfare system has largely been unequal to the task. Too often, services are delivered by personnel, caregivers and providers who harbor the same biased and uninformed viewpoints that placed LGBT youth in jeopardy in the first place. Indeed, many faith-based child welfare providers continue to embrace so-called "conversion" therapies, despite their universal repudiation by every mainstream health and mental health professional organization and California's statutory provision prohibiting licensed therapists from subjecting children to these practices. In the Los Angeles study, 12.9% of LGBTQ youth reported being treated poorly in foster care compared to 5.8% of non-LGBTQ youth. Too often, LGBT youth often experience foster

care at its worst: an endless series of disrupted placements and a life of instability and insecurity. When the foster care system (and every other private and public institution) fails them, LGBT youth are shunted off to the system of last resort, the juvenile justice system.

LGBT youth are also overrepresented in the juvenile justice system, in part because they are frequently arrested and detained for low level, victimless offenses that are related to their homelessness and involvement in street economies. In a self-administered survey completed by 2,100 detained youth in six jurisdictions, approximately 15% of youth self-identified as lesbian, gay, bisexual (LGB) or gender nonconforming, a proportion that significantly exceeds their numbers in the general population. The actual percentage of LGBT youth in detention is likely even higher, given that many youth are reasonably reluctant to come out to probation or correctional personnel. The data also showed that LGB and gender non-conforming youth are twice as likely to have experienced child abuse, foster and group home placement, and homelessness when compared to their heterosexual and gender conforming peers. LGB and gender-nonconforming youth are also twice as likely to be detained for truancy, warrants, probation violations, running away and prostitution.

The data also debunk an oddly robust myth that most LGBT youth in the system are white. Instead, LGB and gender nonconforming youth in the system share the overall racial and ethnic characteristics of their straight and gender-conforming counterparts. That is to say, the vast majority are youth of color. LGBT youth of color confront a particularly perverse conundrum. If they disclose their LGBT identities, they risk losing support and affirmation of their cultural or racial identities from disapproving family members, religious institutions and communities. If they remain closeted, they risk invisibility in institutions that assume that all LGBT youth are white. Either way, the compounded isolation to which they are subjected undermines their health and safety.

Predictably, the abuse directed at LGBT youth in the “outside” world is more pervasive and lethal in detention and correctional settings. In the best of circumstances, these facilities are depressing and inhumane environments. Virtually all juvenile custodial personnel concede that youth who are perceived to be gay or lesbian or to transgress gender norms are at heightened risk of verbal, physical and sexual assault in lockups. Nonetheless, custodial intake officers rarely inquire into these issues or explore with youth any concerns they might have about their safety. Instead, intake officers routinely (and often unknowingly) relegate LGBT youth to dangerous housing assignments or place them in prolonged “protective” isolation. Intake personnel also commonly classify youth who are perceived to be LGBT as sex offenders, based on the prevailing myth that gay and lesbian youth are more likely to engage in coercive sexual conduct. Custodial staff further imperil LGBT youth by ignoring or minimizing harassment directed at them by their peers or staff, or subjecting them to religious proselytizing or homophobic rhetoric.

LGBT youth are especially subject to extended incarceration. Juveniles, in general, are subject to indeterminate periods of custody or supervision, securing their liberty only upon demonstration of “rehabilitation” or satisfaction of probation conditions. Under this regime, judicial officers or probation officials may extend custody or probation for a broad range of behavioral infractions. These vague and subjective standards are particularly treacherous for LGBT youth, who may be punished for insisting upon expressing their true gender identity, expressing same-sex attraction or affection, refusing to admit to bogus sex offense charges, or simply defending themselves against homophobic or transphobic harassment. LGBT youth who present no risk to public safety remained locked up for extensive periods because the system has no placement alternatives competent to serve them.

Sexual abuse is notoriously commonplace in correctional settings. Incarcerated youth, in general, are more vulnerable to sexual assault than adults, and certain populations of youth are especially endangered. In 2010 the Bureau of Justice Statistics (BJS) published a report entitled “Sexual Victimization in Juvenile Facilities Reported by Youth, 2008-09.” The BJS surveyed over 9,000 youth in 195 juvenile confinement facilities across the nation to determine the prevalence of sexual victimization of residents. Along with a disturbingly high incidence of sexual assault overall, the survey results revealed that nonheterosexual youth reported significantly higher rates of sexual victimization by other youth (12.5%) compared to heterosexual youth (1.3%). In 2012, BJS conducted a follow-up survey in 326 juvenile facilities. Although overall rates of sexual victimization decreased about 3%, LGB residents continued to be abused at nearly 7 times the rate as straight youth.

## Action Items

- Clarify that licensing regulations permit placement personnel, including child welfare and probation agencies, to house transgender youth according to their gender identity.
- Create competitive grants to counties to support interventions designed to increase family acceptance of LGBT youth as a means of preventing homelessness and out-of-home care.
- Develop state level program to assist counties in recruiting, training and supporting affirming resource families for LGBT youth involved in child welfare or juvenile justice systems
- Develop and fund county-level pilot project to collect SOGIE data in child welfare and/or juvenile justice system as a means of tracking health and mental health outcomes for LGBT youth in out-of-home care
- Add to the Bill of Rights in both foster care and juvenile justice settings the right of youth to receive competent, nondiscriminatory health and mental health care from professionals who are conversant in the relevant standards of care. Specifically ban the use of any intervention aimed at changing the sexual orientation or gender identity of any child in the custody of public agencies.
- Create services to prevent youth homelessness and stabilize and support youth who are already homeless. Gov. Patrick just signed the Unaccompanied Homeless Youth Act in Massachusetts, as an example.



## Hon. Abbe Land, *The Trevor Project*

The Trevor Project's mission is to end suicide among, lesbian, gay, bisexual, transgender and questioning young people. The organization works to fulfill this mission through the following four strategies:

1. Provide crisis counseling to LGBTQ young people thinking of suicide
2. Offer resources, supportive counseling and a sense of community to LGBTQ young people to reduce the risk that they become suicidal
3. Educate young people and adults who interact with young people on LGBTQ-competent suicide prevention, risk detection and response
4. Advocate for laws and policies that will reduce suicide among LGBTQ young people

As the only national organization providing 24/7 lifesaving suicide prevention services to LGBTQ youth, The Trevor Project is honored to provide our initial thoughts on strategies that will help reduce disparities for LGBTQ youth in the area of suicide prevention, education and medical care.

Specifically in the area of suicide we know that LGB youth are 3-4 times more likely to attempt than their straight friends. Recent studies from the American Foundation for Suicide Prevention have shown 60% of transgender youth have thought about suicide, and some 40% have made a suicide attempt. Research from the Family Acceptance Project has also shown that when LGBTQ youth come from a rejecting family they are 8 times more likely to attempt. Furthermore, we know that 40% of homeless youth identify as LGBT, largely related to the youth feeling unwelcomed or unsafe in their homes and being kicked out or choosing to leave.

### **Strategies:**

**Training for teachers:** In their training of teachers, California's universities should integrate inclusive and affirming interaction with LGBTQ students in their curricula. It is one endeavor to educate existing teachers (also important), but an earlier intervention to integrate it into core learning in undergrad/graduate level preparation would better equip teachers when it comes to listening for/observing cries for help and other warning signs of distress among students, and providing linkages to competent social-emotional care.

**Foster Care:** There is disproportionate representation of LGBTQ youth in the foster care system. Child protective social workers (PSWs) need to have a higher degree of working knowledge of LGBTQ competent risk assessment and linkages to services. We know that LGBTQ youth do better in affirming care environments (mental health and healthcare services) and a large part of what social workers do is coordinate care services. If PSWs were more uniformly trained and aware of the needs of the LGBTQ youth in foster care they would be more likely to these foster youth to services with a higher likelihood of success.

**Supportive and affirming environments:** California's school counselors, nurses and social workers need greater uniform knowledge of creating affirming environments, which may increase the likelihood of young LGBTQ students engaging in help seeking behaviors. This also includes familiarity with the need for affirming local resources (LGBT centers, The Trevor Project, GSAs, etc.).

**Medical and Mental Health care:** LGBT cultural competency training for Primary care physicians, urgent and



emergency care providers in safety net hospitals, and psychiatric care unit professionals is essential. As more youth are accessing healthcare it is critical that providers understand the specific issues that LGBTQ youth face. Having a better understanding will allow more appropriate referrals, follow up and perhaps earlier identification of anxiety and depression, key factors in suicide attempts. Additionally ensuring this competency training specifically for emergency room providers will ensure LGBTQ consumers are provided inclusive and competent assessment, treatment, and discharge, which may reduce the likelihood of repeat attempts (and loss of life) because of greater engagement in treatment and follow up by the patients. This includes assessing family support in accessing supportive (affirming) follow up care for youth.

**Data Collection:** LGBT youth are often underrepresented in data collection. Medical records often lack information about youth's sexual orientation or gender identity. Death certificates don't indicate this information either. Identifying every opportunity to track this data will help in allocating resources to address many disparities LGBTQ youth face.

Going forward we must also think about how youth identify, and that impact on data collection. Many youth see themselves as part of a gender spectrum neither identifying as male nor female, and sexual orientation is often fluid as well. This will have impacts on how we ask gender and sexual orientation questions in the future.

**Model Suicide Prevention Policies/Programs:** The Trevor Project in collaboration with three other organizations developed a model suicide prevention policy aimed at middle and high schools. This policy is an inclusive approach designed for all students, with specific issues that LGBT students face identified and discussed. Having this type of policy adopted by schools would go a long way to raising awareness and address the issue head on. We are currently working on a similar policy for colleges.



Eileen Ma, *API Equality-LA*

## **API LGBT Community Concerns Submission for Equality California Fair Share Convening**

### **Background**

Since 2005, API Equality-LA has worked to advance the civil rights of the lesbian, gay, bisexual and transgender (LGBT) communities through organizing, public education and advocacy. API Equality-LA's mission is to advocate in Asian American, Native Hawaiian and Pacific Islander (API) communities for fair treatment of LGBT people and marriage equality to create a society free from discrimination and injustice. Our grass roots coalition has brought together veteran and newer activists who represent the ethnic, linguistic, age, professional, and gender diversity in the API communities. API Equality-LA has garnered tremendous broad-based support, including the endorsements of more than 50 organizations and numerous community leaders. For the last 10 years, our staff and dedicated volunteers have conducted one-on-one conversations with thousands of API voters about relevant issues for our communities, participated in parades and political actions, reached out to ethnic media, build bridges to faith communities, and organized educational events on a broad array of social justice issues of importance to API LGBT people. API Equality-LA has also created several projects to promote visibility, leadership and family acceptance within the API communities, including Q&A Space (a youth intergenerational story-sharing website), Pioneers Project (a documentary project to preserve histories of individuals involved in the early API LGBT movement, and the API Activist Academy (an institute to develop youth leaders). We have also conducted research about attitudes in the Chinese, Filipino, Korean and Vietnamese communities about LGBT equality.

As an API community with a history in this country marked by discrimination--immigration restrictions, war-time internment, and laws banning interracial marriage (for which many of the same arguments were used as the basis of these types of discrimination), we provide an important voice, as a part of the broader social justice movement, to challenge the ongoing exclusion and unequal citizenship facing the LGBT community. API LGBT people continue to experience discrimination, stereotyping, hatred and bullying, lack of acceptance, ostracism and feelings of alienation in their everyday lives. API Equality-LA seeks to transform social policies and cultural norms to move beyond mere tolerance and acceptance but to ensure respect, appreciation and equal treatment for all in our community.

### **Asian American, Native Hawaiian, Pacific Islander Communities (API).**

The API community encompasses over 20 Asian ethnic groups and 18-20 Native Hawaiian and Pacific Islander ethnic groups or communities, which speak dozens of different languages and have a multiplicity of experiences informed by varied migration histories and cultures.

API people constitute 13% of the California population and are the fastest growing racial group in the country and in California. The API community is an immigrant community; about 60% of Asian Americans in CA are foreign born – the highest of any other racial group - compared to about 40% for the Latino community. That means that there are over 3.1 million Asian Americans and 47,000 NHPI foreign-born in California or nearly one in three immigrant Californians is either Asian American or NHPI. API LGBT people tend to live in API communities, and include many binational couples and families raising children. API LGBT people face high rates of uninsured and unemployment. APIs make up 15% of undocumented LGBT immigrants and 35% of documented immigrants. Many families are affected by the U.S.'s deportation/detention regime and other failed immigration policies. For

instance, the longest visa application backlogs are for those seeking entry from China, Philippines, India, Vietnam. Other disparities for specific API LGBT subgroups show disadvantages for this community in the areas of household income, educational access, citizenship status and civic engagement.

### **Discrimination and Rejection**

Despite momentum and progress nationwide toward LGBT equality, and marriage equality in particular, many API LGBT youth continue lack of family and social acceptance. Due to language barriers and cultural norms, or these in combination, API LGBT young people continue to experience discrimination and alienation in their families, schools, churches and other social networks. While acceptance of LGBT equality in public is increasingly commonplace, many API LGBT people are still unable to gain acceptance in their everyday lives and in their closest communities.

Without specific culturally-appropriate and linguistically-competent educational and awareness-raising efforts in API communities, individuals remain isolated and unsupported, resulting in less favorable life chances. Although API Equality-LA has increased support for marriage equality and LGBT rights over the years, there remains a need for large scale public education efforts that reach in to all of California's diverse communities to increase support and understanding for LGBT lives. Also, ethnic-community specific research is essential to understand how best to communicate in these diverse communities about LGBT issues.

### **Education and Schools**

The problems of bullying for LGBTQ youth are well known for API LGBT youth and more research is needed as to the high incidence of in-school bullying, challenges of reporting and possible under-reporting in the Asian community, and how to properly address these problems. Moreover the intersections of anti-LGBTQ and anti-API prejudices must be explored. In addition to support for inclusive curriculum development to implement the FAIR Education Act, linguistic and cultural competency and diversity must be part of the picture. Also initiatives are needed that encourage ethnic community specific awareness and understanding and creative ways to share information both about LGBT people and about how to support LGBT equality.

### **Immigration**

As noted above, one of the priority issues for the API and LGBT communities is the disproportionate number of APIs languishing in our family and employment visa backlogs, some of whom have waited decades to reunite with their loved ones. While APIs are only 6% of the U.S. population, they sponsor more than one-third of all family-based immigrants. APIs are also disproportionately harmed by the family backlogs. Of the almost 4.3 million family members of U.S. citizens and legal permanent residents waiting in the family backlogs, nearly two million are API and many are Latino and African. API Equality-LA is extremely concerned about the proposed changes to the family immigration system, which are a dramatic departure of America's long-standing immigration tradition and value of family unity, as proposed under the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (Senate Bill 744)(also known as Comprehensive Immigration Reform/CIR). Unfortunately, some of the provisions under CIR eliminates certain family immigration categories or limits the scope of families who can bring over family members, such as excluding LGBT bi-national couples and families from sponsoring their loved ones for family reunification. Excluding LGBT couples and families from sponsoring their loved ones for family reunification by not recognizing permanent partners and their families in the definition of family perpetuates discrimination and prevent these families from reuniting with their loved ones. Reform must be inclusive and should not discriminate based on race, gender, or sexual orientation. All families should be given the opportunity to work and live together to achieve the American dream.

### **Racial, Ethnic and Language Disparities**

There is great need for more specific research dedicated to analyzing the API LGBT experience in its full diversity that can account for all the varied subgroups within the category. This is particularly true for the API communities, given the wide diversity of subpopulations under the umbrella category of "API," which illustrates the critical need to collect and to report disaggregated data to capture the disparities within the API communities. For example, although the average uninsured rate for health insurance in the state is 14%, there is a great disparity of health insurance coverage among the API communities – ranging from 7% for Japanese to 27% of Koreans, 22% of Thais,

21% of Cambodians, and 25% of Tongans - rates that are higher than any major racial or ethnic group. This kind of disparity, as well as the lack of data generally applies, in fact, to all LGBT communities of color, for whom specific data is often scanty. Resources and initiatives should be dedicated here to further understand racial, ethnic and language disparities as they affect LGBT people of color.

### **LGBTQ Communities of Color**

Non-white racial groups (not “minorities,” since non-whites now make up a majority in CA), share some parallel needs and challenges in African American/Black community, Latino (Mexican, Central and South American), and Arab/Middle Eastern (and Muslim) communities:

1. need for culturally and linguistically appropriate services and policies
2. need for increased investment in disadvantaged sectors of these communities
3. need for public policy tools and methods, including research and disaggregated data, that address the diversity within these communities
4. institutional and historical exclusion, and persistent under-representation in decision-making circles
5. challenge of invisibility or benign neglect as API and other non-white LGBT communities can often get lost in discussion of LGBT issues in a “one policy fits all” approach.
6. Difficulty in separating aspects of one’s identity since API and other non-white LGBT people are subjected to many layers of oppression at the same time -- racism, sexism, homophobia, and xenophobia -- and frequently it is difficult to know where one ends and another begins.

### **Recommendations and Models**

1. Devote resources to educational programming, such as culturally and linguistically specific coming out workshops, issues-based workshops, youth leadership development programs, to supplement what students learn in school.
2. Require racial and ethnic diversity in the FAIR Education Act’s LGBT inclusion.
3. Requiring inclusion of experiences of LGBT communities of color in public/private partnerships to promote diversity in state funding for cultural affairs and arts programs.
4. Support inclusion and expansion of programs like API Equality-LA’s Pioneers documentary project, including support for development of accompanying lesson plans and community-wide distribution plan.
5. Promote projects like Q&A Space ([www.qaspace.org](http://www.qaspace.org)), as a resource for youth support.
6. Commission community-based research on experiences of LGBT communities of color and LGBT acceptance of LGBT equality in communities of color (like API Equality-LA’s Korean, Chinese, Filipino, Vietnamese research projects)
7. Review published research on API and LGBT and other communities of color, including Asian Americans Advancing Justice-Los Angeles’ (Advancing Justice-LA’s) “A Community of Contrasts” series and exit poll data, such as Advancing Justice-LA’s & Empowering Pacific Islander Communities’ “Native Hawaiians and Pacific Islander’s: A Community of Contrasts in the U.S. 2014,” The Williams Institute’s “LGBT Asian and Pacific Islander Individuals and Same-Sex Couples” (September 2013), and other publications.
8. Ensure the needs of all LGBT communities are taken into account when proposing legislation impacting the LGBT communities, as well as strengthening and enforcing existing protections for the LGBT communities.

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<sup>1</sup>According to exit polls conducted by Asian Americans Advancing Justice – Los Angeles, support for marriage equality increased significantly between 2000-2008, tumbling from a 36-point margin (68 oppose vs. 32 percent support) for Proposition 22 in 2000 to six percent (54 oppose vs. 46 percent support) for Proposition 8 in 2008. In other words, in the same span of time, Asian American voters moved more rapidly towards support for marriage equality than the general electorate. While many factors can be attributed to this change, there is one clear difference between what was happening in the larger community and in the API community: the active presence of API Equality-LA, with its significant education and organizing efforts in the years leading up to the 2008 election. See Asian Americans Advancing Justice – Los Angeles (formerly Asian Pacific American Legal Center), Preliminary Findings from the 2008 Southern California Voter Survey (Nov. 6, 2008) at p. 4; Asian Pacific American Legal Center, Exit Poll Data for March 2000 California Election (March 2000) (on file with the Asian Americans Advancing Justice – Los Angeles Archives).

<sup>2</sup>Most recently, on December 4, 2014 in Folsom, CA, Ronin Shimizu, a 12-year old Japanese American boy, killed himself after years of incessant bullying. See <http://www.news10.net/story/news/local/2014/12/05/friends-and-family-say-folsom-boy-was-bullied-for-being-a-cheerleader/19937151/>.



## Renata Moreira, *Our Family Coalition*

### **Lesbian, Gay Bisexual, and Transgender Parents and Families**

In California, 21% of all same-sex couples are raising children<sup>1</sup>. LGBT-parented families are represented in every racial and ethnic community, and across the socio-economic spectrum. But LGBT couples who choose to have children together or who bring children with them into the relationship face additional challenges, including choosing how to form a family.<sup>2</sup>

LGBT-parented family formation occurs in many ways, including through adoption, foster parenting, donor insemination, surrogacy, co-parenting, kinship care, blended families, and bringing children from previous heterosexual relationships. Even so, public perceptions about families and parenting have predominantly presumed that families and parenting remain in the heterosexual realm.

#### PROBLEMATIC REPRESENTATION AND CONDITIONAL SOCIAL SUPPORT

For many, finding social support and community as both parents and as an LGBT couple may be complicated, and often LGBT parents are required to straddle two disconnected worlds. Traditional parenting roles encompass a gender binary not present with an LGBT couple. This gives the couple the opportunity of creating their own roles and delegating parenting responsibilities, but it also forces them to negotiate situations non-LGBT parents never have to face.

Almost all books, television programs and movies which children are exposed to validate only heterosexual love, romance, marriage and parenting. This essentially renders the relationship between LGBT parents and their children's experience of family invisible and unsupported. Research efforts have used heterosexual-parented families as the gold standard to which LGBT-parented families are compared. When they first interact outside the family, young children from LGBT-headed families face social assumptions about family structure that do not fit their experience—which can be invalidating and confusing unless they have the opportunity to interact with other families like theirs.

In addition, focus on the heterosexual status of the children in these studies intrinsically implies that raising an LGBT child continues to be seen as a negative and undesirable outcome—particularly if raised by LGBT parents. The notion that a parent is allowed to have a positive and healthy LGBT self-identity, yet is scrutinized should their own child grow up to identify as LGBT, is a mixed message that serves heterosexism and internalized homophobia.

#### INADEQUATE SCHOOL CLIMATE

Every day, hundreds of our families navigate K-12 school systems that lack cultural competency and do not

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<sup>1</sup> Movement Advancement Project, Family Equality Council & Center for American Progress (2011); All Children Matter: How legal and social inequalities hurt LGBT families (full report) [Electronic version]. Retrieved from <http://www.lgbtmap.org/all-children-matter-full-report>

<sup>2</sup> First, Do No Harm: Reducing Disparities for Lesbian, Gay, Bisexual, Transgender, Queer and Questioning Populations in California.

reflect the lived experience of LGBT-headed families. Despite the fact that the state mandates no discrimination against people due to their sexual orientation or identity, most schools do not implement practices that recognize LGBT parents and caregivers as active participants of their school communities. We still operate under the widespread misunderstanding that talking about LGBT families with young children is the equivalent of talking about sex, which in turn is developmentally inappropriate at the pre-and elementary school level. The lack of representation of LGBT families in social sciences, particularly in these formative years, silences the celebration of true family diversity, a subject which is proven to be age appropriate.<sup>3</sup> The result is increased bullying, harassment, and isolation of children of LGBT parents and caregivers.

Children of LGBT parents face widespread homophobia in school or after-school programs, and are frequently targeted for harassment and sometimes physical violence by their peers. Data from the California Safe Schools Coalition<sup>4</sup> shows that such harassment is widespread in California schools and has a negative impact on well-being and school success.

These negative behaviors are exacerbated by the lack of representative education in history and social sciences. Historically, the role of underrepresented groups has been described from the point of view of the majority, providing an incomplete, inaccurate account. LGBT people and their experiences are completely absent and/or ignored in history lessons, particularly in the formative grade levels (PreK-4). For example, first graders are encouraged to know about Dr. Martin Luther King Jr. and through this learn about racial diversity, but they are uninformed about Bayard Rustin's role in the movement and King's most visible achievements, and therefore lack context to understand the importance LGBT inclusion or the intersections of civil rights movements. LGBT parents and caregivers communicate that staff of early childhood and elementary education institutions are frequently uninformed about how to welcome and work effectively with LGBT parents and families. Even when well-intentioned, such staff lack sufficient resources and information.

Research from GLSEN (2008) documented for the first time that while LGBT parents are more likely to be involved in their children's education than non-LGBT parents, they and their children also experience higher levels of discrimination. Children with LGBT parents make decisions every day about what to reveal about their families, and whether or not to challenge slurs. More recently, in 2012, more than 20% of respondents to Our Family Coalition's membership survey reported that their children have been teased or bullied at school because of their family composition<sup>5</sup>.

Finally, peer support is one of the most critical needs for LGBT parents, who, in spite of this being disproved time and again, are often subject to public messages that they are inadequate or inappropriate parents, and have to negotiate particular issues of disclosure and safety alongside the general issues that all parents face.

## CHALLENGES IN HEALTHCARE AND OTHER SYSTEMS

Children of LGBT parents also experience additional stressors within institutions plagued by heterosexism and homophobia. Many healthcare environments and medical providers can be unwelcoming to LGBT-parented families, or may simply lack training to provide appropriate assistance given their unique needs. Health coverage disparities and unequal access to health insurance due to slow implementation of federal mandates or lack of recognition of LGBT-parented families also add to this disparity in access.

In addition, low-income LGBT parents and their children often face multiple barriers to services. While only 9% of married different-sex couples raising children live in poverty, twice this amount live in poverty. The economic protections and benefits of legal marriage, so recently won, are a long way from translating into the lived

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<sup>3</sup> Anti-Bias Education for Young Children and Ourselves: Derman-Sparks, Olsen, 2010

<sup>4</sup> California Safe Schools Coalition, A Project of the Tides Center. (2005). District Policies and Trainings (California Safe Schools Coalition Research Brief). San Francisco, CA: California Safe Schools Coalition. Retrieved from [http://www.casafeschools.org/DistPolFACTSHEET\\_rev1a.pdf](http://www.casafeschools.org/DistPolFACTSHEET_rev1a.pdf)

<sup>5</sup> Bi-Annual Membership Survey Executive Summary, Our Family Coalition, July 2012



experience of LGBT-headed families.

Children of same-sex foreign-born LGBT parents face additional challenges, since they continue to be invisible under current immigration law and in most immigrant communities across the state. LGBT-parented families with undocumented immigrant family members are particularly vulnerable on a variety of fronts. Such challenges negatively affect the financial, emotional, mental and spiritual health of both children and parents, because they are not afforded the same rights as foreign-born opposite sex couples.

## ECONOMIC VULNERABILITY

Despite the prevailing stereotype of gay-headed families in California as an affluent, homogeneous, and well-integrated community with little need for assistance, recent data demonstrate that poverty and rates of economic vulnerability among LGBT-headed families are actually very high, particularly among LGBT families of color<sup>6</sup>.

The 2010 Census indicates that same sex couples face the following significant economic disadvantages:

- Child poverty rates in same sex couple households are twice those of heterosexual married couple households.
- Median household income of same sex couples with children is 23% less than that of heterosexual married parents.
- Only 51% of same sex couples with children are homeowners, compared to 77% of heterosexual married parents.
- African Americans in same sex couples have a poverty rate three times the rate of whites in same-sex marriages and significantly higher than African Americans in heterosexual married relationships.
- Lesbian couples are more likely to receive food stamps and public assistance than women in heterosexual marriages.
- The economic disadvantage experienced by LGBT people is pervasive: even gay men in couples (generally thought of as most likely to be affluent) have annual earnings 15% less than those of heterosexual married men.
- Despite being able to now marry their same sex partners in California; LGBT-headed households continue to face discrimination within school, employment, education, healthcare and economic support systems. The combination of legal discrimination and social stigma limits the stability, security, and physical and mental health of LGBT-parented families. Due to their complex and changeable legal status, LGBT parents must often take additional legal steps to secure economic, guardianship, and inheritance rights for their children. Additional actions must be taken by same sex couples to ensure a full legal relationship between more than one parent and a child. And since most free and reduced-fee legal assistance agencies do not offer these services, LGBT families of lower income status are at a distinct disadvantage.

## PROMISING INTERVENTIONS

Our Family Coalition (OFC), a family resource and advocacy organization based in San Francisco, offers LGBT parents programs and resources using a parent-centered collaborative model, where parents and caregivers are represented at every level of OFC program development and planning. OFC believes success for LGBT-headed families lies in reducing isolation, increasing knowledge, building and maintaining strong community ties, strengthening legal protections, and supporting physical, emotional, spiritual, and financial health.

In OFC programs and resources, LGBT parents learn how to effectively address a wide range of challenges specific to LGBT parenting, including homophobia in their children's school environment, rejection from their

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<sup>6</sup> U. S. Census Bureau, American Fact Finder. (2010a). DP202. Selected social characteristics in the United States: 2010 American Community Survey 1-Year estimates [Data file].

own parents or from their children, coming out to their kids about transitioning into a new gender, or anticipating questions about family formation, sperm donors, and family protections.

Services provided at OFC include:

- Educational programming on both LGBT-specific and general parenting issues within an LGBT-sensitive environment
- Social forums and community-building events that facilitate the development of social support networks for LGBT parents and their children, and allow the children to see their families reflected in others around them
- Peer-led parent discussion groups that help build healthy parent support networks
- Parent leadership training to support advocacy for safe and welcoming environments for their children
- Advocacy and media training for LGBT parents and their children
- Community-building and leadership development for youth from LGBT families

All initiatives seek to develop relationships across time and activities so that LGBT parents build lasting peer relationships as they move through various programs, and children participate in activities together from childhood through adolescence. All of their programs are designed to increase knowledge of parenting and child development, and support children and youth in developing social and emotional competency.

## RECOMMENDATIONS

- Development and implementation of effective anti-bullying and anti-harassment programs, focusing on family diversity, should be mandated for all California public schools at all age and grade levels and should include language addressing sexual orientation, perceived sexual orientation, gender, gender identity and gender expression issues.
- Full implementation of evidence-based, evaluated interventions that specifically address physical bullying and social bullying based on students' family composition should be mandated for all California public schools at all age and grade levels.
- Training of service providers in school districts, public mental/behavioral and physical health systems should focus on the distinctiveness of each sector of the LGBT community.
- State- or county-funded services should be closely monitored to assure that they are safe, welcoming and affirming of LGBT families across all races, ethnicities, and across the lifespan.
- State and county departments should create an environment of safety and affirmation for their LGBT employees and their families.
- Full implementation of the Fair Education Act in every school district in California.

The FAIR Education Act of 2011 mandated that California schools must include fair, accurate, inclusive, and respectful representations of certain underrepresented groups, including LGBT people and their families. Our Family Coalition has been instrumental in the implementation of this law from its inception by providing professional development workshops and resources to schools across California. In 2014, Our Family Coalition partnered with GSA Network, Equality California, and the Committee on Lesbian, Gay, Bisexual, and Transgender History (an affiliated society of the American Historical Association) to encourage the Instructional Quality Commission of the California Department of Education to include more representations of the LGBT community in the revision of the History and Social Science Frameworks for California. This would affect the content of textbooks used for California curriculum in history and social science for grades 2, 4, 6, 8, and 11.

Jointly, this group approached the commission with recommendations which are currently under consideration. The commission will reconvene on the topic in May 2015.

As noted, LGBT families are being harmed daily by multiple stressors even before they confront the many systems (mental health, educational, health and human services, financial, etc.) ill-equipped to serve them. Research demonstrates a prevailing lack of cultural competence, knowledge, and sensitivity among providers

who are expected to work with these families once they access services.

Without reliable data to assess the experience of LGBT-headed families, we cannot improve the conditions nor meet the needs discussed in this report. Following are some additional recommendations to do so:

- Demographic information related to sexual orientation and gender identity of parents should be collected for all families across the lifespan, and across all demographic variations (relationship status, race, ethnicity, age, geography) at the state and county levels.
- Standardization of sexual orientation and gender identity measures should be developed for demographic data collection and reporting at the state and county levels.
- Statewide workforce training and technical assistance should be required in order to increase culturally competent mental, behavioral, and physical health services, including outreach and engagement, for all LGBT families across the lifespan

## ABOUT OUR FAMILY COALITION

Our Family Coalition (OFC) is the premier lesbian, gay, bisexual, transgender, and queer family organization in California. It advances equity for lesbian, gay, bisexual, transgender, and queer (LGBTQ) families with children through support, education, and advocacy. Contact Executive Director Judy Appel at [judy@ourfamily.org](mailto:judy@ourfamily.org) or Policy Director Renata Moreira, [renata@ourfamily.org](mailto:renata@ourfamily.org) for more information.



Aaron Fox, *Los Angeles LGBT Center*

## **Investing California General Funds to Reduce LGBT Health Disparities**

California's commitment to public health has been vastly reduced due to the last five years of economic turmoil. Health disparities that already existed in LGBT communities have been exacerbated and our most vulnerable face even more challenges to stay healthy and happy. While the Affordable Care Act will make significant progress in achieving a healthier LGBT community, it will not solve the deep and pervasive disparities that continue to exist.

California must invest General Fund dollars in order to target health disparities and, ultimately, achieve health equity. While California has committed to doing this by creating a statewide plan to achieve health equity under the California Department of Public Health Office of Health Equity, a plan that does not come with targeted funding cannot be successful.

We propose a General Fund investment in the following areas:

- **LGBT Homeless Youth** – New research has found approximately 40% of the Los Angeles' homeless youth are LGBT. Parental rejection, lack of employment opportunities and physical assault and bullying all contribute to a disproportionate amount of young LGBT being forced to live on the streets. Existing programs in Los Angeles and San Diego are at capacity and waiting lists are common. These programs help homeless LGBT youth with life skills, employment navigation and stable housing, and are cost effective and have demonstrated long-term successful outcomes.
- **Data Collection** – LGBT people have historically not been counted. It has been common practice for behavior health surveys, electronic health records, and state-run program applications to exclude sexual orientation and gender identity questions. Collecting this data will allow for a more coordinated and culturally competent response to the real life challenges that LGBT people face. While some California departments and agencies have been open to including sexual orientation and gender identity questions on forms, the community has been told that this is not widely achievable due to a lack of funds.
- **Substance Use Prevention and Treatment** – LGBT people experience higher rates of substance use due to a number of cultural and social influences that result in reduced health outcomes and increased cost to the overall healthcare system. Targeted funding that relies on trusted community providers and culturally competent prevention and treatment strategies is needed to reduce persisting disparities.
- **HIV/AIDS Prevention and Treatment** – The CDC reports that new cases of HIV infection are on the rise among young gay men of color and transgender women. California cut approximately \$80 million in HIV funding in 2009 that exacerbated an already existing trend in new infections among this population. Reinvestment in preventing HIV – especially in new biomedical interventions like Pre-Exposure Prophylaxis (PrEP) and Post-Exposure Prophylaxis (PEP) – is crucial to curbing the HIV epidemic in CA. CA continues to have the second highest HIV burden in the nation.

For more information on the LA LGBT Center or questions regarding this document please contact Aaron Fox at (323) 993-7464 or [afox@lalgbtcenter.org](mailto:afox@lalgbtcenter.org).



Poshi Mikalson, *Mental Health America of Northern California*

**First, Do No Harm:  
Reducing Disparities for Lesbian, Gay, Bisexual, Transgender, Queer  
and Questioning Populations in California  
The California LGBTQ Reducing Mental Health Disparities Population Report**

**Executive Summary**

In collaboration with Equality California Institute and Mental Health America of Northern California, the Strategic Planning Workgroup (SPW) of the Lesbian, Gay, Bisexual, Transgender, Queer and Questioning (LGBTQ) Reducing Disparities Project was charged by the former California Department of Mental Health (DMH) to seek disparities across the state of California.

The LGBTQ Reducing Disparities Project was an enormous undertaking. Like the other underserved groups - African American, Asian and Pacific Islander, Latino, and Native American - targeted for assessment in the larger California Reducing Disparities Project, LGBTQ people exist in every geographic and economic range. Unlike the other groups, however, LGBTQ people are also found in every racial and ethnic group. Furthermore, each population represented by the acronym LGBTQ has its own needs as well as its own issues of diversity. Age, gender, sex assigned at birth, socioeconomic status, education, religious upbringing, and ethnic and racial backgrounds all play a role in how an individual experiences their sexual orientation and gender identity. For this reason, this report includes significant discussion of the literature that provides a necessary background to inform mental health professionals' understanding of LGBTQ lives.

**Methodology**

In accessing California's widespread and diverse population, the methodology used by the LGBTQ Reducing Disparities Project involved extensive engagement of community members and subject matter experts from across the state through Advisory Groups and a Strategic Planning Workgroup (SPW). Because of the wide diversity of the target population, and the difficulties inherent in achieving access to various subgroups within it, the project utilized a multi-method approach. Community Dialogue meetings were held in 12 communities, drawing over 400 people. The information gathered in these live sessions, along with extensive Advisory Group and SPW input, guided the development of the online LGBTQ Reducing Disparities Community Survey, which was the primary research tool used to gather quantitative information to complement the in-person outreach of the Community Dialogue meetings, as well as the continual input from Advisory Group and SPW members. The online survey provided an avenue for reaching populations traditionally hidden or invisible. Over 3,000 California residents ( $N = 3,023$ ) who identify somewhere on the LGBTQ spectrum responded to the Community Survey (CS), surpassing the initial goal of 2,500 respondents.

One of the major concerns raised by using an online process as a survey tool is one of access. Those who may be facing the most severe disparities may also not have access to, or be reached by, a survey tool that is totally Internet-based. Many agencies and programs serving hard to reach LGBTQ populations promoted the CS and allowed clients access to computers so their voices could be heard. Every recommendation made in this report should be viewed with the diversity of the LGBTQ communities in mind.

**Findings**

This report's findings illuminate the diversity of the target population, and the difficulties its members experience with respect to accessing and receiving appropriate mental health care. For example, CS respondents

were asked how much they agreed with the following statement: “I have experienced emotional difficulties such as stress, anxiety or depression which were directly related to my sexual orientation or gender identity/ expression.” Over 75% somewhat or strongly agreed that they had. The Trans Spectrum group reported the highest rate of agreement (89%). Queer-identified individuals, Native Americans, and youth also reported higher rates than other subgroups. Even though older adults had the lowest rate, almost two-thirds of the group still somewhat or strongly agreed.

Other important findings include:

- Overall, approximately three quarters (77%) of CS respondents indicated they had sought mental health services of some kind. Trans Spectrum individuals reported seeking services at an even higher rate (85%).
- CS participants were asked to indicate which mental health services they needed or wanted, but did not receive. Individual counseling/therapy, couples or family counseling, peer support groups and non-Western medical intervention were ranked by all subgroups as 4 of the top 6 services they reported seeking, but not receiving. All subgroups (except youth) also ranked group counseling/therapy among the top six services they sought, but did not receive. For the general CS sample (all subgroups combined), Western medical intervention was ranked sixth of those services sought, but not received. Queer, youth, older adult, and people of color (POC) subgroups all indicated seeking but not receiving ethnic/community-specific services. Notably, Trans Spectrum respondents ranked “counseling/therapy or other services directly related to a gender transition” and Latino respondents ranked “suicide prevention hotline” as the number six service they sought but did not receive.
- CS respondents were provided a list of problem areas that was developed from Community Dialogue feedback and Advisory Group discussions. CS respondents were asked to indicate whether each area listed was a problem for them in the past 5 years. Concerns most frequently reported as a severe problem by all or most subgroups were:
  1. Did not know how to help me with my sexual orientation concerns-*all subgroups*.
  2. Did not know how to help me with my gender identity/expression concerns-*all subgroups*.
  3. My sexual orientation or gender identity/expression became the focus of my mental health treatment, but that was not why I sought care-*all subgroups*.
  4. Made negative comments about my sexual orientation-*most subgroups*.
  5. Did not know how to help same-sex couples-*most subgroups*.
  6. Did not know how to help mixed-orientation couples (e.g., one partner straight/one partner gay or one partner lesbian/one partner bisexual)-*most subgroups*.
- It should be noted that “Made negative comments about my gender identity/expression” was also one of the most frequently reported severe problems by Trans Spectrum, Queer, youth, Asian Americans, Native Hawaiians & Pacific Islanders (AA & NHPI), Black, Latino and urban subgroup respondents. Trans Spectrum respondents were 4 times as likely ( $P < .001$ ) to have this problem than non-Trans Spectrum respondents. In addition, they were 5 times more likely to have mental health providers who “did not know how to help me with my gender identity/expression concerns.”
- CS participants were asked how satisfied they were, in general, with the mental health service(s) they had received in the past 5 years. Only 40% of LGBTQ respondents stated they were “very satisfied,” although satisfaction rates differed among subgroups. Older adults reported the highest rate (60%) and youth the lowest (23%) for “very satisfied.” Trans Spectrum (31%), Bisexual (32%), Queer (25%), AA & NHPI (24%), Latino (36%), Native American (29%) and rural (35%) subgroups all had even lower rates of “very satisfied” than the overall sample.
- Respondents who reported having only Medi-Cal had *more difficulty* accessing the services when they needed and wanted them than those who reported having private insurance, Medicare, another type of government insurance (e.g. VA, Tri-Care, Indian Health) and/or a combination of the above. Only 45% of Medi-Cal respondents were able to access couples or family counseling compared to 69% of those with private insurance. Only 40% were able to access Western medical interventions compared to 75% with private insurance and 84% with Medicare. Finally, only 37% were able to access peer support groups compared to 77% with private insurance, 71% with other governmental insurance, 91% with Medicare and 81% of those with some combination of the above.



In addition to the Community Survey, researchers also conducted the LGBTQ Reducing Disparities Provider Survey (PS) to complement the Community Survey, allowing the Research Advisory Group to develop questions specifically intended to access barriers providers may face in providing culturally appropriate, sensitive and competent care to LGBTQ community members. In addition, the PS included questions to address the intersection of being both LGBTQ and a service provider.

The PS was made available to mental, behavioral and physical healthcare professionals, educators, administrators, office staff, support staff, and *anyone who comes in contact with clients, patients, students and/or family members, whether or not they provide services specifically for LGBTQ individuals*. Over 1,200 (N=1,247) providers working or volunteering in California completed the PS, including over 350 providers who also identified as LGBTQ.

Using an adaptation of the Gay Affirmative Practice (GAP) Scale developed by Catherine Crisp (2006), researchers were able to assess the extent to which the provider respondents engage in principles consistent with gay affirmative practice. The most significant finding here is that training matters; the higher the number of trainings specific to LGBTQ issues, the higher the GAP scores. In general, LGBTQ providers took more trainings than heterosexual providers, but sexual orientation does not predict greater competence. Regardless of sexual orientation, increased numbers of trainings attended resulted in more affirming providers.

## Recommendations

The two most important concepts that have come out of this research, and the reason this report has been titled *First, Do No Harm*, is that LGBTQ people are being harmed daily by minority stressors such as stigma, discrimination, and lack of legal protection, prior to entering mental health services, and lack of cultural competence, knowledge and sensitivity among providers who are expected to work with them once they access services. Among the recommendations contained in this report, some of the most important are:

- Demographic information should be collected for LGBTQ people across the life span, and across all demographic variations (race, ethnicity, age, geography) at the State and County levels. Standardization of sexual orientation and gender identity measures should be developed for demographic data collection and reporting at the State and County levels. Race, ethnicity, culture and age should be considered and the measures differentiated accordingly.
- Statewide workforce training and technical assistance should be required in order to increase culturally competent mental, behavioral and physical health services, including outreach and engagement, for all LGBTQ populations across the lifespan, racial and ethnic diversity, and geographic locations.
- Training of service providers in public mental/behavioral and physical health systems should focus on the distinctiveness of each sector of the LGBTQ community—lesbians, gay men, bisexual, transgender, queer and questioning—within an overarching approach to mental health throughout the lifespan for the racial, ethnic and cultural diversity of LGBTQ communities. Cultural competency training, therefore, cannot only be a general training on LGBTQ as a whole, but also needs to include separate, subgroup-specific training sessions (e.g., older adult, youth, bisexual, transgender, Black, Latino, etc.).
- Development and implementation of *effective* anti-bullying and anti-harassment programs should be mandated for all California public schools at all age and grade levels and should include language addressing sexual orientation, perceived sexual orientation, gender, gender identity and gender expression issues. In addition, implementation of evidence-based, evaluated interventions that specifically address physical bullying and social bullying should be mandated for all California public schools at all age and grade levels.
- All locations where State or County funded mental/behavioral and physical health care services are offered should be required to be safe, welcoming and affirming of LGBTQ individuals and families across all races, ethnicities, cultures, and across the lifespan.
- State and County mental/behavioral health and physical health care departments should create an environment of safety and affirmation for their LGBTQ employees.

## Conclusion

The need for culturally competent mental health services is great, but greater still is the need to eliminate the multiple harms that contribute to negative mental health throughout LGBTQ communities. This report represents a snapshot in time of certain LGBTQ people living in California. Not everyone that could—or

should—be included is in the picture. In many ways, LGBTQ cultural competency work is still in its infancy, with growth and changes occurring rapidly. This report, therefore, cannot and should not be the final word in reducing disparities for LGBTQ Californians. The work begun by the LGBTQ SPW, including community engagement, advocacy, data collection, and community-based recommendations, needs to be continued, and the LGBTQ Reducing Disparities Project should remain funded beyond the dissemination of this report. Nevertheless, the authors of this report are extremely proud of the accomplishment of the long list of contributors and volunteers who worked on this project and made this landmark document possible, and they hope the entirety of the information it contains will educate and inspire its readers to continue working to eliminate the mental health disparities and harm LGBTQ populations continue to experience.

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Recommended citation:

Mikalson, P., Pardo, S., & Green, J. (2012) First, do no harm: Reducing disparities for lesbian, gay, bisexual, transgender, queer and questioning populations in California. Sacramento, CA: Mental Health America of Northern California and Equality California Institute.

To download a copy of the full report, go to <http://mhanca.org/lgbtqrdp>



Ayako Miyashita, *The Williams Institute*

## HEALTH DISPARITIES WITHIN THE LGBT COMMUNITY

### DEMOGRAPHIC DATA

GARY J. GATES, *LGBT Demographics: Comparisons among population-based surveys and LGBT Health* (September, 2014)

- LGBT identity is more common among younger populations
- LGBT populations generally share the racial and ethnic characteristics of non-LGBT individuals
- Adults are more likely to identify as LGBT in the Northeast and West than in the South and Midwest

GARY J. GATES, *Demographics and LGBT Health* (March, 2013)

- Collecting reliable data on LGBT health is challenging because social and sexual stigma prevents many LGBT people from willingly identifying

### POVERTY

GARY J. GATES, *LGBT Americans Report Lower Well-Being* (August, 2014)

- LGBT Americans are 10 percentage points less likely to be thriving financially than their non-LGBT counterparts

M.V. LEE BADGETT, LAURA E. DURSO, & ALYSSA SCHNEEBAUM, *New Patterns of Poverty in the Lesbian, Gay, and Bisexual Community* (June, 2013)

- Poverty rates for female same-sex couples were higher than those of married different-sex couples
- Male same-sex couples were more likely to be poor than married different-sex couples
- Children in same-sex couple households are twice as likely to be poor as children in married different-sex couples
- African-Americans in same-sex couples have poverty rates at least twice the rate for different-sex married African Americans

### FOOD INSECURITY

GARY J. GATES, *Food Insecurity and SNAP (Food Stamps) Participation in LGBT Communities* (February, 2014)

- Rates of food insecurity are higher for LGBT adults when compared to non-LGBT adults across several national surveys, and across gender, age, racial/ethnic, and education level groups
- More than 1 in 4 LGBT adults (29%), approximately 2.4 million people, experienced a time in the last year when they did not have enough money to feed themselves or their family
- LGBT adults are 1.7 times more likely than non-LGBT adults to not afford to feed themselves in the past year
- Same-sex couples raising children under age 18 are 2.1 times more likely than comparable different-sex couples to receive food stamps
- More than one 1 in 5 LGB adults aged 18-44 (21%), approximately 1.1 million people, participated in the SNAP program

- Certain sub-populations within the LGBT community are particularly vulnerable to food insecurity or report relatively high rates of participation in SNAP including bisexuals, women, and people of color

## HEALTHCARE ACCESS

GARY J. GATES, In U.S., LGBT More Likely Than Non-LGBT to be Uninsured (August, 2014)

- One-quarter of LGBT adults report they did not have enough for money for healthcare needs at least once in the last year, compared with 17% of non-LGBT individuals
- LGBT women are nearly twice as likely as non-LGBT women to lack a personal doctor (29% vs. 16%)

ANGELIKI KASTANIS, BIANCA D.M. WILSON, Race/Ethnicity, Gender and Socioeconomic Wellbeing of Individuals in Same-sex Couples (February, 2014)

- Among same-sex couples, AIAN and Latino/a individuals in same-sex couples are the least likely (70%, 71%) to be covered by health insurance
- Health insurance rates are generally lower for individuals in same-sex couples compared to their counterparts in different-sex couples

JODY L. HERMAN, Costs and Benefits of Providing Transition-Related Health Care Coverage in Employee Health Benefits Plans (September, 2013)

- Employers report very low costs, if any, from adding transition-related coverage to their health benefits plans or from actual utilization of the benefit after it has been added – with many employers reporting no costs at all
- Few people will utilize transition-related healthcare benefits when they are provided
- A majority of employers also reported that they would encourage other employers to add the coverage, and none would advise against adding the coverage

## MENTAL HEALTH

ANN P. HAAS, PHILIP L. RODGERS, JODY L. HERMAN, Suicide Attempts among Transgender and Gender Non-Conforming Adults (January, 2014)

- Exceptionally high prevalence of lifetime suicide attempts reported by NTDS respondents across all demographics and experiences
- Respondents who experienced rejection by family and friends, discrimination, victimization, or violence had elevated prevalence of suicide attempts
- Analysis of other demographic variables found prevalence of suicide attempts was highest among those who are younger (18 to 24: 45%), multiracial (54%) and American Indian or Alaska Native (56%), have lower levels of educational attainment (high school or less: 48-49%), and have lower annual household income (less than \$10,000: 54%)
- Respondents who are living with HIV (51%) and respondents with disabilities (55-65%) also have elevated prevalence of suicide attempts

DAVID J. LICK, LAURA E. DURSO, KERRI L. JOHNSON, Minority Stress and Physical Health Among Sexual Minorities (September, 2013)

- LGB youth are at 190% greater odds of substance use than their heterosexual counterparts
- Odds ratio for injection drug use among LGB youth: 7.23
- Odds ratio for cigarette smoking among LGB youth: 4.23
- Odds ratio for cocaine use among LGB youth: 3.09
- Lesbian and bisexual women have a heightened risk of breast cancer and cardiovascular disease

## YOUTH

BIANCA D.M. WILSON, KHUSH COOPER, ANGELIKI KASTANIS, SHEILA NEZHAD, Sexual and Gender Minority Youth in Foster Care: Assessing Disproportionality and Disparities in Los Angeles (August, 2014)

- Around 7,400 youth, ages 12-21, are in out-of-home care in Los Angeles County any given month, and 19% or 1,400 of these youth identify as LGBTQ
- There are between 1.5 to 2 times the number of LGBTQ youth living in foster care as LGBTQ estimated to be living outside of foster care
- LGBTQ youth have an estimated higher average of foster care placements, reported being treated less well by the child welfare system, have been hospitalized for emotional reasons at some point in their lifetime and were more likely to have been homeless at some point in their life

## PACIFIC REGION

AMIRA HASENBUSH, ANDREW R. FLORES, ANGELIKI KASTANIS, BRAD SEARS, GARY J. GATES, The LGBT Divide: A Data Portrait of LGBT People in the Midwestern, Mountain and Southern States (December, 2014)

- Regionally, people identify as LGBT at a slightly higher rate in the Pacific (4.7%) as compared to the Northeast, Midwest, South and Mountain states(4.2%, 3.6%, 3.8% and 3.7% respectively)
- Adoption rates are much higher among parenting same-sex couples in the Pacific region (17%) than in the Midwest, South and Mountain states (13%, 12% and 9% respectively)
- LGBT individuals retain educational advantages in the Pacific region where they have a 10% higher college completion rate than their non-LGBT counterparts
- New infections among MSM are more than triple those of HIV infection in the entire population in the Pacific region



## Tom Nolan, *San Francisco LGBT Aging Policy Task Force*

### **Executive Summary**

The San Francisco Board of Supervisors passed legislation creating an LGBT Aging Policy Task Force to meet for eighteen months to study issues affecting LGBT seniors and issue a report with recommendations. The Task Force's first meeting was in October 2012 and its last meeting was in March 2014. This report represents the findings of the many months of research conducted by that group, including the administration of a groundbreaking survey of a diverse sample of LGBT older adults in our community. The Task Force identified the following key areas of concern and associated solutions for the consideration of the Board of Supervisors.

#### **Data collection**

Problem 1: Lack of data on gender identity and sexual orientation among city agencies prevents understanding of service needs and utilization in the LGBT population.

Solution 1:

Collect data on gender identity and sexual orientation whenever other voluntary demographic data is collected.

#### **Cultural competency**

Problem 2: Senior service providers do not have adequate cultural competence to appropriately serve LGBT seniors.

Solution 2: Require training to improve cultural competency of service providers in working effectively with LGBT older adults.

#### **Health and Social Services**

Problem 3: LGBT seniors lack information and enrollment support for social services, financial support, benefits counseling, legal advocacy, and health insurance access.

Solution 3: Develop and implement an information, referral, enrollment assistance, and case management referral program that provides a single place for LGBT seniors to receive information, referral, and enrollment assistance for a wide range of available social services and health care.

Problem 4: There are limited supportive services available to aid in the provision, coordination, and planning of care to address unique challenges facing LGBT older adults.

Solution 4: Develop and implement an LGBT senior case management and peer specialist program.

Problem 5: There are limited supportive services available to address and emotional, behavioral health, and social isolation challenges of LGBT seniors.



Solution 5: Develop and implement an LGBT senior peer counseling program and an LGBT peer support volunteer program.

Problem 6: LGBT older adults have unique barriers to accessing information about and services for Alzheimer's and dementia care.

Solution 6: Create an LGBT-targeted education and awareness campaign and increase availability of related support groups.

Problem 7: Some LGBT older adults struggle with low incomes and poor financial literacy.

Solution 7: Develop and implement financial literacy training services targeting LGBT older adults.

## **Housing**

Problem 8: LGBT older adults are especially vulnerable to losing their residential housing as a result of evictions and physical barriers to aging in place, and the consequences of losing housing late in life is severe for most LGBT seniors.

Solution 8: Improve eviction prevention protections for LGBT seniors through rental and homeowner assistance, legal services, and increased restriction on evictions and increase resources for LGBT senior homeowners.

Problem 9: LGBT seniors need more access to affordable housing.

Solution 9: Increase availability of and access to affordable housing by including LGBT older adults in planning processes, prioritizing developments that target them, and providing LGBT-focused housing counseling and rental assistance.

Problem 10: Conditions in apartments and SROs where many LGBT seniors live are often unacceptable.

Solution 10: Improve conditions in apartments and SROs through improved DBI policies and enhanced work on habitability.

Problem 11: Many LGBT seniors feel unsafe and unwelcome in city shelters.

Solution 11: The city should address unsafe and unwelcoming treatment of LGBT seniors in city shelters by providing targeted shelter services and implementing training at existing shelters.

## **Legal Services**

Problem 12: LGBT seniors in long-term care facilities face systemic discrimination and abuse.

Solution 12: Improve legal protections and resources for LGBT seniors in long-term care facilities.

Problem 13: LGBT seniors face obstacles to and lack resources for drafting appropriate life-planning documents.

Solution 13: Promote LGBT life-planning legal clinics, referral protocols, and sample documents, and develop resources to aid LGBT seniors who wish to complete the planning process.



### California General Funds Spending – HIV/AIDS | January 14, 2015

California has been a national leader in providing state funds for HIV/AIDS programs since the early years of the epidemic. California's general funds contributions to the AIDS Drug Assistance Program once accounted for **a third of all state contributions to ADAP nationwide.**

In 2009, after the national financial collapse, California cut some \$85 million in general funds spending on HIV/AIDS programs.

- This included \$26 million in all important HIV/AIDS prevention funding
- As well as assistance to many local programs, smaller counties

Since 2008, California's \$180 million general fund contribution to Office of AIDS programs, primarily ADAP, has decreased dramatically:

\$180 million in 2008 to \$13 million currently

- This savings was achieved in part through transitioning ADAP patients to newly expanded coverage under the Affordable Care Act
- On-going very competent management of ADAP drug rebates (the special fund)

Last year, the legislature approved just under \$3 million in public health reinvestment programs for HIV/AIDS (included in the above mentioned \$13 million)

- The funding will support three demonstration projects seeking to improve linkage to and retention in care

Meanwhile, HIV infection rates are soaring among men who have sex with men, and specifically among young gay men of color.

CDC reports a 132 percent increase in new HIV infections among young gay and bisexual men, aged 13 to 24, between 2001-2011.

Annual diagnosis rate for the general population declined by a third over the same period of time.

In the U.S. the CDC estimates 56,000 new HIV infections each year.

Men who have sex with men account for an estimated 4 percent of the U.S. population, but accounted for over 63 percent of new infections in 2010.

In the same year, young black MSM (aged 13-24) accounted for over 55 percent of infections among MSM overall.

### Ending the AIDS Epidemic

Bio-medical interventions now exist for people living with HIV, for HIV negative men and for people exposed to HIV.

Treatment as Prevention, Post Exposure Prophylaxis (PEP) and PrEP or Pre-Exposure Prophylaxis could be game changers in the fight against AIDS.

New York, Washington and other states are now implementing Plans to End AIDS and significant PrEP programs to ramp up utilization of these interventions, along with increased testing and linkage to care.

California has been near silent on this issue – San Francisco's Getting to Zero program excepted.

The California Office of AIDS estimates that approximately 126,000 Californians are living with HIV. Of these, **23,000 or 18% are unaware of their HIV status.**

An estimated 6,000 Californians are newly diagnosed with HIV each year.

With treatment costs averaging \$23,000 per year, life-time treatment is currently estimated to cost approximately \$740,000 or more per person.

The 6,000 new infections per year in California will cost an estimated \$4.5 billion to treat.

A significant reinvestment in HIV/AIDS funding now, to implement new prevention interventions and increase HIV awareness/linkage and retention in care, should be viewed as a cost effective public health investment to reduce future health care costs.

# TasP, PEP, and PrEP:

## New Hope in the Fight Against HIV/AIDS

The HIV/AIDS community is currently talking about “ending the AIDS epidemic” or “achieving an AIDS-free generation.” This conversation—optimistic, speculative, and sometimes controversial—focuses on three evidence-based HIV prevention interventions: Treatment as Prevention (TasP), Post-Exposure Prophylaxis (PEP), and Pre-Exposure Prophylaxis (PrEP).

All three interventions utilize existing anti-retroviral medications to reduce transmission of HIV and prevent new infections in at-risk HIV-negative individuals. Recent research documents the potential efficacy of these interventions and the promise they hold.

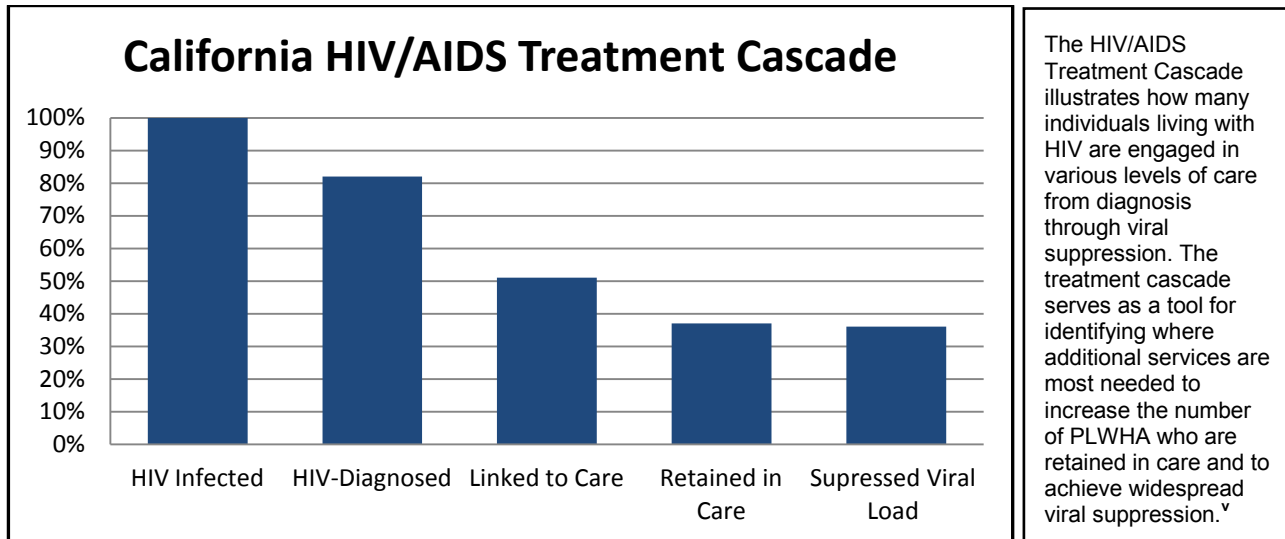
The purpose of this fact sheet is to explain these interventions, the data that supports them, and how Californians living with and at-risk of HIV infection will be able to access them, with expanded insurance access now available under the Affordable Care Act (ACA).

### What are TasP, PEP, and PrEP?

- **Treatment as Prevention (TasP)** – In TasP, people living with HIV/AIDS (PLWHA) use anti-retroviral (ARV) medications to reduce their viral load (the amount of HIV in the body) to undetectable levels.
  - **With an undetectable viral load, the amount of HIV in the body is so small it greatly reduces the likelihood of passing the virus on to another person, making it even more critical that PLWHA are linked to and retained in care.**
  - **Strict adherence to TasP reduces the likelihood of transmission by up to 96%.<sup>i</sup>**
- **Post-Exposure Prophylaxis (PEP)** – PEP uses ARV medications to prevent HIV from replicating and spreading through the body after an exposure to the virus. PEP is a short-term (28-day) intervention and must be started within three days of an exposure—sooner, if possible—to be effective. PEP was originally developed for occupational exposures, such as needle-sticks in hospitals, but is also effective for sexual exposures.
  - **PEP is effective at blocking HIV infection up to 80% when initiated promptly and taken daily.<sup>ii</sup>**
- **Pre-Exposure Prophylaxis (PrEP)** – PrEP is a new intervention that uses an established ARV medication, Truvada, to protect at-risk HIV-negative individuals from HIV infection. PrEP is different from PEP; the medication is taken before, not after, possible exposure.
  - As a new intervention, PrEP is still being studied to identify potential side effects, and its effect on individual behavior. Recent studies have found that side effects are minimal and that using PrEP does not lead to riskier sexual behavior.<sup>iii</sup>
  - **Both the Centers for Disease Control and Prevention (CDC) and World Health Organization (WHO) recommend that those at-risk for HIV explore PrEP as a prevention option.**
  - **The iPrEX OLE study, recently released at the 2014 International AIDS Conference in Australia, demonstrated that PrEP is up to 96% effective in preventing HIV infections when participants took the medication at least four times a week.<sup>iii</sup>**

#### The Current State of HIV/AIDS in CA

- California has reduced its General Fund commitment for HIV programs—apart from care—from \$180 million to under \$10 million since 2006.<sup>iv</sup>
- Nearly all state funding for HIV prevention—\$25 million—was cut in 2009.
- The California Office of AIDS estimates that approximately 126,000 Californians are living with HIV. Of these, **23,000 or 18% are unaware of their HIV status.**
- An estimated 6,000 Californians are newly diagnosed with HIV each year.

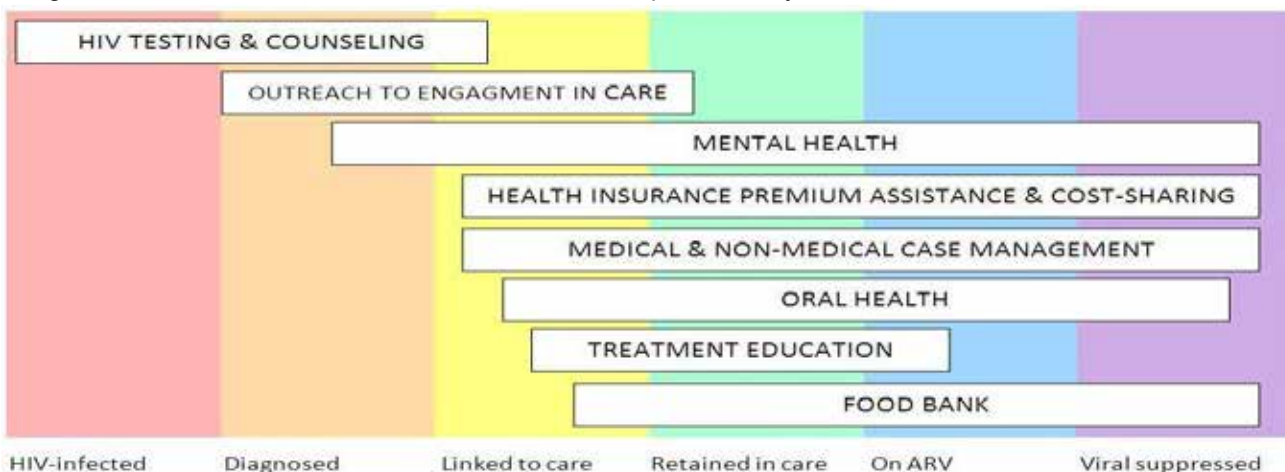


### TasP: Ryan White as a Critical Prevention Tool

- The federal Ryan White HIV/AIDS Program plays a critical role in HIV prevention, both nationally and in California. The program ensures patients are linked to care at diagnosis and retained in care throughout treatment, while also providing the medications necessary to achieve viral suppression and prevent the spread of HIV.
  - **Ryan White funds a broad range of support services**—mental health, oral health, transportation, case management, food, housing assistance, and treatment education—all of which ensure patients are linked to care at diagnosis and retained in care throughout treatment.
  - The AIDS Drug Assistance Program (ADAP) is part of Ryan White that ensures people with HIV/AIDS have access to ARVs.
  - **Ryan White helps patients successfully move across the clinical achievements detailed in the HIV/AIDS treatment cascade (above) toward viral suppression or undetectable levels of HIV in the body.**

### Examples of Ryan White Services That Support Clients Along the HIV/AIDS Treatment Cascade

Because many of these services are not covered under both public and private insurance plans, Californians living with HIV/AIDS will continue to need essential wrap-around Ryan White services.



## How Will HIV-Positive Californians Access TasP Under the ACA?

- **More than 70% of Californians living with HIV/AIDS who now rely on Ryan White for care and treatment are in the process of transitioning to private insurance plans or the expanded Medi-Cal program.<sup>iv</sup>**
  - None of these insurance plans will provide the comprehensive wrap-around services provided by Ryan White that have helped this vulnerable population progress toward viral suppression.
  - Cost-sharing may be a barrier to accessing ARVs, although California's ADAP will cover cost-sharing for many of the PLWHA enrolled in Covered California's private insurance plans.
  - The residually uninsured will still rely on Ryan White for treatment, support services and the medications that will help them remain healthy and achieve viral suppression.

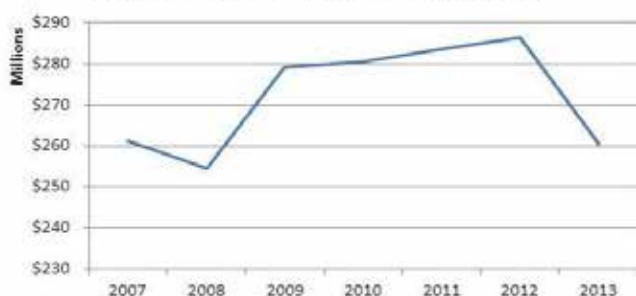
## How Will HIV-Negative Californians Access PEP & PrEP Under the ACA?

- **HIV-negative Californians enrolled in private insurance plans or the expanded Medi-Cal program will have coverage for PEP and PrEP.**
  - Studies have documented low utilization of PEP and PrEP among individuals at-risk of contracting HIV/AIDS.
  - Community knowledge about PrEP remains low<sup>vi</sup> and physicians have been slow to use the intervention<sup>vii</sup> demonstrating the need for increased education and outreach efforts.
  - Individuals accessing PEP or PrEP through private insurance may face significant out-of-pocket costs.
  - Some assistance is available through pharmaceutical company patient assistance programs to subsidize co-pays for the insured as well as provide PEP and PrEP coverage for the residually uninsured, but awareness of these programs is low.
  - Some 3 to 4 million Californians could remain uninsured by 2019, and those at-risk for HIV will have little access to routine health care, including coverage for PEP and PrEP.<sup>viii</sup>

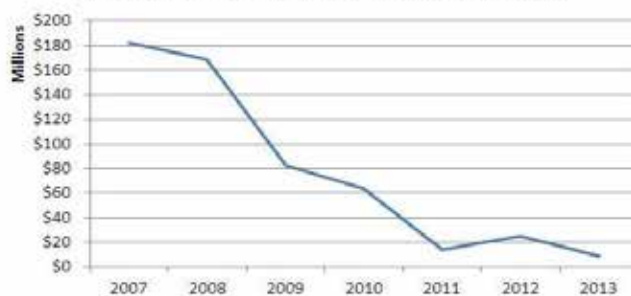
## TasP, PEP, and PrEP: Ensuring Access Post-ACA Is a Cost-Effective Prevention Strategy

- **Every averted HIV infection saves hundreds of thousands of dollars in lifetime treatment costs, lost productivity, and decreased quality of life.**
  - PLWHA have an estimated life expectancy of 32 years after infection and that number is increasing. With treatment costs averaging \$23,000 per year, lifetime treatment is currently estimated at approximately \$740,000 or more per person.<sup>ix</sup>
  - With that estimate, the 6,000 new infections per year in California will cost an estimated \$4.5 billion to treat.
  - Although TasP requires a significant up-front financial investment, studies have shown that the strategy is cost-effective longer term.<sup>x</sup>
  - Studies have also shown PrEP<sup>xi</sup> and PEP<sup>xii</sup> to be cost-effective when targeted to individuals at highest risk of contracting HIV.

**Ryan White Funding to California**



**CA HIV/AIDS General Fund Support**



Funding for HIV/AIDS has dropped significantly in California over the past six years. Adjusting for inflation (since 2010), Ryan White funding has slowly declined and nearly all state general funds for HIV prevention have been eliminated.

## TasP, PEP, PrEP and the Roadmap to an AIDS-Free Generation

TasP, PEP, and PrEP are driving the conversation about ending AIDS. TasP will prevent ongoing transmission of the virus, PEP can prevent new infections after recent exposures, and PrEP is the first ongoing biomedical intervention to prevent infection for at-risk HIV-negative individuals.

A successful roadmap to ending AIDS will require all the prevention tools at our disposal—new biomedical interventions along with expansion of proven interventions such as HIV testing, condoms, and syringe-exchange programs.

In order for these three proven biomedical interventions to alter the course of the epidemic, national and state prevention efforts must at a minimum include:

- Intensified outreach and education about PEP and PrEP.
- Improved access to PEP and PrEP for all at-risk HIV-negative individuals.
- Continued support for Ryan White programs that protect the health and well-being of HIV-positive individuals, link and retain them in care, and move them toward viral suppression.

If California is to realize the promise of an AIDS-free generation, the state will need to renew its focus on existing prevention interventions and commit to maximizing the potential of TasP, PEP, and PrEP.

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### California HIV/AIDS Policy Research Centers

- University of California, San Francisco
- Project Inform
- San Francisco AIDS Foundation
- University of California, Los Angeles
- AIDS Project Los Angeles
- Los Angeles LGBT Center





Beth Barnes, *San Diego LGBT Center*

## **The LGBT Center San Diego | The Fair Share for Equality Convening | January 14, 2015**

### **Issue: LGBT Youth Homelessness**

#### **Background:**

The exact number of youth experiencing homelessness is difficult to measure because they are undercounted and are often unconnected to services or shelters; although, research indicates that a conservative estimate is that 1 in 5 homeless youth self-identify as LGBT (National Alliance to End Homelessness, 2009). This means that over 300,000 LGBT youth experience at least one night of homelessness in America each year (National Alliance to End Homelessness, 2012). Additionally, research confirms that one of the most common causes of homelessness for LGBT youth is family rejection. Half of LGBT youth experience a negative reaction from their parents when they disclose their sexual orientation or gender identity (Center for American Progress, 2013). Most alarming, 62% of LGBT homeless youth have attempted suicide, a rate more than twice as high as heterosexual homeless youth (Center for American Progress, 2013).

LGBT youth comprise one of the nation's most vulnerable populations and often lack supportive environments in their homes, schools and communities. Research demonstrates that LGBT youth who do not have access to LGBT-affirming community environments are at higher risk for negative outcomes, including: homelessness; negative mental health symptoms; riskier sex practices; increased drug and alcohol use; physical, emotional and/or sexual abuse; early high-school dropout; and suicide (Center for American Progress, 2010). In fact, a 2009 study found that LGBT youth who experienced moderate rejection from their families were twice as likely to attempt suicide and LGBT youth living in highly rejecting family environments were more than 8 times as likely to try to take their own life (Family Acceptance Project).

As a function of their homelessness, LGBT youth on the street are at higher risk for hunger, sexual and physical victimization, and incarceration. In addition, they face criminalization for committing crimes related to being homeless, such as sleeping in public places, survival sex, robbery, and shoplifting. It's estimated that it costs \$53,665 a year to maintain a young adult in the criminal justice system but only a fraction of that to move a young adult off the streets into supportive housing (Center for American Progress, 2010).

#### **Key Considerations:**

Surveys of homeless LGBT youth often find that they prefer living on the street rather than staying in the hostile environments they find in housing programs. In the rare situation that there is an open bed, the service provider is often not LGBT inclusive or culturally competent. Additionally, often times the other youth participating in the housing program don't create a safe and welcoming environment for LGBT youth. Research does not indicate widespread discrimination, but LGBTQ youth still report verbal abuse, harassment and personal judgment from peers and staff in homeless youth shelters and drop-in centers (National Alliance to End Homelessness, 2012).

#### **Conclusion and/or Recommendations:**

Access to safe and LGBT-affirming housing provides the essential foundation for LGBT youth to transition successfully into adulthood. Youth lacking this basic necessity, face numerous challenges including the inability to develop job skills, complete educational goals, obtain employment, or access essential services like primary

health care and mental health services.

An example of a successful program is The San Diego LGBT Community Center's Youth Housing Project (YHP), which provides permanent, supportive housing for San Diego's homeless youth, including lesbian, gay, bisexual, transgender and HIV-positive youth. The 23-unit development is located in downtown San Diego close to a local community college, public transportation, community health facilities and other essential resources.

YHP is based upon the supportive housing model. Like most models, supportive housing pairs housing with services, but there are several unique features. First, tenancy and services are kept separate: tenancy is not tied in any way to service participation or achievement of pre-defined goals. Further, services in supportive housing are highly individualized and voluntary. Services in most other programs are uniform and mandatory for all tenants; failure to participate can result in termination from the program and loss of housing. Secondly, housing in a supportive housing model is characterized as permanent, in the sense that it is not time-limited, which is very different from transitional living programs, which have time limits of 18 to 24 months. Finally, the goal and primary measure of success in supportive housing is housing retention, whereas the goal in most other housing programs is completion of a service plan.

Although proven effective with older adults, supportive housing is a relatively new model for addressing the needs of homeless transition-aged youth. This housing model was chosen by The Center after an exhaustive review of housing models because it was the best fit for the population we were working with. It offered flexibility: individualized services, indeterminate length of stay, and a truly client-centered approach. Further, the decoupling of tenancy and program participation removed one of the fundamental barriers to success experienced by residents of transitional living programs: mandatory program participation. Finally, the success rate with housing retention over a long period of time suggested that it was the best model for promoting long-term independence.

The primary goal of YHP is to increase housing stability and to prevent future episodes of homelessness. A team of talented and trained staff accomplish this goal through a combination of case management, on-site mental health services and other supportive services provided on-site including: life skills training, health relationships and HIV/STI prevention counseling, assistance navigating access to healthcare, assistance with obtaining employment and support with the pursuit of educational goals.

Since the program's inception, the program has consistently achieved or exceeded the outcome of at least 80% of residents retaining housing subsequent to leaving YHP with no episodes of return to homelessness. Last year 93.5% of residents who exited YHP exited to permanent housing and have not experienced any episodes of return to homelessness; these results are well above the outcomes reported by similar housing programs. Furthermore, 69% of new residents in the last year demonstrated an increase in income within six months of entry into YHP and 100% of residents are currently either enrolled in school or working at least part-time.



Sasha Buchert, *Transgender Law Center*

## **Fair Share for Equality Paper Transgender Law Center**

### **Addressing the Criminalization of Transgender and Gender Non-conforming People**

Transgender and gender non-conforming people face widespread systemic discrimination in multiple facets of their lives. Whether in the school yard, in the workplace, or simply walking down the street, transgender and gender non-conforming people frequently experience systemic and individual discrimination that predisposes them to involvement within the criminal justice system. The following sections explore more specifically the ways in which these systems work to entangle transgender people. There are also solutions provided that are designed to stop the dysfunctional pipeline of transgender and gender-nonconforming lives into the criminal justice system.

#### **The School-to-Prison Pipeline**

As many as 300,000 LGBT youth are incarcerated each year nationally and more than 60% of them are LGBT youth of color.<sup>1</sup> Vague school discipline policies that are ripe for bias increase the likelihood that transgender youth will become entangled within the criminal justice system. LGBT students experience a disproportionate number of suspensions and expulsions as a result of disciplinary policies such as “willful defiance”—a vague disciplinary standard that applies to a wide range of behavior but accounts for 40% of California’s student suspensions.<sup>2</sup> The elimination of willful defiance by the California Legislature was a welcome step forward and we urge the Legislature to permanently eliminate the standard when its removal sunsets in 2018 and encourage the state to examine other disciplinary policies that may lead to disproportionate negative outcomes for LGBT youth.

Transgender students experience alarmingly high rates of verbal harassment and physical assault and many students report feeling unsafe at school. Almost 90% of transgender students report being harassed at school and 35% reported being physically assaulted.<sup>3,4</sup> When student bullying is not addressed by school administrators, transgender students often choose to defend themselves, which further exposes them to disciplinary sanctions such as suspensions and expulsions and often moves them into the juvenile justice system. Often transgender and gender non-conforming youth simply choose to forgo their education rather than endure the pervasive harassment—placing them at a much lower earning power capacity than their peers who graduate from high school. However, it is important to note that punitive responses to bullying and so-called “zero tolerance” policies also result in unfortunate and biased outcomes, and we urge the Legislature to make restorative justice the hallmark of California’s anti-bullying policy. Sadly, familial rejection is another contributor to the pipeline.

<sup>1</sup> Katayoon Majd, Jody Marsamer, and Carolyn Reyes, “Hidden injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts” (San Francisco, CA: The Equity Project, 2009), available at [http://www.equityproject.org/pdfs/hidden\\_injustice.pdf](http://www.equityproject.org/pdfs/hidden_injustice.pdf), (last visited January 10, 2015).

<sup>2</sup> California Longitudinal Pupil Achievement Data System (CALPADS), 2012, <http://www.cde.ca.gov/ds/sp/cl/>, (last visited January 10, 2015).

<sup>3</sup> Emily A. Greytak, Joseph G. Kosciw, Elizabeth M. Diaz, “Harsh Realities: The Experiences of Transgender Youth in Our Nation’s Schools” A Report from the Gay, Lesbian, and Straight Education Network. <http://glsen.org/sites/default/files/Harsh%20Realities.pdf>, 2009, (last visited January 10, 2015). <sup>4</sup> Jaime M. Grant, Lisa A. Mottet, Justin Tanis, “Injustice at Every Turn, A Report of the National Transgender Discrimination Survey” by the National Center for Transgender Equality and the National Gay and Lesbian Task Force (2011) [hereinafter *Injustice at Every Turn*] <http://endtransdiscrimination.org/report.html>, (last visited January 10, 2015).

Many LGBT youth flee home lives filled with hostility and rejection of their gender identity or sexual orientation. Almost 40% of the homeless youth population identifies as LGBT.

Homelessness is often the most significant predictor of future involvement with the juvenile justice system because in order to meet their material needs, homeless youth often turn to “street economies” such as drug sales, theft or sex work, or are funneled into the juvenile justice system for crimes associated with being homeless such as drug use or sleeping in public spaces.

It is critical that preventive steps are taken before transgender youth are pushed out of our schools or made homeless. Those steps should include proper enforcement of anti-bullying provisions to limit the impact of school harassment and the development of supportive housing for youth who are fleeing challenging home environments. In addition, juvenile justice professionals should receive ongoing training regarding the unique challenges confronting transgender youth so they are adequately prepared to help permanently move youth out of the school-to-prison pipeline.

### **The Unemployment-Line-to-Prison Pipeline**

Another major contributor to the criminalization of transgender people is the struggle to find meaningful employment. Although California has a non-discrimination law that prohibits employment discrimination on the basis of gender identity, there continues to be a gap between the promise of the law and the lived reality for many transgender people who continue to experience devastating rates of unemployment. One in four transgender people in California report earning wages below the poverty level and less than half are employed full time.<sup>5</sup> In a 2011 survey of almost 6,500 transgender people nationwide, transgender people reported experiencing double the rate of unemployment of the general population and up to four times the unemployment rate for people of color.<sup>6</sup> 90% experiencing harassment or discrimination on the job and over one quarter reported they have lost a job due to being transgender.<sup>7</sup>

Once unemployed, transgender people are twice as likely to resort to working in the underground economy (e.g. selling drugs or sex work). Unemployed transgender people also experience twice the rate of homelessness, more negative health outcomes and double the rate of alcohol and drug misuse as transgender people who are employed.<sup>8</sup> These negative outcomes and survival strategies make transgender and gender non-conforming people more likely to be arrested, convicted and incarcerated. For example, a California study from 2009 found that the unemployment rate for transgender people one month prior to arrest ranged from 23% to over 50%.<sup>9</sup> When transgender people are unable to find meaningful employment or are forced to leave their homes, they are often faced with the specter of homelessness. 20% of the respondents in a recent survey reported experiencing homelessness in their lives and almost 30% report being turned away from homeless shelters.<sup>10</sup> Homelessness makes people highly vulnerable to abuse and violence and dramatically increases the chances people will interact with law enforcement in negative ways.<sup>11</sup>

It is critical that transgender workers are able to access workforce development and investment programs and workplace trainings that will meet the unique needs of transgender people to help to create the job skills necessary to interrupt the systemic flow of transgender lives into the criminal justice system. Transgender-inclusive development programs are especially needed by transgender women, youth, and transgender people of color. In the past, transgender and gender non-conforming workers have not been prioritized. We urge the

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<sup>5</sup> The State of Transgender California Report, Results from the 2008 California Transgender Economic Health Survey, 2008, available at <http://transgenderlawcenter.org/wp-content/uploads/2012/07/95219573-The-State-of-Transgender-California.pdf>, (last visited January 12, 2015).

<sup>6</sup> Injustice at Every Turn, at 3.

<sup>7</sup> Injustice at Every Turn at 3.

<sup>8</sup> Injustice at Every Turn, at 3.

<sup>9</sup> Lori Sexton, Valerie Jenness, Jennifer Sumner, Where the Margins Meet: A Demographic Assessment of Transgender Inmates in Men's Prisons, University of California, Irvine, 2009, available at <http://ucicorrections.seweb.uci.edu/files/2013/06/A-Demographic-Assessment-of-Transgender-Inmates-in-Mens-Prisons.pdf>, (last visited January 10, 2015) [hereinafter Where the Margins Meet].

<sup>10</sup> Injustice at Every Turn, at 4.

<sup>11</sup> Injustice at Every Turn, at 4.

state to fill this critical gap with the needed resources to meet the needs of this vulnerable population in order to continue building a vital and inclusive California.

## **Interactions with Law Enforcement (“Walking While Trans”)**

Another systemic factor that serves to perpetuate the criminalization of transgender people is the frequent interaction of transgender people with law enforcement. Many transgender people report being stopped by police simply because they are transgender. Over half of the transgender people surveyed in a 2011 study reported having interacted with a police officer.<sup>12</sup> A 2003 study conducted by Transgender Law Center and the National Center for Lesbian Rights found that one in four respondents in San Francisco said they had suffered discrimination when interacting with law enforcement officials.<sup>13</sup> In New York City, 59% of transgender people of color said that they had been stopped by the police.<sup>14</sup>

Transgender women of color report experiencing widespread police profiling because of the intersection of their gender identity and race. Many say they have been stopped by police officers while moving about their daily lives and report being questioned about their destination and purpose because police officers assume they are engaging in sex work. A report issued by Amnesty International found disproportionate targeting by police of transgender women as sex workers, concluding that subjective assumptions of transgender women as sex workers often plays a significant role in an officer’s decision to stop and arrest transgender women.<sup>15</sup> Because of educational and employment barriers, many transgender women do engage in sex work to meet their economic needs. In one study, over 40% of the transgender inmates in California prisons reported participating in sex work before incarceration.<sup>16</sup> The pervasive interaction of transgender people with law enforcement furthers the likelihood of transgender people being arrested or convicted and further entrenches them within the criminal justice system.

To comprehensively address widespread profiling, there is a need for improved police department policies to ensure the fair treatment of transgender people. More policies are needed that are similar to the policy developed by the Los Angeles Police Department in partnership with the West Hollywood Transgender Advisory Board and several community groups, including Transgender Law Center.<sup>17</sup> This policy instructs officers to be respectful of a person’s gender identity and expression, including using the preferred name and gender pronoun, and instructs officers that frisks should not be performed for the sole purpose of determining anatomical gender. Policies should also clarify that searches should be done by officers of the same gender identity as the person being searched.

We urge the State of California to invest in the ongoing training of law enforcement cadets and officials to change the manner in which they interact with transgender residents and to understand the unique needs of the transgender community. Departments need written policies that instruct about respectful treatment of transgender people and housing policies that allow transgender women to be housed with other women if that is where they feel safest—regardless of their genitalia. We also urge the state to support transgender-inclusive reentry programs that will assist transgender people to resist the influences that serve to pipeline them back into the criminal justice system. Most importantly, we urge policy makers to end the criminalization of sex work and minor drug offenses that only serves to perpetuate the cycle of criminalization of transgender people and other vulnerable populations. Workforce development programs for transgender workers will expand the employment opportunities for transgender workers outside the survival economies that are often criminalized.

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<sup>12</sup> Injustice at Every Turn, at 159.

<sup>13</sup> Trans Realities: A Legal Needs Assessment of San Francisco’s Transgender Communities, National Center for Lesbian Rights and Transgender Law Center, 2003, available at <http://www.nclrights.org/wp-content/uploads/2013/07/transrealities0803.pdf>. (last visited January 10, 2015).

<sup>14</sup> Transgressive Policing, Police Abuse of LGBTQ Communities of Color in Jackson Heights, 2012, available at [http://www.maketheroad.org/pix\\_reports/MRNY\\_Transgressive\\_Policing\\_Full\\_Report\\_10.23.12B.pdf](http://www.maketheroad.org/pix_reports/MRNY_Transgressive_Policing_Full_Report_10.23.12B.pdf), Last visited January 10, 2015.

<sup>15</sup> STONEWALLED, Police Abuse and Misconduct Against Lesbian, Gay, Bisexual and Transgender people in the U.S., Amnesty International, USA, 2005. See page 16, available at <http://www.streetwiseandsafe.org/wp-content/uploads/2011/01/StonewalledAI.pdf>, (last visited January 6, 2015).

<sup>16</sup> Where the Margins Meet at 17.

<sup>17</sup> Los Angeles Police Department policy notice regarding police interactions with transgender individuals. Available at [http://assets.lapdonline.org/assets/pdf/OCOP\\_04-10-12.pdf](http://assets.lapdonline.org/assets/pdf/OCOP_04-10-12.pdf), 2012, (last visited January 11, 2015).



## Incarceration

Nearly one in six transgender people report having been incarcerated and almost half of all black transgender people report being incarcerated at some point in their lives.<sup>18</sup> Transgender inmate populations have higher educational attainment than non-transgender inmates and are distinguishable from the general population for being disproportionately incarcerated for crimes against property.<sup>19</sup> Once incarcerated, transgender people are almost always assigned housing based on their birth gender or their genital status. Transgender women are almost always placed in men's facilities, singling them out for sexual assault by other inmates and staff.

Physical and sexual assault in jail/prison is a serious problem. One California study found that 59% of incarcerated transgender women had experienced sexual assault and that transgender prisoners were 13 times more likely to be sexually assaulted than non-transgender prisoners.<sup>20</sup> Often to address the safety concerns involved with housing a woman in a men's facility, inmates will be placed into "protective custody" (also known as administrative segregation), or into LGBT "pods," both of which often lack the privileges of the general population including educational, vocational, medical and rehabilitative services. Inmates in these "pods" frequently report being confined in their cells for much longer periods than in the general population.

Access to health care is another important issue. Many transgender inmates report significant clinical depression. As many as 70% of the respondents in one study reported clinical depression and many reported suicidal ideation.<sup>21</sup> HIV rates for transgender people in jails and prisons are extremely high. In one facility, the founder of California's only health care clinic for transgender inmates reported that as much as 89% of the inmates at any given time were HIV positive.<sup>22</sup> In addition, prison officials commonly prevent transgender inmates from accessing transition-related health care treatments. The policies and practices of the California Department of Corrections and Rehabilitation ("CDCR") effectively prohibit access to many medically necessary and medically indicated transition-related health care treatments, including sex reassignment surgeries, name changes, and access to gender-affirming clothing and cosmetics, all of which may be critically necessary to avoid debilitating distress.<sup>23</sup>

Deputies and guards should receive mandatory transgender cultural competency training. Training would provide a meaningful way to increase protection for transgender prisoners. In addition, prison health care professionals should also receive transgender cultural competency and health care training to ensure competent care, including transition-related care, which will improve the health of transgender prisoners and lead to a safer environment. In addition, the California Department of Corrections should develop a policy that allows transgender women to be housed with other women if that is where they feel safest—regardless of their genitalia—to reduce the number of sexual assaults transgender people experience while incarcerated.

We encourage the state to monitor compliance with the Prison Rape Elimination Act regulations and to impose stiff penalties for failure to comply. We urge more empirical research devoted to the transgender population that is incarcerated. In addition, the inhumane conditions in prisons are not limited to prison. It is critical that local jails and lock-ups comply with the proposed Sex Abuse in Detention Elimination Act in order to eliminate sexual abuse in all prisons and jails.

## Immigration Detention

Conditions for transgender immigrant detainees who are fleeing persecution and oppression can be horrendous. Many immigrants come to the U.S. out of desperation from countries where violence against transgender people has surged and left many with little choice but to uproot their lives in order to save themselves.

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<sup>18</sup> Injustice at Every Turn at 6.

<sup>19</sup> Where the Margins Meet at 12.

<sup>20</sup> Transgender Inmates in California's Prisons: An Empirical Study of a Vulnerable Population, 2009, <http://nicic.gov/Librar/023832>, (last visited January 10, 2015).

<sup>21</sup> Where the Margins Meet at 16.

<sup>22</sup> Where the Margins Meet at 16.

<sup>23</sup> See, e.g., *Norsworthy v. Beard*, Case No. 3:14-cv-00695-JST (filed N.D. Cal. 2014), available at <http://transgenderlawcenter.org/norsworthy-v-beard> (last visited January 13, 2015).



Often, the collaboration between local law enforcement and Immigration Customs Enforcement (“ICE”) results in transgender immigrants being targeted because of their immigrant and transgender status. Transgender immigrants frequently report that local law enforcement will profile them for such minor offenses as “jaywalking” or shoplifting and turn them over for deportation proceedings.

Once detained, transgender immigrants are assigned segregated housing based on genitalia. Transgender women are detained alongside men in unsafe facilities where they are placed at risk of the same kind of sexual violence that they are often fleeing in their home countries. The Congressional Research Service recently found that as many as 40% of sexual abuse complaints are not reported to Immigration and Customs Enforcement. Of the complaints that were reported, 20% of the substantiated assaults involved transgender victims—a group comprising less than 1% of the population, including one case involving a guard who sexually assaulted a transgender woman.

There are alternatives to detention that should be applied for low priority or vulnerable immigrants such as transgender women whose cases are pending review. For example, they can be placed under house arrest or released on their own recognizance. We urge the state to work with the federal government to end the detention of transgender asylum seekers. The lack of adequate protections and widespread sexual assault statistics issued by the Government Accountability Office make it evident that transgender individuals are not safe under any conditions within public or private detention facilities.



Vincent Jones, *Reinvent Communications*

### Intersectionality as a Movement-Building & Policy-Making Frame

Today, we've heard several leading experts talk about opportunities for the State to act to improve outcomes for LGBT people. I will add one more opportunity to the conversation and offer a frame that the State and others interested in change might consider to help create a more positive reality for LGBT Californians. By illuminating the experience of LGBT Californians in schools and with law enforcement, I will make the case that people of color who experience oppression are **inextricably linked together by common systems of oppression**. Therefore, the way I see it, people who want to see BlackLivesMatter, immigrants who want to live without fear of deportation, and LGBT Californians who want to live with respect and dignity all experience oppression in unique ways, **BUT they can all ally together to change the systems that are their common source of oppression**.

But first who am I? My name is Vincent Jones. I run a social impact agency based in Los Angeles. We partner with philanthropic institutions, select non-profit organizations, impact-minded individuals, and civic-oriented companies to connect the dots in order to advance lasting social change. We have helped to reduce school suspension in California, created models to reduce recidivism, developed tools to connect people of faith to affordable health care and more. I know many of you from my team leading a non-profit organization that worked on HIV/AIDS issues in jails and prisons, or at the Liberty Hill Foundation where I led LGBT grant making, training, and convening, or when I was the statewide LGBT liaison for US Senator Barbara Boxer, or in connection to Lambda Legal on whose Board I proudly serve.

Why am I here?

As I said at the outset, I want to add more opportunity for change to the conversation as well as suggest a frame for movement-building and policy-making that could be helpful in reducing disparities for LGBT people.

Let me start with a reminder: the modern LGBT civil rights movement began in earnest when LGBT people decided enough was enough and began to fight pernicious police misconduct. At the Stonewall Inn in New York City in 1969 or the Black Cat Tavern in Los Angeles before that in 1967, police raids ignited riots that gave rise to a movement. Even *Lawrence v. Texas*, one of Lambda Legal's legal victories that has been cited in nearly every pro-LGBT ruling since, involves police raiding the private home of two gay men.

I share this reminder because the dominance of marriage equality in the last decade makes it easy for many to forget the roots of the modern movement or to appreciate the pervasiveness and connected systems leading to negative outcomes for many LGBT people.

For instance, you might have heard of the school to prison pipeline. You might not be as aware of how this impacts LGBT people. According to research, over 2/3 of students hear homophobic remarks often or frequently at school and more than half reported hearing homophobic remarks from school faculty and staff.

In this school environment, it is no wonder why young LGBT people tend to react like Patrick from Virginia. After being bullied incessantly from his classmates, he got into an altercation with one of them where they yelled at

him 'You and your mom are fagots.' After slapping his classmate in a brief fit of rage, the punishment did not fit the crime. His classmate received one day of in-school suspension and mandatory anger management, whereas Patrick received **a week of out-of-school suspension** and mandatory anger management. Sadly, Patrick is not the exception, he is the rule.

Data shows that 6/10 LGBT students feel unsafe at school because of sexual orientation, 4/10 feel unsafe because of gender expression, and 3/10 missed at least one day of school in the last month because they felt unsafe. When pain builds up and conflicts arise, according to a report last year from the Council of State Governments Justice Center, **LGBT students are subject to "harsh disciplinary treatment" at three times the rate of their non LGBT peers.** The research is clear that this disparity is NOT because LGBT students display three times the amount of discipline issues. It is due to classroom management, diversity of teaching staff, administrative processes, characteristics of student enrollment, school climate, and other factors that lead to unsafe environments for students like Patrick.

But why do **harsh disciplinary practices matter?**

They matter because every one suspension doubles the chances that a student will drop out of school and triple the chances that they will get involved with the criminal justice system. **Let me repeat,** every ONE suspensions DOUBLES the likelihood that a student will drop out of school and TRIPLES the chance a student will be arrested, end up in jail, prison, or on probation.

Now imagine you're an undocumented queer student in an unwelcoming school – you're Patrick, but you also constantly fear deportation. Not only might you encounter bullying from peers, but your teachers probably have not been trained on how to appropriately address the root cause of bullying because training is optional in most districts. Even if they have done the training, there is a low likelihood that your school employs restorative justice practices that have been proven to be effective at resolving student infractions and improving academic outcomes. It's possible that your school might also have a zero tolerance policy that creates a scenario where you and the bully are both removed from class or school. Or the school police force might decide to make an arrest, put you on a gang database, or refer you to an on-campus probation officer as a candidate for informal probation. As an undocumented student, the chances of being deported once you have an interaction with the police increase dramatically. In none of these scenarios, is your education or safety actually being prioritized. **These are the common systems of oppression that affect students of color. The oppression is not felt exactly the same way by Latinos, Blacks, API, and LGBT students but rather the oppression comes from the same systems and policies and students of color, LGBT, and especially LGBT students of color are the ones who feel it most.**

In every scenario, there are multiple opportunities for the State to act.

State legislators can pass legislation that eliminates suspension for the amorphous reason of "willful defiance" for students at all grade levels. We did this in LAUSD and now school suspensions are down 89% over the last five years. 89%. This means more students are in class, learning.

With more students in class, there are opportunities to increase health outcomes by collocating health clinics on school campuses. Obamacare provides for hundreds of millions of dollars in grants to states to fund school-based health clinics. For LGBT students whose parents may not be as accepting, having access to health care is essential. As you heard earlier today, gay and trans people are still contracting HIV at high rates and are at elevated risk for other STIs as well. Not only will students benefit but parents and community members would as well, especially in neighborhoods with limited access to quality health care.

The State Department of Education could promulgate rules requiring that teachers receive training in positive discipline techniques like restorative justice or positive behavior and intervention supports as they are proven to improve school climates and academic outcomes. Right now, many education schools offer no training in school discipline because it is not required for certification.

The State can explore ways to dramatically redefine the role of police on campus. Students should not be getting tickets that lead to warrants and arrest for being five minutes late to class. Campus police should not be adding students to the infamous gang database because of what they wear to school or who they may be seen with. Overpolicing on school campuses has gotten to be such a problem that last year Attorney General Eric Holder issued guidance to try to stem the problem as more than half of youths are detained for offenses that do not threaten public safety. Data collected this summer by the National Juvenile Justice Network and Texas Public Policy Foundation found that, as of 2010, "almost 60 percent of confined youth in the U.S. (41,877) were still detained and imprisoned for offenses that do not pose substantial threats to public safety. These include misdemeanors, drug use, non-criminal or status offenses (e.g., curfew violations, truancy, running away), failure to show up for parole meetings, and breaking school rules." The study also found that the rate of juvenile detentions had dropped significantly from an all-time high in 2000, but that policies of over-criminalizing student discipline continue to prevail.

This all matters for the LGBT community because the school-to-prison pipeline starts with harsh discipline policies that are disproportionately meted out to LGBT students. But these issues are not only impacting the LGBT community and the solutions do not only fall under the purview of the department of education. And this is where intersectionality comes in.

Intersectionality is a movement-building and policy-making frame that analyzes intersecting systems of oppression to create a pathway for people in seemingly disconnected movements (or government bureaucracies) to forge a common agenda for change.

So, the person who believes that Black Lives Matter and wants police to stop killing unarmed Black men and the activist organizing against deportations and for comprehensive immigration reform and the transgender leader pushing for people to live their lives according to their gender identity all share a linked fate, common systems of oppression, and the potential of positive outcomes if they ally together.

Now, in the context of the State government, this interpretation of intersectionality may seem odd. But it still applies because connected government systems are having similarly negative impacts on different communities. The strategic legislator or the entrepreneurial bureaucrat both need to build or tap into the political will to make big change happen. By operating from an intersectional frame, the legislator for whom the LGBT lens is most prominent has a pathway to build alliances with seemingly unlikely allies because both are working to change the same system albeit with different yet complementary reasons.

In closing, many problems exist but there is a reason to be hopeful. It is up to us to seize the opportunity, support efforts to develop leaders among those most impacted by injustice, and see intersectionality as tool to build power and win.

Thank you.



Jenny Pizer, *Lambda Legal*

## Fair Share for Equality Summit

### Panel on Public Safety, Violence & Crime, and Homelessness

This submission offers an overview of the continuing need for significant reform to reduce and eventually eliminate abuse of LGBT people and people living with HIV by California's law enforcement, legal, and correctional institutions, and by hate crimes. It complements that of the Transgender Law Center, which addresses related issues with additional specific focus on the extreme challenges facing transgender and gender-nonconforming (TGNC) people in California, especially transgender women of color. Our message is consistent with that of other Summit participants: California now has excellent nondiscrimination laws and policies on the books. But laws cannot do their job unless the personnel who lead and staff these systems understand what the laws require. If they are not trained to recognize discrimination—and its pernicious cousin, cultural incompetence—or they do not believe they will be held accountable, then we haven't gotten very far in fact. By enacting standard-setting laws, California has made a powerful, positive statement to the entire country. But for years, intended reforms have not been supported by budget allocations for implementation and enforcement. This must change and the time is now.

We all recognize that demands on California's budget are intense. Whenever these systemic bias problems are identified, we hear this refrain loudly. But, these problems persist and are serious. We need at least to move forward. Smaller or specialized pilot programs have smaller price tags. County-level initiatives can be more affordable and prove cost-effectiveness. And while funding is essential, determined and creative leadership with existing resources also can make a big difference.

Keep in mind, our repeated calls for training, clear policy manuals and enforcement are because we want our community to have the safe, respectful and inclusive society everyone deserves and that California law promises. However, these steps also are wise liability-reduction measures. Lambda Legal is now litigating against the California Department of Corrections on behalf of a transgender woman being denied medically necessary care. The State's position is inconsistent with well-established medical standards. Federal court decisions on this point are starting to pile up in other parts of the country. California's position is likely to be far, far more expensive in the end than simply providing NOW the medical care our client needs. And this likely litigation price tag is, of course, separate from and secondary to the mental pain she continues to endure, unjustifiably.

This overview draws substantially from the results of a survey Lambda Legal just released entitled ***"Protected and Served?"*** The survey set out to determine whether our government institutions are properly protecting and serving LGBT people and people living with HIV. It was a national study of the experiences individuals have had with police, courts, prisons and school security. A total of 2,376 people completed the survey, which included questions and an opportunity to share accounts of one's own experiences when interacting with these agencies of government. The results are presented in the report posted on the Lambda Legal website, which includes some of those individual stories.<sup>1</sup> **Most importantly, the report includes detailed recommendations for reducing discrimination and other mistreatment of LGBT and HIV-positive people by government in all of these settings. Excerpts are included as Appendix A hereto.**

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<sup>1</sup> Visit <http://www.lambdalegal.org/protected-and-served>.

Note that participation in the survey was voluntary and the responses were self-reported and not independently verified by Lambda Legal. This was not a randomized, population-based study. Still, the numbers indicate troubling disparities in treatment of LGBT and HIV-positive people according to race/ethnicity, income level and gender identity. And the painful and even harrowing experiences that some reported make vivid the human cost of mistreatment by our own government.

Note, again, this was a national survey. But lest one think the data do not represent conditions in California, Lambda Legal's Help Desk in Los Angeles received **1,100** calls from people within California during **2103**. That was about **15% of the roughly 7,500 calls** we received nationally in 2013. The 2014 figures are not yet finalized but the proportions are unlikely to be different.

The survey results thus provide an educational window into the experiences of community members who tend to be less visible and whose needs have not been studied nearly as thoroughly as many others. And as a preliminary look, the results confirm what many already have observed. When the Legislature passed California's excellent nondiscrimination statutes without budget allocations for training and enforcement, it was recognized that misunderstanding and discrimination would persist until it was possible to fund the essential next steps.

As noted, the Lambda Legal survey gathered information about respondents' experiences interacting with police, courts, correctional institutions, and school security. Because other Summit participants address conditions in schools, this submission just shares some survey results and other information about the first three areas and then briefly addresses hate crimes.

### **First, about police:**

Of our **2,376** respondents, **73%** had face-to-face contact with the police within the past five years, and many reported having felt discriminated against when interacting with police.

**Many respondents reported that police officers' attitudes toward them had been hostile.** Among the 1682 respondents who reported having had face-to-face contact with police in the past five years, the percentages who reported hostile attitudes from officers included:

- 21% of all relevant survey respondents
- 31% of respondents age 30 and under
- 32% of respondents of color (including 26% of Native American, 27% of African American and 40% of Latina/o respondents)
- 32% of TGNC respondents (30% of transgender)
- 35% of low-income respondents
- 38% of respondents of color under 30

### **Harassment and assault by police are far too common occurrences in LGBT and HIV-positive communities.**

More than one in eight respondents (14%) who had police contact in the past five years reported verbal assault by police, while 3% reported sexual harassment and 2% reported physical assault. People of color, low-income people, and people living with HIV reported harassment and assault by police more frequently than survey respondents as a whole. For example, concerning verbal assaults, the percentages of respondents who had had police contact in the past five years and reported having been verbally assaulted by police were:

- 14% of all relevant respondents
- 21% of relevant HIV-positive respondents
- 22% of relevant transgender/gender non-conforming (TGNC) respondents
- 24% of relevant respondents of color
- 25% of relevant low-income respondents

**When LGBT and HIV-positive people experience police misconduct, many file complaints about their negative experiences, either with other police officers or police monitoring boards.** However, among the 205 (out of 2,376 total) respondents who complained about police misconduct in the last five years, 71% said that their complaint was not fully addressed by those they reported it to. Low-income and TGNC respondents



reported higher levels of neglect of a police misconduct complaint: 84% of low-income complainants and 83% of TGNC complainants reported that at least one police misconduct complaint in the last five years was not fully addressed.

**Many respondents reported inadequate or indifferent responses by law enforcement officials to reports of property crimes and assaults.** The rate of dissatisfaction was significantly higher when the person reporting the crime was low-income or a person of color. (Note that our survey respondents' self-reported experiences with police are not the equivalent of an objective evaluation of the adequacy of police response to reported crimes).

**Eleven percent of all survey respondents reported that they were a victim of physical assault** (of all types, not just those related to their orientation, identity, or expression) in the last five years. TGNC people (35% of all TGNC respondents) and low-income people (44% of all low-income respondents) were much more likely to report having been the victim of physical assault.

Of the **238 respondents** who reported having **experienced physical assault**:

- nearly two-thirds (62%) reported having experienced at least one incident in which police failed to fully address their complaints about physical assault.
- HIV-positive respondents and transfeminine respondents reported having experienced police neglect of their physical assault complaint at higher rates: 73% of HIV-positive personal assault victims and 70% of transfeminine respondents say they experienced police neglect of their physical assault complaint, compared to 59% of HIV-negative physical assault victims and 60% percent of cisgender (non-TGNC) assault victims.

**One-third of our survey respondents (33%) reported having been the victim of property crime in the previous five years.** Of those 772 respondents, nearly half (49%) said they had experienced at least one incident in which police failed to fully address their complaints about property crime.

Within this pool of 772 respondents, transgender and gender-nonconforming people (TGNC) and people of color were more likely than other respondents to report police indifference or lack of proper response to complaints of property crime. This included:

- 58% of TGNC respondents
- 59% of African-American respondents
- 62% of Latina/o respondents
- 70% of Native American respondents

**More than one out of ten respondents (11%, or 251) had been the victim of Intimate Partner Violence (IPV, or domestic violence) in the previous five years.** The percentages of certain respondent groups who experienced IPV are higher than the survey sample as a whole, including:

- TGNC people (28%)
- people of color (32%)
- low-income people (42%)
- people under 30 (43%)

Of the 251 respondents who experienced IPV, **41% reported** experiencing at least one incident in which **police failed to fully address their complaints** about IPV. Some respondents were even more likely to report experiencing police neglect of IPV than others. Of those who reported IPV to the police, an inadequate response was reported by:

- 48% of African-American respondents
- 49% of TGNC respondents (56% of transfeminine and 46% of transmasculine respondents)
- 54% of HIV-positive respondents

**More than one out of 20 respondents (6%, or 135) had been the victim of sexual assault in the previous**

**five years.** The percentages are higher for particular groups of respondents, including:

- African American respondents (8.2%)
- Latina/o respondents (8.9%)
- TGNC respondents (15.5%)
- Native Americans respondents (16%)

Of the 135 respondents who reported that they had been sexually assaulted, **39% experienced** at least one incident in which **police failed to fully address their complaint.** Some groups were more likely to report police neglect of sexual assault complaints than others, including:

- 45% of low-income respondents
- 46% of disabled respondents
- 52% of TGNC respondents
- 53% of respondents of color
- 62% of Latina/o respondents
- 65% of TGNC respondents of color

Overall, respondents in this survey reported much higher levels of police neglect than did respondents in a 2011 national survey by the **Bureau of Justice Statistics** on the general population (although the questions were not fully comparable), which found that 18% were not satisfied by the police response to a reported crime, disturbance, or suspicious activity.

## **Second, about courts:**

Judges and attorneys have a responsibility to make sure everyone is treated fairly and respectfully in courts. The reality for LGBT people and people living with HIV too often falls short. Of the survey respondents, **43%** (965 respondents) **had been involved in the court system** as an attorney, juror, witness or a party to a legal case in the previous five years. Respondents in each of those roles reported having heard negative comments about the sexual orientation, gender identity, gender expression or HIV status of individuals in court proceedings. Some respondents also had their own sexual orientation, gender identity, gender expression or HIV status disclosed improperly.

While respondents from each of those four categories reported mistreatment, as with other forms of government misconduct, there were significantly more reports from members of the LGBT community who are more often targeted by police, including TGNC individuals and those who, in addition to being LGBT or HIV-positive, are people of color, low-income or have physical or learning disabilities.

## **Inappropriate disclosure of sexual orientation, gender identity or HIV status.**

Judges, attorneys and court staff may raise these issues or cause such disclosure even when it is not relevant, and even when disclosure is against the will of the person who is “outed.” This can:

- violate the person’s privacy, which can negatively impact the court case and the individual’s life.
- increase or lead to mistrust of the court system.
- expose the person to discrimination and possible threats of violence at home, work, or in other aspects of their lives.

Sometimes these are mistakes due to a lack of cultural competency and understanding of the importance of privacy to members of the LGBT and HIV-positive communities. At other times, attorneys and judges may “out” a person in an attempt to shame, expose or discredit them. Judges, attorneys and other court employees may believe that by asserting—or by concealing—their gender identity, transgender people are somehow not being honest about who they really are. It can create a no-win situation.

## **Discrimination in Jury Selection**

A diverse and representative jury is an essential component of a fair and impartial legal system. Unfortunately,

many minority groups, including LGBT people, continue to face discrimination in the jury selection process, denying them an equal opportunity to participate in that important aspect of civic life, and denying litigants a jury truly drawn from the entire community. For example, **the voir dire process** used to question potential jurors routinely involves asking questions about friends and family. For many potential jurors who are LGBT, the answers to those questions can risk “outing” them. Voir dire questions about marital status also can alienate some LGBT people because even though same-sex couples now can marry in California, the opportunity is new and not embraced as fully by some in the LGBT community as by our society as a whole.

In addition, it remains common for lawyers to seek to disqualify potential jurors based on sexual orientation or gender identity, despite California law and Ninth Circuit precedent.<sup>2</sup>

### **Anti-LGBT and HIV Comments in Courts**

Of the 965 survey respondents who were in court any time during the previous five years:

- 6% heard negative comments about an individual’s HIV status
- 19% heard a judge, attorney or other court employee make negative comments about a person’s sexual orientation, gender identity or gender expression

These data reflect both comments directed at the respondent and those they heard about someone else.

While 19% of respondents with court involvement heard discriminatory comments about sexual orientation or gender identity/expression in the courts, some groups reported them at higher rates:

- respondents with physical or mental disabilities (which may include HIV) (24%)
- low-income respondents (those with an income of \$20,000 or less) (28%)
- people of color (30%, including 27% for African American, 34% for Latina/o and 43% of Native American)
- TGNC respondents (33%)
- TGNC respondents of color (53%)

### **Third, about jails and prisons:**

Correctional facilities should protect prisoners and respect their rights and dignity—but LGBT people and people living with HIV are at high risk of mistreatment. The “Protected & Served?” report presents extensive data about respondents’ experiences in prisons and jails.<sup>3</sup> In addition, multiple respected studies have documented the conditions for LGBT people in California’s correctional institutions in particular, and a number of them have confirmed alarming rates of sexual violence against LGBT people who are in detention and incarcerated. **According to the Legislative Analyst’s Office, for example, “California experiences almost twice the number of officially reported inmate assaults as Texas and nearly triple the assaults in the Federal system.”**<sup>4</sup>

Although anyone can become a victim of sexual abuse while in government custody, we long have known that LGBT people are among those most at risk. A 2007 study of California prisons found that “sexual assault is 13 times more prevalent among transgender inmates, with 59% reporting being sexually assaulted while in a California correctional facility.”<sup>5</sup>

It was hoped that Senator Lara’s SB 716 would alleviate this unjust and unjustifiable situation. That 2013 bill was designed to address the disproportionate levels of violent sexual abuse experienced by incarcerated LGBT people by requiring that prisons, jails, lock-ups, and other entities come into compliance with the federal Prison Rape Elimination Act (PREA) standards.<sup>6</sup> The PREA standards contain vital protections for incarcerated persons

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<sup>2</sup> Cal. Code of Civ. Proc., § 231.5; *SmithKline Beecham Corp. v. Abbott Labs.*, 740 F.3d 471, 484 (9th Cir. 2014).

<sup>3</sup> See <http://www.lambdalegal.org/protected-and-served-jails-and-prisons>.

<sup>4</sup> J.M. Sumner and K.M. Matsuda, *Shining Light in Dark Corners: An Overview of Prison Rape Elimination Legislation and Introduction to Current Research* (Univ. of Calif., Irvine. 2006).

<sup>5</sup> V. Jenness, et al., *Violence in California correctional facilities: An empirical examination of sexual assault* (2007), [www.prearesourcecenter.org/sites/default/files/library/55-preapresentationpreareportucijennessetal.pdf](http://www.prearesourcecenter.org/sites/default/files/library/55-preapresentationpreareportucijennessetal.pdf).

<sup>6</sup> See Prison Rape Elimination Act, Pub. L. No. 108-79, Stats. 1435 (2003), 42 U.S.C. 15601, et seq. and [http://ojp.gov/programs/pdfs/prea\\_final\\_rule.pdf](http://ojp.gov/programs/pdfs/prea_final_rule.pdf).

regarding prevention, detection, and response to claims of sexual abuse. SB 716 also would have required additional enforcement processes, including audits of facilities at least once every three years and expedited audits of facilities suspected of a pattern of sexual abuse. Also, the bill would have established reasonable penalties for demonstrated failure to comply.

SB 716 did not progress from the Assembly to Governor Brown's desk. The August 21, 2013 analysis prepared for the Assembly Appropriations Committee suggests why. The California State Sheriffs Association, The Los Angeles County Sheriff's Office, and the Chief Probation Officers of California all opposed. According to the state Sheriffs Association, "Mandating a system of data collection, review and retention, and requiring all agencies to collect accurate, uniform data for at least 10 years after the date of initial collection will create significant ongoing costs."<sup>7</sup>

Budget arguments predictably reappear whenever these problems are raised. But, there are many ways to address prison violence, including sexual violence, and smaller pilot programs should be fundable in the near term. County initiatives also may generate models for the State. Other states and countries show this work is feasible and not cost-prohibitive. And, the fact remains that LGBT persons in custody remain subjected to profoundly damaging sexual abuse at unconscionable rates. We cannot expect this to change without more training and then holding those in charge more accountable.

### **Last, about hate crimes:**

By two reliable measures, rates of reported crime overall, and of hate crimes in particular, have diminished appreciably in recent years. However, anti-LGBT hate crimes remain at high levels. The Los Angeles County Human Relations Commission Hate Crimes report for 2013 shows rates actually have dropped to the lowest reported levels in twenty years. But, crimes based on sexual orientation or gender identity still occur at rates grossly disproportionate to the size of the LGBT population, with anti-gay hate crimes constituting 25% and crimes against transgender people constituting 5% of the total. Crimes based on race or ethnicity continue to comprise the largest share, at 50% of the total.<sup>8</sup>

The California Attorney General's Office Hate Crime report for 2013 presents data consistent with the Los Angeles report, with statewide rates overall having dropped significantly over the past decade. Yet, sexual orientation-based hate crimes remain the second most common type of hate crime, comprising 25% of the total for 2013. Hate crimes against transgender and gender non-conforming people were 3% of the total.<sup>9</sup> Both figures are substantially disproportionate to the relevant population size.<sup>10</sup>

Although encouraging progress has been made in crime reduction, much more needs to be done to eliminate bias and improve opportunities for the LGBT community so fewer of our members are vulnerable to opportunistic attacks. These data thus are troublingly consistent with the findings in each area of Lambda Legal's **"Protected and Served?"** study. The combined picture again confirms the need for prompt, determined action to reduce the biases permeating our law enforcement and justice systems.

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<sup>7</sup> [http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb\\_0701-0750/sb\\_716\\_cfa\\_20130820\\_094326\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0701-0750/sb_716_cfa_20130820_094326_asm_comm.html).

<sup>8</sup> Los Angeles County Commission on Human Relations, 2013 HATE CRIME REPORT, at pp. 8-9, available at [http://www.lahumanrelations.org/hatecrime/reports/2013\\_hateCrimeReport.pdf](http://www.lahumanrelations.org/hatecrime/reports/2013_hateCrimeReport.pdf).

<sup>9</sup> Attorney General Kamala D. Harris, California Department of Justice, HATE CRIME IN CALIFORNIA, 2013, at p. 5, available at <http://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/hatecrimes/hc13/preface13.pdf>.

<sup>10</sup> The leading demographer in the field, UCLA's Gary Gates, has estimated that 3.5% of adults in the United States identify as lesbian, gay, or bisexual and 0.3% of adults as transgender. Gary J. Gates, HOW MANY PEOPLE ARE LESBIAN, GAY, BISEXUAL, AND TRANSGENDER? (April 2011), available

## APPENDIX A

### Protected and Served? Overall Recommendations

#### All government agencies—specifically including police departments, courts, prisons and schools—should adopt comprehensive non-discrimination policies that:

- Prohibit bias and discrimination based on sexual orientation, gender identity and expression, and HIV status.
- Ensure that culturally competent services and treatment are provided to LGBT and HIV-positive detainees. Police, court, jail/prison and school staff (including but not limited to police officers, police clerks, attorneys, judges, guards, schools security guards, school-based police and school safety officers) should undergo significant cultural competency trainings about sexual orientation, gender identity and expression, and HIV status so they will be able to treat all members of the LGBT community in a respectful, nondiscriminatory manner. These trainings should emphasize gender identity and expression cultural competency in particular to convey the importance of improving the treatment of TGNC people. Additionally, these trainings should address HIV confidentiality and transmission to improve the treatment of HIV-positive people.
- Provide a transparent, accessible oversight process for reporting and redressing discrimination complaints, combined with clear and enforced disciplinary procedures.
- Include employment policies that can help improve the hiring and retention of LGBT employees and contribute to a more LGBT-friendly environment.

#### Key Recommendations for Police Departments

- Include sexual orientation, gender identity and HIV status, as well as sex, race and ethnicity, in nondiscrimination policies and guidelines. While our federal and state constitutions command equal treatment of people without regard to these characteristics, including express prohibitions increases understanding, compliance and enforcement.
- Ensure that Police Patrol Guides and similar guidelines explicitly include a commitment to equal, respectful treatment of LGBT and HIV-positive people, and people of all racial and ethnic backgrounds, including explicit procedures for the respectful treatment of transgender people. These guidelines should explain that police officers will be held accountable for failing to comply. The patrol guides and policy manuals of the City of Los Angeles, adopted after intense, long-term community pressure, provide excellent examples. See [http://www.lapdonline.org/lapd\\_manual/](http://www.lapdonline.org/lapd_manual/)
- Adopt or amend policies prohibiting discriminatory practices, such as profiling based on race, ethnicity, HIV status, sex, sexual orientation, or gender identity—practices that disproportionately affect people of color, low-income people, LGBT people, and gender non-conforming people.
- Hire and promote qualified officers and leaders across all levels of the police department who demonstrate the interpersonal skills necessary to get along with peers, instructors, supervisors, and others, and that they can interact professionally regardless of the social standing, ethnic background, culture, gender, gender identity, sexual orientation, or religion of other people.
- Institute “early warning systems” to flag officers who have engaged in insensitive or abusive behavior and follow up with training, discipline or reassignment as necessary. When hiring police chiefs and related leadership positions, states and municipalities should ensure that final candidates are supportive of the rights of LGBT people and people living with HIV.
- Implement mandatory cultural competency training for employees at all levels of the department, with content specific to the duties of the personnel being trained. The training should address issues relevant to the LGBT community. These trainings should be led by non-police personnel and have input and participation of community members.
- Implement mandatory training about HIV for employees at all levels, with content specific to the duties of the personnel being trained. The training should address issues such as the need for confidentiality and accurate information about how HIV is transmitted. These trainings should be led by non-police personnel and have input and participation of community members.
- Incorporate nondiscrimination policies and disciplinary consequences for non-compliance into union contracts to ensure consistent implementation.
- Adopt a community-based complaint mechanism where victims of police misconduct and discrimination can report incidents in a safe, welcoming environment, with options for anonymous reporting. Adopt internal complaint mechanisms that ensure that those who report misconduct, including officers, are not retaliated against, and that any retaliation by officers or commanders against either community members or other officers is severely punished.

- Designate personnel or an advisory board to be liaisons with the LGBT and HIV-positive communities to improve communications and relationships, and to increase departmental awareness, training and knowledge of LGBT and HIV-related issues.
- Capture and track complaints alleging racial and other profiling based on bias with regard to sexual orientation or gender identity or expression. Data collected should include characteristics of the complainants (including but not limited to sexual orientation and gender identity) as well as the outcome of investigations and any disciplinary actions taken. Regularly report on the number of misconduct complaints based on sexual orientation or gender identity.
- Work with LGBT community advocates and anti-violence groups to maintain up-to-date training and to ensure that policies and procedures are implemented successfully.

#### Recommendations for Courts and Other Adjudicative Settings:

- Adopt measures to safeguard the privacy of people who are LGBT or living with HIV. One's sexual orientation, gender identity and HIV status usually are irrelevant in court proceedings and so should not be mentioned unless disclosed by the person. If one of those characteristics is relevant, the information should be treated sensitively to protect the individual's privacy to the extent possible.
- Adopt judicial canons explicitly prohibiting conduct that shows bias based on sexual orientation, gender identity or expression or HIV status, and mandating judges to require lawyers, court officials and staff, and people appearing before them not to engage in such conduct.
- Adopt rules governing the professional responsibility of lawyers that explicitly prohibit language and conduct manifesting bias based on sexual orientation, gender identity, or HIV status.
- Adopt court rules governing court staff and employees that explicitly prohibit language and conduct manifesting bias based on sexual orientation, gender identity, or HIV status.
- Adopt clear and accessible procedures for filing and processing complaints about conduct manifesting bias by judges, lawyers, court officials, and court staff.
- Ensure that studies are conducted to examine the treatment within courts of individuals based on sexual orientation, gender identity, or HIV status, conducted in consultation with community partners, and with recommendations for addressing problems identified by such studies.
- Undertake efforts to encourage diversity, including diversity in sexual orientation and gender identity or expression, in the appointment and election of judges. Legal practitioners can assist by working through state, local and specialty bar associations or political organizations. In addition, processes for evaluating judicial candidates should explicitly address these types of diversity.

#### In addition, attorneys and judges should:

- Immediately respond to jokes or disrespectful comments about an individual's actual or perceived sexual orientation, gender identity or expression, or HIV status. If this happens during a court hearing, judges and attorneys should respond promptly so the inappropriate comment, and the person who made it, can be addressed immediately. If the statement was made on the record, the response and any reference to the response should also be on the record.
- Address transgender and gender-nonconforming (TGNC) individuals according to their preferred pronouns (“he” and “him,” or “she” and “her”). Addressing or referring to individuals by the wrong pronouns is disrespectful and can cause unlawful harassment or discrimination.
- Oppose the introduction of evidence of actual or perceived sexual orientation, sexual conduct, gender identity or expression, or HIV status unless these characteristics are relevant to an issue in the proceeding. Oppose the introduction of such evidence in an attempt to embarrass an individual, attack his or her character, or play to the presumed biases of decision-makers.
- Conduct voir dire in a manner that is respectful of people's right to confidentiality regarding their sexual orientation, gender identity, or HIV status and that avoids involuntary outing or undesired visibility. Avoid questions that focus on marital status and instead frame questions to identify persons with whom the potential juror may have a significant personal relationship.

#### Judges should:

- When instructing jurors that biases are to play no role in their decisions, explicitly include bias and preconceived notions about sexual orientation, gender identity or expression, and HIV status.

#### Attorneys should:

- When appropriate, ask questions during voir dire to expose juror biases based on sexual orientation, gender

identity or HIV status, and seek to remove such jurors for cause.

- Challenge peremptory strikes that appear to be based on sexual orientation, gender identity or expression, or HIV status.

#### Recommendations for Prisons and Jails:

- Respect the rights of TGNC people to identify their gender identity and be placed accordingly. Jails and prisons should adopt policies consistent with the federal Prison Rape Elimination Act (PREA), which are similar to those of the United Kingdom, in which the preference is to place individuals according to their gender identity, with exceptions on a case-by-case basis at the preference of the individuals being held. The PREA standards state:  
“Decisions about where a transgender person, or a person with an intersex condition, is housed must be made on a case-by-case basis; they cannot be made solely on the basis of a person's anatomy or gender assigned at birth. This means ... every transgender woman must be assessed individually to determine whether she would be best housed with other women instead of in a men's facility. An individual's views regarding personal safety must be seriously considered.”  
“These decisions must be reassessed at least twice per year to consider changed circumstances such as incidents of abuse or changes in an individual's appearance or medical treatment.”  
“All transgender people and people with intersex conditions must be given the opportunity to shower separately from other inmates if they wish, regardless of where they are housed.”
- Prohibit the use of solitary confinement, which is harmful and meant as a severe punishment, as an option for routine placement of people who are LGBT or HIV-positive: “Facilities too often respond to abuse by placing survivors and those most at risk in isolation. When prolonged, this can amount to torture. The Standards restrict such uses of ‘protective custody’ by requiring that all alternatives be assessed before placing an inmate involuntarily in segregation. Alternatives might include relocating a perpetrator of abuse, providing heightened supervision, changing housing placement or cellmates, placement in a single-occupancy cell within the general population, or transfer from a men's to a women's facility or vice versa.”
- Eliminate procedures that provide for differential treatment or enhanced disciplinary measures based solely on an inmate's HIV-positive status. Inmates should not be excluded from jobs or refused placement into programs based on their HIV status. Furthermore, it is improper to subject any individual to more severe disciplinary or corrective measures, such as placement in administrative segregation or reassignment to a higher level of security, simply because that person is living with HIV. Policies that require such differential treatment are based on inaccurate, outdated information about HIV and its transmission.
- Follow PREA standards regarding searches and train staff in conducting professional and respectful searches. PREA prohibits all cross-gender strip searches and cavity searches except in emergencies, or when conducted by a medical professional. Any cross-gender searches that occur must be documented. Transgender individuals should be allowed to make a choice at admission as to whether they will be searched by male or female officers. No search or physical exam may be conducted when the only purpose is to determine the inmate's genital status.
- Put measures in place to ensure that transgender people and people with HIV have access to all medically necessary health care. Transgender people and people with HIV have serious medical needs that must not be denied during their incarceration. For transgender people, possible medically necessary treatments include hormone therapy and transition-related care. Jails and prisons should adopt affirmative policies and procedures to ensure that transgender prisoners have access to evaluation by a doctor and any medically necessary treatments related to gender transition, including hormone treatment and surgeries. Jails and prisons should ensure that prisoners with HIV have uninterrupted access to the medication and the range of care they need.
- Implement transparent complaint review processes so victims of misconduct have recourse.
- Require correctional staff to undergo cultural competency trainings about sexual orientation, gender identity and HIV so they will treat all people who are LGBT or who have HIV in a manner that respects their rights and needs in a nondiscriminatory manner. Competency training should include a particular emphasis on gender identity and expression to address common, incorrect assumptions about the needs of TGNC people.





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