



Listening to Their Voices

Enhancing Successful Outcomes for LGBTQ Youth in
Washington State's Child Welfare and Juvenile Justice
Systems.

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Definitions

Gender and sexuality are complex issues with ever changing descriptors and meanings. Below is a list of terms used throughout this report.¹

Bisexual

A term used to describe an individual who is emotionally, romantically, and sexually attracted to both male and female genders.

Cisgender

A term used to describe an individual whose gender identity and gender expression matches the gender typically associated with their biological sex. For example: a male who identifies as a male and is perceived as a male.

Gay

A term used to describe a male individual who is emotionally, romantically, and sexually attracted to other males. This term is also used as an umbrella term to describe the LGBTQ community.

Gender Expression

A term used to describe an individual's outward communication of gender through behavior or appearance. An individual's gender expression may or may not correspond with their birth assigned gender.

Gender Identity

A term used to describe an individual's inner sense of being male or female. Gender identity may or may not correspond with an individual's assigned birth sex or gender.

Gender Non-Conforming

A term used to describe when an individual's gender expression does not correspond with their birth assigned gender.

Heterosexual

A term used to describe individuals who are only emotionally, romantically, and sexually attracted to the opposite sex. The term "straight" is often used to describe heterosexual individuals.

Intersex

A term used to describe individuals whose sexual anatomy or chromosomes do not match the traditional markers of "female" or "male."

¹ For more information about LGBTQ identities, please see PFLAG National Glossary of Terms (2015), <http://community.pflag.org/Page.aspx?pid=316>

Lesbian

A term used to describe a female individual who is emotionally, romantically, and sexually attracted to other females.

LGBTQ

A general term used to describe individuals who identify as lesbian, gay, bisexual, transgender, and/or queer/questioning.

Queer

An umbrella term that includes individuals who identify as gay, lesbian, bisexual, transgender, gender neutral, questioning, and many other identities. While this term has been used in a derogatory way in the past, many individuals and groups are reclaiming it as an all-encompassing way to describe those who do not identify as heterosexual and/or cisgender.

Questioning

A term used to describe an individual (often an adolescent) who has questions about his or her sexual orientation and/or gender identity. Some questioning individuals will identify as LGBTQ; some might not.

Pansexual

A term used to describe an individual who is emotionally, romantically, and sexually attracted to individuals of all gender identities and expressions including those who do not fit into the standard gender binary (male and female).

Preferred Pronouns

A term used to describe gender pronouns that an individual would like others to use when referring to that individual. Preferred gender pronouns may or may not match the individual's birth assigned gender and may be gender neutral or words not commonly used as pronouns. For example, some may prefer "they", "ze", or "hir" pronouns.

Sexual Orientation

A term used to describe an individual's emotional, romantic, and sexual attraction to the same or opposite gender. An individual's sexual orientation is different from an individual's gender identity.

Transgender

An umbrella term used to describe individuals whose gender identity differs from the sex assigned to them at birth. A transgender woman is a person who is assigned the sex of male at birth but identifies as female. A transgender man is a person who is assigned the sex of female at birth but identifies as male.

Table of Contents

Executive Summary	1
Methodology	8
Literature Review Summary	12
LGBTQ System Alumni Results	16
Participant Characteristics	17
System Entry	19
Experiences within the Systems	21
Services	29
Knowledge of Rights	30
Outcomes	30
Resiliency	32
Suggestions	32
System Professionals & Service Providers Results	37
Survey Respondent Characteristics	38
Child Welfare Professionals	39
Juvenile Justice Professionals	46
General Observations	50
Service Provider Interviews	53
Suggestions	55
Washington State Law & Policy Review Summary	57
National Law & Policy Review Summary	63
Recommendations	69

Appendices

Appendix A: eQuality Literature Review	73
Appendix B: Washington State Law & Policy Review	96
Appendix C: National Law & Policy Review	114
Appendix D: Focus Group Study Information and Consent Form	136
Appendix E: Focus Group Discussion Questions	139
Appendix F: Focus Group Questionnaire	141
Appendix G: System Alumni Online Survey	143
Appendix H: System Professional Online Survey	151
Appendix I: Juvenile Court Administrators Survey	160
Appendix J: Service Provider Interview Questions	166

Executive Summary



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Introduction

Adolescence is overwhelming for everyone. Yet, in addition to the challenges faced by all teens, lesbian, gay, bisexual, transgender, and queer/questioning (LGBTQ) youth must also confront rejection by their families, harassment by their peers, and discrimination by a society that continues to stigmatize the LGBTQ community.

A growing body of research is focused on the barriers encountered by LGBTQ youth as they mature in such a difficult environment. However, there is limited research focused on LGBTQ youth who are involved in the child welfare and juvenile justice systems. The existing research indicates that LGBTQ youth are overrepresented within these systems and are likely to experience significant mistreatment because of their sexual orientation and/or gender identity.

The eQuality Project, led by the Center for Children & Youth Justice (CCYJ), is the first research effort designed to study the experiences of LGBTQ youth in Washington State's child welfare and juvenile justice systems. Since 2013, CCYJ has gathered first-hand accounts from LGBTQ system alumni, collected the observations of system professionals and community-based service providers about their experiences working with LGBTQ youth, and conducted extensive reviews of existing research, laws, policies, and practices relevant to system-involved LGBTQ youth.

This Executive Summary is divided into the three following sections:

1. Barriers identified by LGBTQ system alumni, system professionals, and community-based service providers;
2. Existing landscape of laws, policies, and practices relevant to system-involved LGBTQ youth in Washington State and nationally; and
3. CCYJ's 12 recommendations for system improvement.

The purpose of this report is to inform law and policy makers, system leaders, and community stakeholders about the unique circumstances of system-involved LGBTQ youth, enhance existing system-reform efforts, and identify additional system changes needed to ensure the safety, equal treatment, and well-being of LGBTQ youth in Washington's child welfare and juvenile justice systems.

Barriers for LGBTQ Youth

Gathering first-hand accounts from LGBTQ system alumni in addition to observations from system professionals and community-based service providers was a primary focus of CCYJ's research. In order to develop informed system reform strategies, CCYJ believes it is critical to understand how LGBTQ youth become system involved, what they experience while involved, and what outcomes they have after exiting system care.

System Entry

Many LGBTQ system alumni become initially involved in the child welfare system at very young ages for reasons not directly tied to their sexual orientation and/or gender identity. For others, their family's reaction to their LGBTQ identity is a direct factor in how they become system-involved. Such youth experience family rejection and abuse leading them to either run away or get kicked out of their home. Once homeless, LGBTQ youth might be discovered by the child welfare system while others might be charged with minor offenses or with status offenses (such as running away), initiating their entry into the juvenile justice system.

DUAL SYSTEM INVOLVEMENT

Approximately 50% of the LGBTQ system alumni participants have been involved in both the child welfare and the juvenile justice systems.

School experiences and peer relationships also have significant impacts on juvenile justice system entry. LGBTQ youth experience harassment and bullying at school, leading them to skip class or school entirely. As a result of unexcused absences, youth become court-involved through truancy petitions. Fighting and other aggressive behavior, often a reaction to harassment and bullying, can also lead to juvenile justice system involvement for LGBTQ youth.

Involvement in both the child welfare and the juvenile justice system, known as dual system-involvement, is common for LGBTQ youth.

Experiences While System-Involved

Once in the child welfare and/or juvenile justice system, many LGBTQ youth experience significant mistreatment including discrimination, abuse, harassment, and additional trauma at the hands of caretakers, system professionals, and peers.

Frequent placement change is a common experience for LGBTQ youth within the child welfare system. The lack of LGBTQ-accepting placement options hinders social workers from consistently placing LGBTQ youth in accepting homes. In addition, placements are not always screened for their acceptance of LGBTQ youth. When youth are placed in unaccepting homes, it is very likely that the placement will be unsuccessful. Both system alumni and child welfare professionals cite foster family conflict and youth running away as the two most likely causes for placement change for LGBTQ youth.

Within the juvenile justice system, unaddressed harassment and bullying from peers and detention or JR facility staff was a common experience. Juvenile justice professionals agree that peer harassment is a likely experience for LGBTQ youth.

LGBTQ youth do not feel safe disclosing their sexual orientation and gender identity to system professionals and caretakers because they fear further mistreatment and marginalization. For several system alumni, such fears were realized when others found out about their LGBTQ identity, and they suffered additional trauma. Yet, system professionals report that when they are not aware of a youth's sexual orientation and/or gender identity, they cannot effectively identify and address their needs.

All system-involved youth often experience challenges such as behavioral health issues and trauma. Respectful and culturally competent services are necessary to address their needs. The availability of culturally competent services and LGBTQ resources for system-involved LGBTQ youth is

FEAR OF DISCLOSURE

Over 60% of the LGBTQ system alumni said they didn't feel safe or comfortable disclosing their LGBTQ identity to system professionals.

inconsistent statewide. When such services and resources are available, LGBTQ youth are not always given access to them. Instead, LGBTQ youth have been referred to providers who are not culturally competent and try to discount or change their sexual orientation and/or gender identity. The lack of culturally competent services is a significant barrier to the effectiveness of services for LGBTQ youth.

The rights of system-involved LGBTQ youth have been neglected. LGBTQ youth are not provided adequate information about their rights within the systems nor are they given adequate instruction on how to report grievances. When youth do make reports, the system response is not always timely or helpful.

System and agency policies and practices regarding how clients are to be treated are critical for informing professionals in how they are to interact with system-involved LGBTQ youth. Approximately 30 percent of professionals in both the child welfare and juvenile justice systems indicated that they are unaware of any policies regarding the treatment of LGBTQ youth in their department or agency. Furthermore, system professionals report that cultural competence training on working with LGBTQ youth is not always available and is rarely required for their positions.

Outcomes

System-involvement substantially impacts LGBTQ youth even after they exit either system. LGBTQ system alumni's experiences impact their behavioral health, self-acceptance, and sense of belonging. Outcomes such as suicidal ideation and chemical dependency in addition to experiences with discrimination, harassment from others, and victimization are also likely for LGBTQ system alumni.

HOMELESSNESS

Over 80% of participants have experienced unstable housing at least once in their life.

System alumni, system professionals, and community-based service providers agree that homelessness is a significant issue for LGBTQ youth. Homelessness is both an outcome for LGBTQ youth when they exit the systems and a significant risk while they are still system-involved.

The Policy Landscape

In order to develop informed system changes, it is critical to understand the existing landscape of policies relevant to LGBTQ youth in the child welfare and juvenile justice systems. CCYJ has conducted extensive reviews assessing the existing laws and policies relevant to system-involved LGBTQ youth in Washington State and on a national level.

Washington State

There have been exciting new developments that affect system-involved LGBTQ youth in Washington State. In accordance with the Prison Rape Elimination Act (PREA), the Juvenile Justice & Rehabilitation Administration (JJ&RA) has adopted a groundbreaking policy that includes several protections (including discrimination and harassment) for incarcerated LGBTQ youth, training requirements for JJ&RA staff, and much more. The Alliance for Child Welfare Excellence, who provides training for Children's Administration (CA) employees and caretakers, is currently revising their training competencies and requirements specific to LGBTQ cultural competence have been proposed for adoption. The Washington State Criminal Justice Training Commission (WSCJTC) has begun providing LGBTQ training as part of the new combined training academy for county probation officers and detention workers. These new developments are critically important steps toward significant system reform for LGBTQ youth.

While Washington's systems have made great strides, there are also significant gaps and inconsistencies—especially regarding non-discrimination policies. While discrimination based on sexual orientation and gender identity is prohibited by the Revised Code of Washington (RCW), the Department of Social & Health Services (DSHS) non-discrimination policy does not explicitly include protections for gender identity. CA's policy does not explicitly protect either sexual orientation or gender identity. CA's mechanism for informing system-involved youth of their rights does not include information about LGBTQ rights. CA policies informing culturally competent service provision do not explicitly include sexual orientation or gender identity as cultural dimensions requiring consideration.

Nationwide

State legislatures, departments, and cities throughout the United States have implemented non-discrimination policies that include protections for sexual orientation and gender identity. Court cases regarding the protection of incarcerated LGBTQ youth from violence and medical services for system-involved transgender youth have ruled in the favor of LGBTQ youth. In addition, several organizations throughout the nation have developed model policies and practices regulating the treatment of system-involved LGBTQ youth that can be used as templates for state, local governments, and systems to implement.

Recommendations

While significant efforts have been made in Washington to improve services for all system-involved youth, CCYJ's research has discovered multiple barriers for system-involved LGBTQ youth and policy gaps that need immediate attention. In order to address these issues, CCYJ offers 12 recommendations for how Washington's child welfare and juvenile justice system can improve in order to better serve LGBTQ youth. While many of these recommendations are comparable to best practices for serving all system-involved youth, they are especially critical for the safety, equal treatment, and well-being of LGBTQ youth. CCYJ believes these recommendations will enhance existing system reform goals and efforts.

- 1. Permanency:** Improve permanency outcomes for LGBTQ youth in the child welfare system by increasing the number of accepting, long-term placements, consistently screening potential placements for LGBTQ acceptance, including LGBTQ youth in the placement process, and evaluating placements when unsuccessful.
- 2. Housing:** Ensure appropriate housing for LGBTQ youth in both systems by considering the youth's gender identity and safety concerns when placing youth in facilities divided by gender (detention, congregate care, etc.). Prohibit the separation or isolation of LGBTQ youth from other youth because of their LGBTQ identity.
- 3. Equitable Treatment:** Provide equitable treatment for LGBTQ youth regarding rules and sanctions. Explicitly prohibit the labeling of LGBTQ youth as sexually deviant or as sex offenders based on their sexual orientation and/or gender identity.
- 4. Harassment:** Develop effective strategies to address harassment and bullying against LGBTQ youth from peers and adults. Ensure that such harmful behavior can be easily reported.
- 5. Cultural Competence:** Expand the existing cultural competence framework to explicitly include sexual orientation and gender identity. Require all services (mental health, family reunification, etc.) to be culturally competent for LGBTQ youth.
- 6. Non-Discrimination Policies:** Update all non-discrimination policies to explicitly prohibit discrimination based on actual or perceived sexual orientation and gender identity. Train all system professionals on these policies and implement effective enforcement mechanisms.
- 7. Training:** Provide training to all system professionals on LGBTQ identities and issues, referring LGBTQ youth to appropriate services, and respectfully identifying a youth's sexual orientation, gender identity, and preferred pronouns.
- 8. Visibility:** Improve the knowledge and visibility of LGBTQ youth by expanding existing data collection methods (intake forms, assessments, etc.) to respectfully gather information on sexual orientation, gender identity, and preferred pronouns. Ensure that this data is kept confidential and only used to identify needed services or safety risks.

9. **Rights:** Ensure that LGBTQ youth are informed about their rights (in general, and specifically regarding their rights as LGBTQ youth) and how they can report grievances through age-appropriate and up-to-date strategies. Reports should be promptly and appropriately addressed.
10. **Community Resources:** Connect LGBTQ youth with resources such as information on healthy identity development, local LGBTQ organizations or clubs, and other affirming educational and social opportunities.
11. **Dual-System Involvement:** Research factors leading to dual system-involvement for LGBTQ youth in order to reduce the prevalence of dual system-involvement for this population.
12. **Homelessness:** Research the relationship between system-involvement and homelessness for LGBTQ youth in order to reduce the prevalence of homelessness among currently and formerly system-involved LGBTQ youth.

Washington has already taken groundbreaking steps to ensure legal protection and marriage equality for LGBTQ people. These accomplishments set the stage for child welfare and juvenile justice system reform that purposely considers and addresses the unique needs of system-involved LGBTQ youth. CCYJ is dedicated to collaborating closely with law and policy makers, system leaders, and community stakeholders to ensure that LGBTQ youth are given the equal protection and the respectful services they deserve. While Washington's systems face resource deficits and other limitations, addressing the needs of LGBTQ youth not only improves the experiences of system-involved LGBTQ youth but also improves services for all system-involved youth. We hope you will join us in these vital efforts.

Methodology



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Introduction

CCYJ's research includes a comprehensive nationwide literature review, LGBTQ system alumni focus groups and online surveys, system professional online surveys, community-based service provider interviews, and extensive reviews of existing policies and laws both in Washington State and nationwide. Below is a short description of our research methodology for each of these sections.

Literature Review

To help guide our work, we conducted a comprehensive review of over 100 reports and articles regarding the experiences of LGBTQ youth in the child welfare and juvenile justice systems nationwide in addition to existing best practices. Because there is only one known research effort specific to Washington State, having an overview of work done elsewhere was critical.¹

System Alumni

In order to collect first-hand accounts from LGBTQ individuals with system experience, CCYJ conducted a series of focus groups around Washington State. Because of the challenges inherent in asking youth currently in these systems to identify as LGBTQ and to raise concerns about their system experiences, CCYJ drew on LGBTQ system alumni between the ages of 18 and 30 as the target population for these focus groups.

The focus groups were conducted using two protocols: a discussion script and a short anonymous questionnaire. Both protocols were developed by CCYJ staff and reviewed by the eQuality Advisory Committee. The full text of these discussion questions are provided in Appendix E. The anonymous questionnaire can be found in Appendix F.

While conducting the focus groups, it became apparent that there were additional LGBTQ system alumni who wanted to participate but, because of transportation or scheduling limitations, were unable to attend focus groups. In addition, CCYJ recognized that not all LGBTQ system alumni might be comfortable discussing their LGBTQ identity and system experiences in a group context. Therefore, an anonymous online survey including similar content as the focus group protocols was created. See Appendix G for the full text of this survey.

Of the 61 individuals who participated in the system alumni focus groups and online survey, 54 met the study criteria: currently or formerly system-involved, LGBTQ, and between the ages of 18-30.²

¹ See J. Tarnai & R. Krebill-Prather, *2008 Survey of Washington State Youth in Foster Care*, Social & Economic Sciences Research Center, (2008).

² One participant indicated that he was under 15, but provided written consent to participate from a guardian. Therefore, the input provided by this participant is included in the report.

System professionals

To enhance the insights gained from the literature review, focus groups, and the online survey of system-involved youth, CCYJ developed an online survey to gather information from professionals working in Washington's child welfare and juvenile justice systems. The survey was distributed through employee listservs by the Washington Department of Social and Health Services/Children's Administration (DSHS/CA), Juvenile Justice & Rehabilitation Administration (JJ&RA), and the Washington Association of Juvenile Court Administrators (WAJCA). The survey collected responses from 364 professionals. See Appendix H for the full text of this survey.

Community-Based Service Providers

Additionally, 10 service providers with whom CCYJ had partnered to conduct the focus groups were interviewed for their observations on working with LGBTQ young people and their suggestions for how these systems should be improved. Some of their organizations are specifically for LGBTQ young people, and some are not specifically for this population but make conscious efforts to be inclusive and accepting of this population. See Appendix J for the interview questions.

Law & Policy Reviews

As an additional source of baseline information, CCYJ conducted extensive reviews of existing laws, rules, policies, practices, and resources pertaining to LGBTQ youth in the child welfare and juvenile justice systems in Washington state and also nationwide. To find these materials, CCYJ staff reviewed DSHS, CA, and JJ&RA policy manuals; Washington State Laws, Washington Administrative Codes; a multitude of websites; and several law review journals and other publications. CCYJ also reached out to professionals working in Washington State's child welfare and juvenile justice systems in order to access additional information about existing laws and policies. In addition, CCYJ conducted a small survey of juvenile court administrators in order to collect information on existing and in-progress policies relevant to LGBTQ youth in county juvenile detention centers and probation programs. See Appendix I for the survey questions.

Notes

For the purpose of this project, status offenses such as truancy, At-Risk Youth (ARY) petitions, and Child In Need of Services (CHINS) petitions are included under the juvenile justice system.

A small number of LGBTQ system alumni did not have experience with Washington State's child welfare or juvenile justice systems, but instead had system experience in other states. While these systems differ in each state, system alumni with experience outside of Washington states reported themes that were comparable to the experiences of Washington state system alumni and the Literature Review findings. Therefore, CCYJ believes their accounts are valuable to this Project.

While many of the accounts gathered from LGBTQ system alumni through this Project appear similar to the experiences of all system-involved youth, their perspectives help illustrate the nuances of how LGBTQ youth become system-involved, what they experience while system-involved, and what they experience once they exit the systems.

All of the personal accounts collected through the eQuality Project are self-reported; therefore, CCYJ cannot verify the accuracy of this information. Nevertheless, the personal accounts are comparable to the findings in the Literature Review and are consistent across different demographics.

Readers should note that pronouns now often used, particularly by youth, are more fluid and gender neutral. When describing system alumni input, pronouns used in the report reflect the preferred pronouns as indicated by the contributing participant, even though they may appear to the reader to be grammatically incorrect.

Literature Review Summary



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Introduction

CCYJ began the eQuality Project by conducting a comprehensive literature review of the most current research about the experiences of LGBTQ youth in the child welfare and juvenile justice systems nationwide. Because there is very little research specific Washington State, having an overview of work done elsewhere is particularly helpful. This section is a summary, please see Appendix A for the complete Literature Review.

Lack of Precise, Verifiable Data

It is frequently estimated that lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth make up approximately five to seven percent of the national youth population.⁴ However, the research to date estimates that approximately 15 percent of youth ages 15 through 17 in Washington State's child welfare system identify as LGBTQ,⁵ and 20 to 60 percent of youth in the child welfare system nationally identify as LGBTQ.⁶ Likewise, available research estimates that 13 to 15 percent of youth in the juvenile justice system identify as LGBTQ.⁷ These efforts to determine the number of system-involved LGBTQ youth rely on self-reporting. Significant risks still exist for LGBTQ youth who disclose their sexual orientation and gender identity; therefore it is very difficult to obtain precise and accurate estimates.

Pathways to System-Involvement

- Family conflict: family conflict may include abuse/neglect, rejection of the LGBTQ child, and other family problems which increases the likelihood of child welfare system involvement.
- Persons in Need of Supervision (PINS)/Children in Need of Services (CHINS)/At-Risk Youth (ARY) Petitions: in some cases, families may petition the court because the child is unwilling to obey. Judicial officers may sanction youth without considering that their sexual orientation and/or gender identity may be causing disagreements in their home.

⁴ J. Hunt & A.C. Moodie-Mills, *The Unfair Criminalization of Gay and Transgender Youth: an Overview of the Experience of LGBTQ Youth in the Juvenile Justice System*, Center for American Progress. (2012). Available at <http://www.americanprogress.org/issues/lgbt/report/2012/06/29/11730/the-unfair-criminalization-of-gay-and-transgender-youth/>

⁵ Tamai & Krebill-Prather, *supra* note 1 at 96-98.

⁶ Rob Woronoff, Rudy Estrada, & Susan Sommer, *Out of the Margins: A Report on Regional Listening Forums Highlighting the Experiences of Lesbian, Gay, Bisexual, Transgender, and Questioning Youth in Care*, Child Welfare League of America. 5. (2006).

⁷ Hunt & Moodie-Mills, *supra* note 4

- Homelessness: because LGBTQ youth are likely to experience family rejection and mistreatment, they are also likely to run away or be pushed out onto the streets. Research indicates that 20 to 40 percent of the homeless youth population identifies as LGBTQ.⁸ Homelessness is the most significant factor for LGBTQ youth becoming involved in the juvenile justice system.⁹
- Hostile educational environments: the educational environment can be one of the least affirming places for LGBTQ youth. This hostility increases the risk of youth skipping school or dropping out entirely because they feel unsafe and/or unwelcome—increasing the likelihood of truancy and PINS/CHINS/ARY petitions.
- Sexual relationships: LGBTQ identities are socially stigmatized and often disapproved by parents; therefore, LGBTQ youth under the age of consent may be prosecuted for engaging in what they consider to be consensual sexual activity with their peers—activity that is often considered normal development among heterosexual youth.
- Trauma: LGBTQ youth are likely to experience significant violence, harassment, and rejection from various sources (family, law enforcement, school, etc.). Research suggests that traumatic experiences may be linked to delinquent behavior; however, this link has not been sufficiently studied to date.

Unique System Experiences

- Invisibility: youth in the child welfare and juvenile justice systems are assumed to be heterosexual and gender conforming; therefore, the needs of LGBTQ youth are often invisible and neglected.
- Mistreatment: LGBTQ youth are very likely to experience harassment, abuse, disrespect, discrimination, and much more from both peers and staff within these systems. When LGBTQ youth try to protect themselves or report the mistreatment, they are further punished and even blamed for their own victimization.
- Lack of appropriate services: because LGBTQ youth are largely invisible and stigmatized, there is a significant lack of LGBTQ competent and inclusive services.
- Poor outcomes: LGBTQ youth are often placed in unaccepting and hostile environments with few resources, making it unlikely for them to find permanent connections and increasing their risk of multiple placements and homelessness.

⁸ R.A. Hooks Wayman, *Homeless Queer Youth: National Perspectives*, Vol. 7. No. 2 Seattle Journal for Social Justice. 587, 600. (2009).

⁹ B. Fedders, *Coming Out for Kids: Recognizing, Respecting, and Representing LGBTQ Youth*, Vol. 6 Nevada Law Journal. 774, 778. (2006)

Best Practices

- Non-discrimination policies: all agencies with roles in these systems should develop and implement policies that explicitly prohibit discrimination based on the actual or perceived sexual orientation, gender identity, and HIV/AIDS status of all youth, foster parents, and professionals involved.
- Mandated training: all agencies with roles in these systems should provide ongoing training to the professionals involved on how to follow the non-discrimination policies and how to provide competent services to LGBTQ youth.
- LGBTQ inclusive assessments: non-judgmental assessments that ask about sexual orientation and gender identity should be administered to all youth at intake in order to detect safety risks and health needs.
- Confidentiality: all agencies should implement policies stating that information about a youth's sexual orientation and gender identity, HIV status, and related details are only to be used to inform safety planning and health services unless the youth gives permission to disclose this information in other situations.
- LGBTQ appropriate services: services (medical/mental health, developmental, transgender-specific, and family reconciliation) should be developed to provide LGBTQ competent care that considers LGBTQ specific circumstances and needs.
- Improving permanency: the child welfare system should focus on the permanency needs of LGBTQ youth by recruiting LGBTQ friendly foster families, ensuring that congregate care facilities are safe, and providing family reunification services.
- Data collection & research: both systems should collect data to increase the visibility of LGBTQ youth in care so that their needs can be addressed.

LGBTQ System Alumni Results



System Alumni Characteristics

The age of the system alumni who participated in this project ranged from 15 to 28 with an average of 21.6 years old. In order to maximize the freedom to identify as they desired, participants were presented with a list that included both possible sexual orientations and gender identities and instructed to check all that apply to them [Figure 1]. Participants were also given space to include any additional words that described them (numbers included under “Other”). A total of 50 participants selected at least one of the provided sexual orientations or gender identities. Of those who included additional terms, the most frequently added identity was pansexual (10 participants). As illustrated below, the sexual orientations and gender identities represented in this project are very diverse.

Figure 1: Sexual Orientation & Gender Identity	Response Percentage
Male	34%
Bisexual	32%
Other	32%
Female	28%
Queer	28%
Transgender	26%
Gay	26%
Genderqueer	20%
Lesbian	14%
Two-spirited	14%
Straight	12%
Questioning	12%
Intersex	8%

Focus group participants and survey respondents were also presented with a list of races and ethnicities and asked to check all that apply to them, with space also allowed for participants to include additional descriptions (numbers included under “Other”). Of the 49 participants who responded, the majority indicated that they identify as White (63 percent), followed by Multiracial (27 percent), Native American (18 percent), and Black or African American (18 percent) [Figure 2].

Figure 2: Race & Ethnicity	Response Percentage
White	63%
Multiracial	27%
Black or African American	18%
Native American	18%
Other	16%
Latino/a	14%
Asian	6%
Native Hawaiian/Pacific Islander	6%

Of the 50 participants who responded to the question, 74 percent indicated that they grew up in and/or were system-involved in Washington State at some point in their lives [Figure 3]. In order to determine which systems the participants had been involved in without using potentially unfamiliar terms such as the “child welfare system” and the “juvenile justice system”, participants were provided a list of options from both systems and asked to check all that they had been involved with, providing additional space for other parts of the systems to be added. The research team categorized the answers in order to determine the systems in which they were involved. Of the 51 participants who responded, the majority (53 percent) indicated that they have been involved in both the child welfare and juvenile justice systems in either Washington state or elsewhere [Figure 4].

Figure 3: Location While System-involved

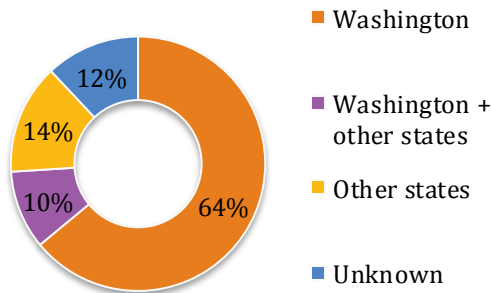
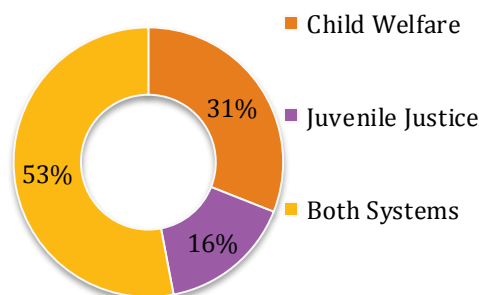


Figure 4: System Involvement



Within Washington, most participants indicated that they grew up or were system-involved in specific counties while others gave more non-specific answers. 42 percent of 33 respondents indicated that they grew up or were system-involved in King County. The 14 participants who grew up or were system-involved outside of Washington reported coming from nine other states with California, Texas, and Hawaii most frequently cited

System Entry

How LGBTQ Youth Enter the Child Welfare System

More than three-fourths of the LGBTQ system alumni participants were involved in the child welfare system, either in Washington or elsewhere. These individuals shared varying amounts of detail about the circumstances leading to their system involvement. Overall, the information provided suggests that many participants became involved in the child welfare system for reasons not directly related to their LGBTQ identity. For most this was because of their young age at the time of system-entry. However, some reported that their system involvement was directly influenced by their LGBTQ identity.

Reasons Non-Specific to Identity

Several participants reported becoming involved in the child welfare system for the same reasons any child might get involved. Approximately 23 participants shared that they entered care because of situations such as parental drug use, parental criminal activity, family illness or death, abuse/neglect not tied directly to their LGBTQ identity, and abandonment. Nearly half shared that they entered care at a very young age—ranging from two to 10 years old. The other half of this group did not indicate their age when they entered care, but some noted that they were quite young at that time. For most of these participants, they were not yet aware of their LGBTQ identity upon system entry. While their identity had little to no influence on why they initially entered the system, many reported that they experienced mistreatment, rejection, and disrespect as they matured and their sexual orientation and gender identity began to emerge.

Reasons Directly Influenced By Identity

Some participants reported becoming involved in the child welfare system for reasons directly tied to their identity—such as family rejection, abuse/neglect because of their identity, and family conflict. Five participants reported having been kicked out of their homes specifically because of their LGBTQ identity or they suspect that their LGBTQ identity was why they were kicked out. Some participants reported that they ran away from home because of conflict and abuse directly related to their LGBTQ identity.

Regardless of whether kicked-out or running away, these participants reported that they didn't always enter the child welfare system immediately; instead, many became homeless until discovered. One participant reported how she had friends who were kicked out of their homes because they identified as LGBTQ. When attempting to access needed social services, they were reported as runaways because of their age. Ultimately they became system-involved and were placed in foster care when their families wouldn't take them back. Similarly, a transgender participant reported how she was kicked out of her home at the age of 14 because of her gender identity. She began staying with the family of a school friend until state social workers became involved.

How LGBTQ Youth Get Involved in the Juvenile Justice System

Approximately two-thirds of the LGBTQ system alumni reported that they had been involved in the juvenile justice system, either in Washington or elsewhere. Reporting varying degrees of detail about their circumstances, the provided information suggests family conflict and rejection, truancy, and fighting and other aggressive behavior as the primary reasons for their involvement in the juvenile justice system.

Family Conflict & Rejection

Eight participants reported being involved in the juvenile justice system due to high risk behaviors and/or committing survival crimes (e.g., using and selling drugs, stealing food and clothes, trespassing) after having been kicked out of or running away from their homes. For at least two of these participants, their sexual orientation/gender identity was reported as having a direct influence on why they left home. One participant reported how, because of his LGBTQ identity, his father would abuse him, kick him out of the home, and then report him as a runaway. After being apprehended, this participant would be returned to the abusive home only to have this cycle repeated. Around the age of 15, the participant became homeless and began selling drugs to survive, which led to juvenile justice system involvement. While not all system alumni explicitly said that their identity was the reason they ran away or were kicked out of their home, many reported having abusive or unsupportive relationships with their caregivers.

Truancy Petitions

Ten participants indicated that they had been the subject of a truancy petition and four reported that their unexcused absences were directly related to their LGBTQ identity. Several system alumni reported they were skipping school because they were being bullied, harassed, assaulted, or teased at school by their peers. One participant reported that when she was around 13 years old, someone at her school told her peers that she was LGBTQ and they responded by teasing her. She became depressed and stopped going to school regularly. She was not comfortable discussing the reasons for her absences with school staff because she was afraid they would judge her. When she did try to explain her absences by saying she was depressed, her principal accused her of lying and told her that her reasons were irrelevant. Experiences with peer bullying and harassment and dismissive school staff were also common among the other participants.

Fighting & Aggressive Behavior

Eight participants reported entering the juvenile justice system because they either instigated a physical fight with someone who was verbally harassing them or fought back when someone else was being physically aggressive toward them. One participant shared how he was bullied for being LGBTQ and he responded by beating up those who were bullying him. While not all system alumni reported fighting for reasons specifically related to their identity, many believe their acting out was influenced by traumatic childhood experiences, instability, and anger over family rejection and abandonment. One participant reported feeling abandoned when his grandmother had him placed in a group home. He responded by getting angry and assaulting the group home staff.

Some participants became system-involved because of incidents of intra-familial domestic violence. One participant reported an incident where they were fighting with their aunt, resulting in the participant having visible neck bruises. The participant further reported that when the police arrived they discounted the participant's bruises, suggesting they could have been self-inflicted and were therefore irrelevant. When the matter was heard in court, the participant reported being told to "just plead guilty and everything will be fine". It is unclear if these reported incidents of domestic violence were directly influenced by the participants' sexual orientation and/or gender identity. However, several system alumni shared similar stories of being referred to juvenile court due to their involvement in a domestic violence incident.

A few participants reported becoming system-involved because of aggressive behavior toward police officers when the participant was in crisis or experiencing a mentally unstable state. One transgender participant reported entering the juvenile justice system because of mental health issues stemming from his gender identity. During a mental health crisis, his persistent efforts to obtain help from a community service provider were denied and resulted in law enforcement removing him from the premises. He was then referred to juvenile court for assaulting an officer, noting that the officer had injured him when attempting to remove him from the location.

Experiences within the Systems

Within the Child Welfare System

The system alumni participating in this project received a variety of services provided by the child welfare system, with many participants having experience with more than one service. Of the 43 participants who responded, the majority indicated that they had been involved in foster care (58 percent), followed by group homes (49 percent) and independent living programs (44 percent) [Figure 5]. Information provided by the participants about their child welfare experience primarily relates to kinship care, foster care, group homes, and child welfare caseworkers. Therefore, this report focuses on those areas of the system.

Figure 5: Child Welfare System Involvement	Response Percentage
Foster care	58%
Group homes	49%
Independent living programs	44%
Kinship care	23%
CPS investigation	5%
DSHS family counseling	2%
<i>Total Responses</i>	43

Foster Care

Several participants had more than one foster care placement and their experiences depended on the placement. Most participants reported that at least one foster family mistreated them; some reported that they were mistreated in all of their placements. Examples of mistreatment included physical abuse, sexual abuse, discrimination, and direct hostility toward the participant's identity. One gender non-conforming participant reported how their foster mother physically abused them

because of their gender expression. Another participant reported that her foster mother required her to go to church where she was publically shamed because of her sexual orientation.

A few participants reported how their foster parents didn't try to stop other youth from bullying them because of their identity. One participant reported how his peers would pick on him because of his LGBTQ identity. When he brought this issue up with his foster parents, they disregarded his concerns and told him to get over it.

Several participants believed that their foster families didn't support them or respect their LGBTQ identity. One participant reported that, with the exception of one temporary placement, her foster families just saw her as another child to take care of and didn't support her LGBTQ identity.

Similarly, another participant reported always being placed in homes where they already had several other foster kids and so they were not given needed attention and acceptance. The participant stated, "I felt more neglected in the foster care system than at home with my real parents." A few participants reported their foster families were actively discriminatory toward

*"I felt more neglected
in the foster care
system than at home
with my real parents"*

– Seattle Area Focus Group Participant

LGBTQ youth. For example, one participant reported being told by a foster family that if she was LGBTQ, she would not be allowed to stay with them.

While in foster care, many of the focus group participants and survey respondents were not out as LGBTQ. Most participants reported that they didn't feel comfortable disclosing their LGBTQ identity to their foster families because they were afraid of how they would react. Several participants were afraid to disclose their identity because they were staying with foster families who taught them that being LGBTQ was wrong—typically for religious reasons. One participant reported that because of their religious convictions, his foster parents (who later became his adoptive parents) raised him to believe that LGBTQ people will go to hell. Because of this upbringing, he became depressed about his identity and didn't feel comfortable telling his foster parents that he was LGBTQ until after he had left their home. For at least two system alumni, disclosing their LGBTQ identity made their living situation worse. After coming out, one was kicked out of their placement and the other was physically abused on more than one occasion by their foster mother.

Because they were not yet aware of their identity, several participants were not out as LGBTQ while in foster care. A few of these participants reported that they came out to their foster or adoptive parents as adults and experienced family rejection because of this. One participant reported that after coming out to his religiously conservative adopted family he was treated like a stranger and told that he's "sick" and "needs to get better" because of his LGBTQ identity.

Social Workers

In addition to mixed experiences with various out-of-home placements, experiences with child welfare social workers were mixed as well. Six participants reported having had at least one positive experience with a social worker, the remaining participants reported predominately damaging experiences.

Several participants described instances in which their social workers were unsupportive and dismissive toward their identity. One participant reported that when telling his social worker that other youth were picking on him for being LGBTQ, the social worker was dismissive and told him to “deal with it.” Two participants reported that their social workers said their sexual orientation/gender identity was “just a phase” and they would “get over it.” One female-to-male transgender participant reported that when they came out as transgender, their social worker responded by saying something to the gist of “oh well, you look better as a boy.”

Participants reported being actively mistreated by their social workers or that their social workers neglected to keep them safe. One participant reported that a social worker returned him to his abusive father’s home. This was even though the father had a documented history of child abuse and the participant had told the social worker that he was afraid to return home. The participant further reported that this social worker accused him of “worshipping the devil” because he looked different. Three system alumni reported that their social workers attempted to change their sexual orientation or gender identity. One social worker in particular threatened to send a participant to a mental health facility because of her LGBTQ identity so she could be “fixed.” In another instance, a participant reported how her social worker threatened her by telling her that “if [she] didn’t start saying that [she] was straight, [she] wouldn’t be able to see [her] mom again.” Several other participants were of the opinion that their social workers were rarely willing to ensure their safety and make sure their needs as LGBTQ youth were met.

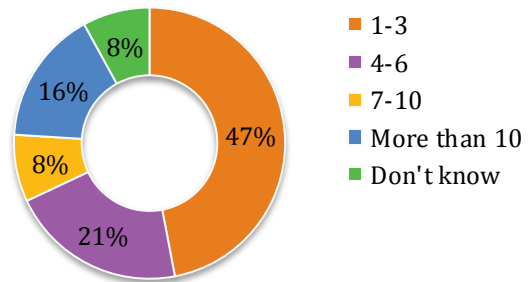
Many participants didn’t feel comfortable disclosing their identities to their social workers. The reasons for this discomfort included fear of how their social workers would react and shame over their identity because of how they were raised by their biological parents and/or foster parents.

Congregate Care

After foster care, congregate care was the most frequently identified child welfare system-provided service experienced by the system alumni participating in this study [Figure 8]. Participants had mixed experiences while in congregate care facilities, with a majority reporting that they had at least one negative experience. For some, congregate care staff’s inattention to their being harassed by other youth in the facility was an issue. One participant reported how information about his LGBTQ identity was circulated among his peers, resulting in both subtle and overt harassment. The staff responded with minimal intervention and a few staff even participated in the harassment alongside the offending youth. Another participant reported that other youth residing in her group home made fun of her because she attended events at a local LGBT youth center.

A few participants reported instances in which they were treated differently by group care staff. One participant reported being blamed for thefts that occurred while living in a group home even though there was evidence to suggest that another youth was responsible. He believes he was blamed for these thefts because of his LGBTQ identity. Another participant described how girls would flirt with them in group care by sending love notes and other flirtatious behavior. Even though the participant did not reciprocate and even discouraged this behavior, the group care staff tried to label the participant as a “sexually deviant youth.”

Figure 6: Number of Child Welfare Placements



Of those who shared their experiences in group care, the majority indicated that they did not feel comfortable disclosing their sexual orientation/gender identity to the group care staff with whom they interacted. For many, this discomfort was based on a fear that they would be judged or harassed because of their identity. Reflective of this, one participant reported having been kicked out of his group care placement when his LGBTQ identity was discovered. In addition, several participants reported their impressions that group home staff were not willing to ensure their safety or see that their needs as LGBTQ youth were met.

Kinship Care & Other Parts of the Child Welfare System

Some participants reported their experiences with kinship care and other services provided by the child welfare system, including Child Protective Services (CPS) investigations and DSHS family counseling. However, not a lot of information was reported about these experiences. Those who were involved in kinship care described situations similar to those with foster care experience. One participant reported growing up with family members because her mother was not mentally stable

Figure 7: Reasons for Placement Change	Response Percentage
Family Conflict	68%
Youth Ran Away	53%
Previous Placement Was Temporary	47%
Foster Care Agency Reasons	27%
Youth Requested New Placement	27%
Other	27%
Foster Parent(s) Requested New Placement	24%
Not Sure/No One Told Me	18%

during her childhood. When she began living with her extended family, she was not yet aware of her LGBTQ identity. As she matured and her identity emerged, her family was not supportive because of their religious beliefs. She reported how her family “threw the Bible in her face and told her she couldn’t be various things [i.e., LGBTQ] when she knew she was.” Because of this

rejection, she kept her identity hidden as much as possible. This same participant also was involved in DSHS family counseling. She reported how this counseling appeared to focus on the adults in her family and no one took the time to talk about her issues or ask her what she needed. Instead, decisions about her living situation were made without her input and without explanation.

Placement Change for LGBTQ Youth

Of the 33 system alumni who responded to the question, nearly 50 percent indicated that they had one to three placements within the child welfare system, followed by 21 percent who had four to six placements and 16 percent who had more than 10 placements while in care [Figure 6]. When asked to select reasons why these placements changed, the three most common reasons for placement change were family conflict (68 percent), running away (53 percent), and temporary placements (47 percent) [Figure 7].

Within the Juvenile Justice System

Of the 54 Project participants, 35 reported that they had been involved in the juvenile justice system. Involvement in more than one area of the system was common. The three most frequently selected areas of system involvement were detention (66 percent), probation (49 percent), and truancy petitions (29 percent) [Figure 8]. During the focus group discussions, participants mostly reported about their experience with law enforcement officers, detention staff, probation officers, juvenile court (including truancy) professionals, and Juvenile Rehabilitation staff. Therefore, this report focuses on those areas of the juvenile justice system.

Figure 8: Juvenile Justice involvement	Response Percentage
Detention	66%
Probation	49%
Truancy petitions	29%
Juvenile Rehabilitation (JR)	20%
At-risk youth petitions (ARY)	17%
Children in need of services petitions (CHINS)	6%
Diversion	3%

Law Enforcement

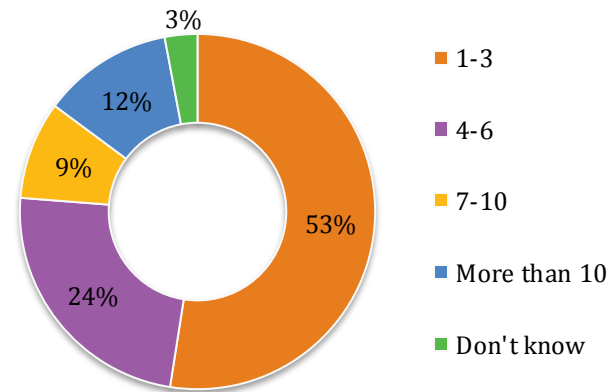
Of the 49 system alumni who shared their arrest record, 67 percent reported having been arrested by a police officer. Of the 34 participants who shared how many times they've been arrested, most (53 percent) reported that they have been arrested one to three times, followed by 24 percent who have been arrested four to six times and 12 percent who have been arrested over 10 times [Figure 9]. More than one participant reported having had police contact during which they were not certain whether they were arrested.

Study participants reported that many of their interactions with police officers were harmful, citing disrespect for their identities, discrimination, unwillingness to help when in a crisis, and being injured during an arrest.

Four participants reported what they believed to be explicit disrespect and/or discrimination from police officers because of their LGBTQ identity. One participant reported an incident where she and her friend were approached by a couple of police officers who verbally harassed them with homophobic slurs, presumably trying to start an altercation. In addition, a transgender participant stated that law enforcement was her biggest concern and reported how officers would frequently refuse to use her preferred name and pronouns. Another transgender participant described how during an arrest, the arresting officer had a difficult time finding an officer who was willing to search the youth because he was considered a "freak" due to his gender identity.

Multiple participants reported incidents where the officers with whom they interacted would not ensure their safety when they were in a crisis and requesting assistance. One participant described how she went to a police officer and asked for help regarding domestic violence and conflict occurring in her foster home. No one did anything about her request and the violence and conflict continued. Another participant reported that when he was 16-years old he called the police while being abused by his father. The responding officer told the participant that his father had “every right to do what he’s doing to you.” This participant believes his identity and appearance may have influenced the officer’s response. Another participant reported being arrested and detained for committing survival crimes after running away from an abusive home. This participant further reported that a police officer tried to counsel them, saying they “shouldn’t throw [their] life away.” However, the officer was unwilling to listen to why they were running away and resorting to delinquency.

Figure 9: Number of Arrests



Three participants reported that they had been injured by police officers while being arrested. In one instance, a female participant reported that a police officer physically assaulted her. She believes that initially the officer thought she was male. However, when the officer was informed that she was female, the officer continued to assault her by hitting her in the stomach with a baton and throwing her against a car. She further reported that her injuries were so severe that she had to go to a hospital for treatment.

Juvenile Court

The system alumni participating in this project have a noteworthy amount of experience with juvenile court. Of the 34 system alumni who responded to the question, 59 percent indicated that they went to juvenile court after being arrested. In addition, several participants’ court experiences were pursuant to status offenses such as truancy. These participants interacted with court professionals including judicial officers, attorneys, and probation counselors.

A few participants reported experiencing discrimination and animosity from court professionals. One participant reported how the judge sentenced him with the highest amount of time possible for his offense and that the judge explicitly said the participant’s sexual orientation was the reason for this sentencing decision. A transgender participant reported how she was placed under house arrest while living with her grandmother. When her grandmother kicked her out, she had nowhere to live. She believes that the court was slow to help her with this situation because of her gender identity.

Several participants reported that court professionals didn't spend the necessary time and attention needed to discover what was really causing their court involvement. One participant reported how she went to court for truancy and no one fully investigated why she was not attending school. She further reported that her attorney met with her 15 minutes before her court appearance and did not establish any kind of rapport or inquire about what might have led to her absences. After she signed her agreement to attend school, her subsequent inquiries about her case were brushed aside. Another participant reported being sent to detention over 10 times and that no one considered that her family and social circumstances might be influencing her behavior. Her perception was that they assumed she was acting out for no reason and as a consequence, repeatedly punished her.

Several participants reported that they were afraid to disclose their sexual orientation and/or gender identity to the juvenile court professionals with whom they interacted. Entire focus groups voiced acute concern that disclosing their LGBTQ identity to a judge or other court professionals would make their situation worse. Participants in one focus group reported that they believe LGBTQ youth are frequently considered "perverts" so information about their sexual orientation and/or gender identity could easily be used against them in court. Several participants believed that they didn't have the ability to change how others see them in the courtroom; therefore, they thought it best not to disclose their LGBTQ identity.

As noted earlier in this report, truancy petitions were a common path into the juvenile justice system for LGBTQ system alumni. Those who shared information about their truancy court experiences reported how court professionals and school administrators made little attempt to find out what might be causing the absences and therefore did not understand why they were not attending school. One participant shared how she considered telling the judge in her truancy case that she did not want to go to school because she was getting teased for being LGBTQ. However, she was afraid that if she told the judge this information she would be negatively judged by the court because of her identity.

Incarceration

Detention

As shown in Figure 8, the majority of participants with juvenile justice experience had been incarcerated in a juvenile detention facility. These participants reported overwhelmingly negative experiences with detention staff, including discrimination because of their identity, a lack of attention to their safety concerns, including peer harassment and bullying.

Several participants reported examples of how they believe detention staff mistreated them because of their LGBTQ identity. Transgender participants reported that being placed according to their birth sex instead of their gender identity was a common issue. One male-to-female transgender youth reported that when she complained about being placed with the boys, she was moved to a psychiatric room without a bed and she remained in that room for the rest of her time in detention. Another transgender participant reported how he was perceived to be a "butch lesbian."

Because of this perception, this participant was not allowed to be with the other girls, presumably because the staff thought the participant was a predator. Another participant reported how he refused to eat because he was not provided with vegetarian food. The corrections officers knew he wasn't eating and did not report it nor did they allow his caseworker to make accommodations to ensure he could have vegetarian food. He believes that his transgender identity was at least part of the reason why the corrections officers neglected to report that he wasn't eating.

Participants also reported incidences where detention staff neglected to address harassment from other youth in detention. In some cases staff even participated and/or encouraged harassment against LGBTQ youth. One participant reported how other girls in detention would bully and tease her and other youth because they were perceived to be LGBTQ. This harassment was so severe that several youth were afraid to leave their cells. The staff did not address this behavior and on at least one occasion, a staff person participated in the harassing behavior. Another participant reported that a corrections officer called him derogatory and homophobic names in front of other youth and encouraged the other youth to participate in this verbal abuse.

System alumni who had experienced incarceration reported that detention staff neglected to consider their safety concerns. One participant reported that they told detention staff that they were running away and stealing food and clothes because their home was abusive and they were afraid to go back there. Because the participant was returned to the abusive home they believe the detention staff didn't listen to their concerns. Another participant reported that she filed a complaint saying she felt unsafe because of her cellmate. The complaint was not investigated until after she was released from detention.

Juvenile Rehabilitation (JR)

Seven participants reported that they had experience with the Juvenile Rehabilitation Administration (JR). These participants shared incarceration experiences similar to those who were involved in juvenile detention. They too perceived that they were considered "freaks" by facility staff because of their sexual orientation and/or gender identity. They encountered homophobic and discriminatory staff. One focus group participant reported that a few of the staff at his facility refused to work with or touch him because of his sexual orientation. While his peers were not aware of his LGBTQ identity, he believes that staff refusing to work with him confused his peers and led them to believe that he was somehow different or that something was wrong with him. Participants with JR involvement also experienced peer harassment and violence. One participant described how he was not out as LGBTQ, but he observed how other youth in his facility would pick on and assault two youth who were openly LGBTQ.

Many system alumni who had been incarcerated, whether in JR or in juvenile detention facilities, did not feel comfortable disclosing their LGBTQ identity to the professionals with whom they interacted. They were afraid that if their LGBTQ identity was known, they would be targeted by both staff and other youth.

Services

Culturally Competent Service Providers

System alumni reported that some providers of the services to which they were referred were not educated about LGBTQ identities and issues. In some cases, participants reported that a provider told them that their identities were wrong. One transgender participant reported that he believes many of the mental health providers in his area are informed by their religious beliefs and because of this were not accepting of LGBTQ people. He found it very difficult to find a mental health provider who understood transgender identities. Instead, he found several providers who told him that his gender identity was an illness and that he needed to turn to religion for help. Another transgender participant reported that when she was on probation, a psychologist discounted her gender identity and instead asserted that she had several personality disorders and other mental health conditions. Several participants reported that they were told that their identity was “just a phase that [they] would get over.” Overall, transgender participants found it particularly difficult to find service providers who accepted their identities. One transgender participant reported that he was able to find providers who would accept him as bisexual youth, but those providers wouldn’t accept him as a female-to-male transgender youth. A handful of participants also described how their service providers would not acknowledge their same-sex significant other, and instead, referred to their significant other as “your friend.”

Conversion Therapy

Several participants shared how they were forced into services that were explicitly anti-LGBTQ or threatened with these unaccepting services by caretakers or system professionals. As previously noted, three participants reported incidences where their social workers tried to change their sexual orientations/gender identities. One of these participants reported that her social worker specifically threatened to send her to a mental health program in order to “fix” her because of her sexual orientation.

Access

Where a participant lived while involved in the systems significantly impacted their access to LGBTQ inclusive and competent services. Several participants around the state noted how the services available in Western Washington—specifically the Seattle/King County area—were tremendously different from the services available in eastern Washington. Even with these regional differences, study participants indicated that they faced various barriers to getting LGBTQ inclusive and competent services regardless of where they were living.

A few participants reported that they were denied access to services that were culturally competent around LGBTQ issues and other resources for LGBTQ youth. One participant reported that her counselor tried to connect her with resources and her caseworker and foster mother responded by telling the participant that she didn’t need those resources because her LGBTQ identity was “just a phase.” When her counselor reached out to the participant’s social worker and foster parent to try to convince them to let her access these resources, they responded by taking away the participant’s

privileges. Another participant reported that she was sexually abused as a young child and experienced many difficult challenges. She believes that had she had access to mental health services she would not have acted out as much and thus avoided involvement in the juvenile justice system. However, her family would not allow her to access these services and instead told her to cover up the issues. A third participant reported living at a group home located in a community that had LGBTQ services. Sometimes staff would make it very difficult for him to access these services by cutting off his contact with the outside world.

A few participants reported that they were never offered services while system-involved. One participant reported how as a youth she was arrested and sent to detention “around 15 times.” She believes the court didn’t consider the trauma and family problems she was experiencing, and instead assumed she was acting out because she was a bad kid. She thinks that counseling might have given her better ways to cope with the trauma, in place of the high risk behaviors in which she engaged.

Knowledge of Rights

The various experiences reported by the system alumni illustrate how the rights of many system-involved LGBTQ youth have been violated by some of the professionals with whom they interact. While a few of the 54 young adults participating in this project indicated that they were informed of their rights while system-involved, the vast majority of young people reported that they were never informed of their rights both as system-involved youth in general and specifically as LGBTQ youth. For example, one Seattle-held focus group of 10 participants all responded with an emphatic “no” when asked if they were informed of their right to safety while system-involved. Those who knew about their rights typically found out about them from outside organizations such as local LGBTQ centers or personal research on the issue.

Outcomes

System-involvement substantially impacted and continues to impact the lives of all the LGBTQ young people who participated in this project. Many of these system alumni are experiencing substantially negative outcomes including discomfort with their LGBTQ identity, personal instability, unstable housing/homelessness, adult system involvement, distrust with authority and society at large, mental health issues, chemical dependency, and similar issues.

As illustrated throughout this report, participants report growing up in situations where their LGBTQ identity was not accepted and for many, they were taught that their LGBTQ identity was wrong. In addition, they report encountering law enforcement officers, system professionals, families, judicial officers, and service providers who continuously reinforced that they are inferior and unworthy of proper protection and care because they are LGBTQ. For many of these young people, they struggle with feeling inferior and hopeless and many report mental health issues. One transgender young person reported how he felt so hopeless that he was hospitalized several times

because of suicidal ideation and suicide attempts. He described how this hopelessness was directly related to the lack of acceptance toward his gender identity from the system professionals he encountered and his community, saying he felt that “if the people with authority don’t think I’m an equal human being, why should I?” Several other participants also reported that they struggled with mental health issues because of their system involvement. One participant with juvenile justice experience shared how he went from being a happy person to someone with severe depression because of how he was treated as a gay person while incarcerated. Another participant described how they experienced significant trauma while living in temporary foster care placements for approximately 10 years. When they were finally placed in a more permanent placement, they did not talk to anyone in the new placement for an entire year. Many participants shared that they continue to struggle with post-traumatic stress disorder (PTSD), anxiety, loneliness, and similar issues as adults. Drug use and chemical dependency also was reported as significant issues for participants.

“If the people with authority don’t think I’m an equal human being, why should I?”

– Tri-Cities Focus Group Participant

For the overwhelming majority of participants, homelessness was a significant outcome during and after system involvement. Indeed, 45 of the 54 participants reported that they have experienced some element of homelessness [Figure 10]. Many participants reported how they often had to focus on surviving instead of developing into healthy and stable adults. For example, one participant described how they felt emotionally underdeveloped and had a very difficult time trusting because

Figure 10: Places Participants Have Stayed Because They Had Nowhere Else to Go	Response Percentage
a friend's house	87%
on the street/outdoors (e.g.: parks)	60%
a stranger's house	51%
hotel, motel, or hostel	49%
public space (e.g. bus station)	49%
emergency/transitional shelter	47%
a relative's house	47%
abandoned building	42%
other	9%

of their difficult system experiences. Other participants reported that they were not able to learn needed life skills, form healthy attachments, or build trusting relationships because of the trauma they experienced while system-involved.

A few participants indicated that they are now involved in the child welfare and criminal justice systems as adults. At least three participants have interacted with CPS as parents and at

least six participants reported that they have been incarcerated as adults. Several of these participants reported that they continue to have harmful experiences with system professionals, for reasons they perceive to be because of their LGBTQ identity, adding new trauma to their lives.

Resiliency

The system alumni who participated in this project displayed remarkable resiliency around their circumstances. Throughout reports of abuse and trauma, participants shared how they are making progress to improve their lives. Several participants are now involved in accepting services that they find incredibly helpful. They described how their experiences, as horrible as they were at times, made them the people they are today. Many have learned how to cope with harassment and discrimination and to more successfully navigate the challenges of independent living. Several participants are proud of their accomplishments. One participant shared how he enjoys running into people who knew him when he was struggling as a system-involved youth so that they can see what he's accomplished in his life.

Participants expressed hope for the future around how LGBTQ people are treated within society and specifically within the child welfare and juvenile justice systems. They pointed to the recent changes in Washington State around same-sex marriage and how they see marriage equality normalizing LGBTQ people in the minds of others. While some of the system alumni are hopeful about change, they agree that there is still a lot of work to be done to make sure that system-involved LGBTQ youth are provided with the care and respect they deserve.

Suggestions

Inquiring About Sexual Orientation & Gender Identity

Focus group participants and survey respondents were asked how they would feel if a professional asked them about their sexual orientation/gender identity and what the best way would be for professionals to ask about these issues. They reported varied thoughts on how best to ask system-involved youth.

Multiple participants reported that their reaction to being asked about their sexual orientation/gender identity depends greatly on how the question is asked. If someone asks the question in an accusatory or disrespectful way, such as “are you gay?” or “are you a dyke?” they would not feel comfortable or respected. However, if questions are asked in a respectful and affirming way such as “what is your sexual orientation/gender identity?” or “what are your preferred pronouns?” that would make them feel much more comfortable. In addition, several participants shared that it would make them feel more comfortable if the person asking about their sexual orientation or gender identity made it clear before asking that answering that question was optional and that they would not be treated any differently or judged because of how they identify. Asking in an age appropriate manner was also suggested. A few participants added that it would be helpful for them if they had a chance to become familiar with a professional before being asked about their sexual orientation and gender identity.

Participants noted that it also is important how these questions are asked on forms. One participant reported how the local juvenile detention facility's intake forms have questions about a youth's sexual orientation and gender identity but the questions are placed among questions about drug use and similar issues. He believes that asking questions about sexual orientation and gender identity next to questions about high-risk behaviors insinuated that his sexual orientation and gender identity was "dirty and shameful." He suggests that if forms include questions about sexual orientation and gender identity, they should be included among other demographic questions such as name and age. Another participant added that the more options a form provides around sexual orientation and gender identity, the more validating that form is to LGBTQ people. Some participants suggested that questions on forms about sexual orientation and gender identity should have blank lines so that youth can have greater freedom to identify as they wish.

Not all participants thought system professionals should ask about their sexual orientation or gender identity. Some thought it wasn't the business of system professionals to know about their LGBTQ identity. A few believed that unless their LGBTQ identity was a real risk issue in their situation, they didn't want to be asked. They were concerned that if people know about their LGBTQ identity, they would make assumptions about them based on stereotypes and other misinformation. Others thought it would be alright to collect this information, but only for demographic purposes.

A few participants shared that, with professionals, they tend to disclose their LGBTQ identity upfront. This upfront disclosure is used as a way of determining whether a professional would be accepting. For others, because they assumed the professionals with whom they work would eventually find out about their LGBTQ identity, they prefer that the professional heard it from them instead of someone else. Other participants reported that because of their visible gender non-conformity, they were typically perceived as LGBTQ, even if they didn't disclose this information.

Placement

Participants suggest that they should be placed in gendered facilities according to their gender identity, not their birth sex. As noted previously, several transgender participants were placed in gendered facilities (such as detention) on the basis of their biological sex, rather than a placement that respected their gender identity. Several participants also describe how they were isolated or not allowed to have roommates while in group facilities because system professionals were concerned that, because of their LGBTQ identity, they would be targets or they thought these LGBTQ youth would target others. Participants believe that segregating them for either reason is wrong.

Participants suggest that the child welfare system should increase the number of foster families who are LGBTQ friendly and also work on recruiting more LGBTQ foster parents. Several young people indicated that they would have liked to be placed with LGBTQ families if possible because they feel those families would have been more respectful and understanding of their identities.

Another suggestion around placement is that the child welfare system should develop a screening system or a rating tool to assess and accurately determine how accepting and culturally competent a professional or foster family is toward LGBTQ youth. Such a screening or rating system could help inform those making placement decisions on which families would be better for LGBTQ youth.

One participant suggested that all prospective foster families should understand that discriminating against LGBTQ youth is wrong and they should be required to sign an agreement that they will not discriminate. As she explained, this requirement might discourage certain people from becoming foster parents but that is better than putting LGBTQ youth in placements where they are likely to be discriminated against or mistreated.

Service Provision

Several participants suggest that social services such as mental health, counseling, housing services, drug and alcohol treatment, and similar should be competent to work with LGBTQ individuals. A few participants also suggest that LGBTQ-specific treatment programs and facilities (group homes, inpatient treatment, etc.) would be helpful. For example, a LGBTQ youth who uses substances as a coping mechanism to deal with family rejection may benefit from a treatment program that specifically addresses their LGBTQ identity and their experiences with family rejection.

Youth Rights & Resources

Many participants indicated that no one told them about their rights as LGBTQ youth in either system. For many, they reported not being told about any of their rights as a system-involved youth. They recommend that the systems provide more information about young people's rights in general and also specifically relating to their LGBTQ identity.

Several participants believed there was no way for them to report mistreatment or discrimination. If there are ways, they believe their reports wouldn't be taken seriously. In a few instances, participants did try to report mistreatment, but their reports were not addressed in a timely or sufficient way. Suggestions included using online anonymous report forms that get forwarded to the ombudsperson's office or an instant messaging/texting service that youth can use to report mistreatment and safety concerns.

Several participants described how they felt unsupported and invisible while in the system. They felt that decisions were made without their input and they weren't always told about what was going to happen to them—causing stress and uncertainty. Participants suggest that they should have an advocate who is dedicated to working with them and representing their interests. They note that this person should be asking them what they want and need, not assuming they know best for them.

Quite a few young people thought it would be very helpful if they had somewhere to go (such as a social group, LGBTQ center, etc.) where they could be out as LGBTQ without having to worry about their safety or being harassed. Many participants shared that they were raised to believe that being LGBTQ was wrong. In addition, many shared how they were unsure of their identity while growing

up because they didn't have access to information about the LGBTQ community or healthy ways to explore their sexual orientation/gender identity. To address this they recommend that the system create ways to provide more resources and information about LGBTQ identities to youth in care so that they develop and explore their identities in a healthier, more informed way.

Policies, Practices & Procedures

Participants suggest that both systems develop formal policies and procedures outlining how professionals are to interact with LGBTQ youth in their care. These policies should include non-discrimination policies if such policies do not already exist in addition to other procedural topics.

Several focus group participants suggest that the systems change their intake forms and other paperwork containing demographic questions to include more options for gender identity. A few participants suggest that forms should only have a blank space so that youth can identify how they wish.

Peer harassment because of a person's actual or perceived LGBTQ identity was noted by many participants as a significant issue. In most instances shared by these young people, professionals did not make an effort to address this behavior (and in some cases participated in the harassment). Participants suggest that system professionals should make more of an effort to address this harmful behavior and should also teach other youth to be more accepting and respectful. As one participant explained, bullying behavior is not a joke; in fact, it can have a severely negative impact on a young person's life.

Most participants are aware that some non-discrimination policies exist but felt they are not enforced. Several youth shared instances of discrimination and mistreatment that went unaddressed or the consequences were so light they were ineffective. They suggest that these policies should be enforced and more broadly, the system should develop and implement more quality assurance mechanisms. Several participants suggested that there should be significant consequences for those who do not follow the policies.

Training & Education

Most, if not all, participants reported having interacted with professionals and caregivers in both systems who didn't understand their identities, mistreated them, or mislabeled them as sexually deviant or similarly because of their identity. In some cases, they were told that their identities weren't real or were just phases that would go away. Participants believe that any person working with system-involved youth should be educated and trained on LGBTQ identities and issues. Many also thought this training should be mandatory and ongoing as opposed to a one-time occurrence. In addition, professionals and caregivers should be educated about how many LGBTQ youth get involved due to family rejection and they should be trained to recognize trauma triggers. Several focus group participants suggested that LGBTQ youth should be actively involved in the training process. They explain that a LGBTQ young person would probably have more success helping professional and caregivers see the issues and barriers they face instead of, for example, a social worker training other social workers. Overall, the majority of participants noted how important it is

that the professionals with whom they work make an effort to listen and understand their situation. They also believe professionals shouldn't assume things about them based on their sexual orientation and/or gender identity, and should be willing to give them their full attention.

Hiring Practices & Professional Support

Focus group participants suggest that more openly LGBTQ or openly LGBTQ-friendly professionals in the systems would be helpful as their presence would make them feel safer. In addition, a few participants would prefer the systems to match them up with LGBTQ professionals. Some also suggest that the systems should create safe spaces so that LGBTQ professionals and system-involved LGBTQ youth can work effectively together to meet the youth's needs.

They also suggest that the systems should make more of an effort to screen potential employees to determine how understanding and empathetic the person would be to the youth in their care before hiring. By doing this, the systems could avoid hiring people who are insensitive, discriminatory, and mean to them.

Participants also said it would be helpful if they had more individualized working relationships with their social workers and case managers. A few system alumni suggest that their social workers need more support from the systems so that they don't "burn out" as quickly. Several participants noted how high staff turnover was when they were involved and how this made it difficult to build good working relationships with people.

System Professional & Service Provider Results

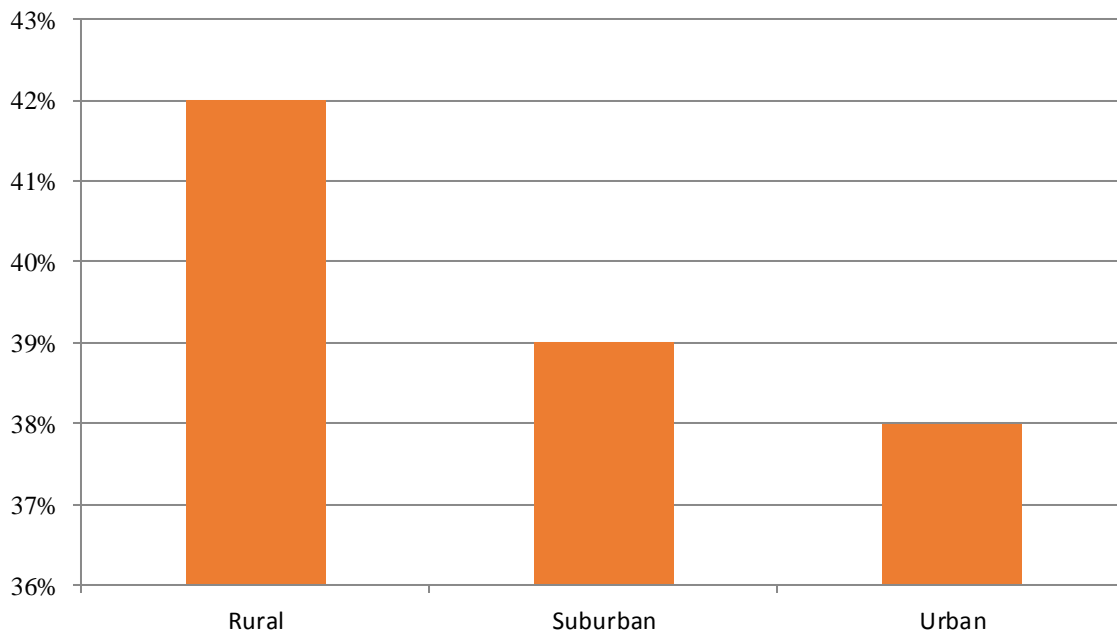


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System Professional Characteristics

During the approximately two week period the survey was available, 364 individuals answered at least one question. Of those who indicated which system they worked in, 56 percent said they were employed in the child welfare system and 44 percent were employed in the juvenile justice system. The professionals who participated in this survey represented the diverse geographical areas that comprise the state of Washington. Thirty-four of Washington’s 39 counties were represented with at least one survey respondent indicating that they worked within that county. The rural, suburban, and urban areas of the state also were well represented [Figure 1].

Figure 1: Work Location Type



Child Welfare System Observations

Approximately half (56 percent) of the system professionals who participated in this survey indicated that they work in Washington's child welfare system. The child welfare positions represented included social workers, CPS investigators, supervisors, licensors, administrators, and program managers.

System professionals were first asked how many LGBTQ youth they think are involved in the child welfare system. Of the 195 professionals who estimated how many LGBTQ youth are involved in the child welfare system, the most frequently selected estimate was 10-20 percent, followed by the estimate of 5-10 percent [Figure 2].

Professionals also were asked if/when they inquired about the sexual orientation and/or gender identity of the youth on their caseloads. Of the 200 professionals who responded, the most frequent response (28 percent) was that they only asked when they thought it was relevant. The second most frequent response (26 percent) was that they never inquired about a youth's sexual orientation and/or gender identity. A majority (56 percent) of the 201 professionals who responded indicated that they were very comfortable talking to their clients about their sexual orientation and/or gender identity [Figure 4].

Figure 2: Estimated Number of Child Welfare-involved LGBTQ Youth	Response Percent
0-5%	19%
5-10%	31%
10-20%	32%
20-30%	14%
30-40%	2%
50-60%	2%
60-70%	0%
70-80%	0%
80-90%	1%

How LGBTQ Youth Become System-Involved

The Literature Review and the findings from the focus groups suggest that family rejection and conflict over a youth's LGBTQ identity can be influential factors in how a youth becomes involved in the child welfare system. Of the 184 child welfare professionals who responded to this question, 71 percent believed it was very or somewhat likely that familial rejection/disapproval of the youth's LGBTQ identity was influential for youth entering care [Figure 3].

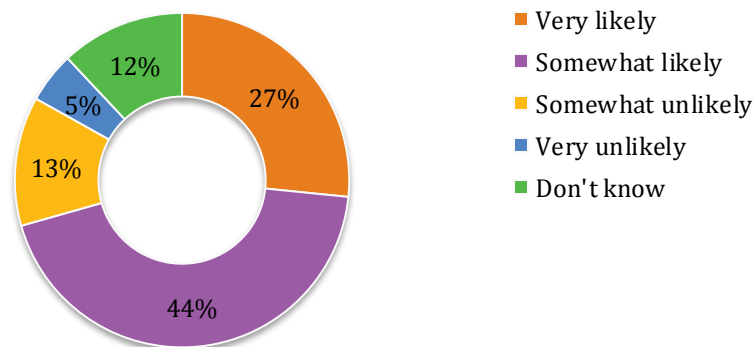
Placement Decisions

Of the 186 child welfare professionals who responded to the question as to how often a youth's sexual orientation and/or gender identity is considered when making placement decisions, 27 percent responded they did not know. Twenty-five percent estimated that a youth's sexual orientation/gender identity was usually considered and 20 percent indicated that it is sometimes considered during placement decisions. Additional detail provided by some survey respondents suggested that whether a child or youth's LGBTQ identity is considered during placement depends on a variety of factors including: agency knowledge of the youth's sexual orientation/gender

identity; placement resources; employee comfort level addressing the youth's LGBTQ identity; and an employee's willingness to ask potential placements about their acceptance of LGBTQ youth.

Several professionals explained that in order for a youth's LGBTQ identity to be considered when selecting a placement, the system had to be aware of the youth's identity. Specifically, making such placement considerations depends on the willingness of the youth to disclose his/her LGBTQ identity to the professionals making the placement decision. If a youth's LGBTQ identity is known, several professionals stated they would attempt to make a placement that would be supportive and avoid making a placement with a religiously conservative foster family or one that had explicitly stated they did not want to care for LGBTQ youth. However, it is unclear whether professionals consistently screen families to determine if they would be accepting or open to caring for an LGBTQ child or youth. Several professionals noted that home assessment professionals are not always willing to ask prospective foster families about their acceptance of LGBTQ children and youth. They suggested that this apprehension is due to personal religious beliefs and/or the religious affiliation of the contracted agency.

Figure 3: Likelihood that Family Rejection/Disapproval of Sexual Orientation and/or Gender Identity Influences System Involvement for LGBTQ Youth



It also is unclear whether placement professionals consistently consider a child/youth's LGBTQ identity when it is known. Survey responses suggest that there is inconsistent practice around this issue. One professional noted that when making placement decisions, sexual orientation and gender identity issues were never discussed. Another respondent opined that most professionals consider sexual orientation and gender identity as issues only relevant to adolescents. Therefore, if sexual orientation/gender identity is considered, it is only when seeking a placement for an adolescent.

When a child or youth's LGBTQ identity is known and considered during the placement process, it isn't always done in an affirming or supportive way. One professional reported how a transgender youth needed a placement. The professional's Area Administrator decided that this youth could not have any roommates because, being LGBTQ, the youth might endanger other children. The youth in

question had no history of sexually inappropriate behavior. This professional further reported that “when the area administrator was presented with the Washington State Human Rights Commission’s most current stance on LGBTQ rights, the response was that it was not relevant in the state foster care system.” Another survey respondent reported how a gay youth was placed with lesbian foster parents and was doing very well. However, because the youth’s social worker believed the youth’s LGBTQ identity could be “‘cured’ by having a strong, male role model”, he was moved to another placement. After this placement change, the youth’s mental health deteriorated, the placement disrupted, and the youth was placed in congregate care.

“When the area administrator was presented with the Washington State Human Rights Commission’s most current stance on LGBTQ rights, the response was that it was not relevant in the state foster care system”

– Child Welfare System Professional

With regard to the out-of-home placement of LGBTQ youth, the overarching theme captured in the professionals’ survey responses is that resource availability is the primary factor when determining where a child or youth is placed. Several professionals stated that even if a youth’s LGBTQ identity is known, the foster care resources are so limited, it can’t be a consideration. In many cases, finding a home, regardless of whether it is an accepting home, is the priority. Many of these professionals noted that they think a youth’s LGBTQ identity is typically considered during the process, but if a child or youth needs an emergency placement or if options are limited—the child or youth will be placed with whoever is available. Sometimes in emergency situations, a child might be placed with a relative before the relative’s home is properly evaluated. Not all respondents believe that, given the deficiency of placement resources, a child or youth’s LGBTQ identity is an important or appropriate consideration. One respondent asserted that “there are never enough foster homes to screen for these types of things in my opinion.” Another professional stated that “our resource families are so limited there is rarely the luxury of screening for acceptance of anything—not just gender identity or sexual orientation.” Some professionals believe that a child or youth’s LGBTQ identity could be an obstacle in the placement process. One survey respondent stated that “if they [the child or youth] are openly LGBTQ and aggressive in their expression it can create complications.”

Some professionals shared that they work with religiously affiliated agencies that licensed foster homes and believe that many of these agencies are unwilling to license LGBTQ homes or screen homes for their willingness to accept LGBTQ children and youth.

Family Reunification Services

Similar to responding professionals' knowledge of whether a youth's LGBTQ identity is considered during the placement process, the largest percentage of respondents (36 percent) did not know whether their agency's family reunification services took LGBTQ issues into consideration. Of the 185 professionals who responded to the question, 53 percent indicated that their agency does consider or sometimes considers LGBTQ issues. Those who responded that LGBTQ issues were sometimes considered, explained that LGBTQ issues were considered in cases where a youth's sexual orientation/gender identity was a contributing factor in why the youth needs an out of home placement (and the service provider was aware of this) in combination with the service provider's comfort level and competence in addressing LGBTQ issues.

Some professionals said a youth's LGBTQ identity would be considered if it resulted in family rejection/abuse and is a reason why the youth was removed from their home. Another respondent noted that it is considered if the youth's family identifies it as an issue. It is unclear whether LGBTQ issues are always considered when the child or youth's LGBTQ identity is known, regardless of whether it is a factor. One professional suggested that if all the professionals involved do not adequately communicate LGBTQ identity as an issue, then the family reunification specialist may not be aware it.

Figure 4: Likelihood That LGBTQ Youth Will Experience Harassment, Discrimination, and/or Abuse Because of Their Sexual Orientation and/or Gender Identity From the Following Groups

Answer Options	Very likely	Somewhat likely	Somewhat unlikely	Very unlikely	Don't know
Congregate staff	5%	24%	21%	14%	34%
Kinship caregivers	7%	46%	24%	6%	15%
Foster families	9%	35%	32%	11%	11%
Peers	28%	45%	14%	2%	11%
Caseworkers	1%	18%	29%	44%	6%
Families of origin	18%	52%	11%	3%	14%

Several respondents noted that even when a youth's sexual orientation and gender identity are known, some professionals are not comfortable addressing how they factor into the separation and/or reunification process. In addition, the professionals may not have the competencies required when discussing LGBTQ-related issues. Some noted that training professionals on how to provide LGBTQ competent reunification services is not a DSHS priority.

Treatment within the System

The Literature Review suggested that LGBTQ children and youth are likely to be harassed, discriminated against, and/or abused or neglected by their families of origin, peers, and child welfare system professionals. The information provided by LGBTQ system alumni reinforced this likelihood. However, when asked their thoughts on this issue, the 185 professionals who responded to this question gave differing answers [Figure 4]. A majority responded that peers and families of

origin were either “very likely” or “somewhat likely” to harass, discriminate, and/or abuse/neglect LGBTQ youth. With regard to congregate care givers, the most common response was “don’t know.” A majority indicated that caseworkers were either somewhat unlikely or very unlikely to harass, discriminate against, and/or abuse/neglect LGBTQ youth.

Figure 4: Likelihood That LGBTQ Youth Will Experience Harassment, Discrimination, and/or Abuse Because of Their Sexual Orientation and/or Gender Identity From the Following Groups

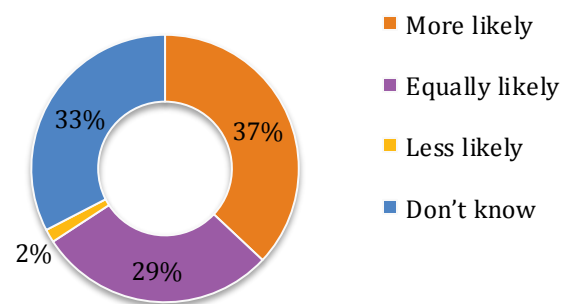
Answer Options	Very likely	Somewhat likely	Somewhat unlikely	Very unlikely	Don't know
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Peers	28%	45%	14%	2%	11%
Caseworkers	1%	18%	29%	44%	6%
Families of origin	18%	52%	11%	3%	14%

Placement Change

Available research suggests that system-involved LGBTQ youth are more likely than their non-LGBTQ peers to change placements. Of the 184 professionals who responded, 37 percent agreed with the research, followed by 33 percent who did not know if the likelihood of placement change differed depending on sexual orientation or gender identity. Twenty-nine percent of the professionals thought LGBTQ youth were equally likely to change placements [Figure 5].

When presented with the common reasons for LGBTQ youth changing placements (as identified in the Literature Review), the most frequently chosen selection from the 185 respondents was “Family and youth didn’t get along.” “Youth ran away” was the second most common response, followed by “Foster parent request for a new placement,” “Youth request for a new placement,” and “unsure.” Other reasons/clarifications provided by survey respondents included: perceived hostility/discrimination; abusive or insensitive caregivers; reunification with family; move to kinship care; the same reasons non-LGBTQ youth change placements; and resource availability [Figure 6].

Figure 5: Likelihood of LGBTQ youth to change placements compared to non-LGBTQ youth



Some who commented on this issue noted that an LGBTQ youth may change placements because the youth’s placement caregivers are abusive or insensitive to their LGBTQ identity and needs. The system professionals noted that in some cases a caregiver may try to change the youth’s sexual

orientation/gender identity. In others, the youth may feel unsafe disclosing his/her LGBTQ identity having been placed by an agency that is affiliated with a religious organization. Another issue is that some foster families equate a youth's LGBTQ identity with sexual promiscuity. A few professionals also suggest that LGBTQ youth may change placements because they anticipate discrimination or hostility toward their sexual orientation and/or gender identity. In general, respondents believe that youth who are mistreated and disrespected may request a new placement or run away.

Moving to kinship care was also identified as a reason why children and youth may change placements. In some cases children and youth may be placed with a foster family on a temporary basis. When a suitable relative placement is established, the child or youth will be moved to that placement. Returning home also was identified as a reason why placement might change.

Figure 6: Reasons Selected as Most Likely for LGBTQ Youth to Change Placements	Response Percent
Family and youth didn't get along (fighting, major disagreements, etc.)	49%
Youth ran away	35%
Foster parent(s) request for new placement	26%
Youth request for new placement	25%
Not sure	24%
Previous placement was temporary	8%
Other reasons	7%
Agency reasons	6%
Foster parent abuse/neglect	4%

One professional noted that a placement could change depending on the workload of the social worker and placement availability. Placements also can be disrupted when resources aren't available for addressing conflicts arising while the youth is in placement. While LGBTQ youth have unique issues, some respondents indicated that they thought LGBTQ youth were likely to change placements largely for the same reasons as non-LGBTQ youth.

Risk of Homelessness

The Literature Review indicated that LGBTQ youth involved in the child welfare system are at heightened risk of becoming homeless because they either run away or are unable to maintain stability after aging out of the system. While becoming homeless is a concern for all system-involved youth, it is particularly serious for LGBTQ youth. The 186 child welfare professionals who responded to this question reinforced this hypothesis, with nearly 50 percent indicating that system-involved LGBTQ youth are more likely than non-LGBTQ youth to experience homelessness. Furthermore, none of professionals responding to the survey thought LGBTQ youth in care are less likely to experience homelessness compared to system-involved non-LGBTQ youth.

Existing Policies

Professionals were asked whether their agency has existing policies relevant to LGBTQ youth. This list of policy areas identified on the survey was informed by the Literature Review. Of the 176 professionals who responded to this question, 59 percent indicated that their agency does have policies prohibiting harassment and discrimination based on actual or perceived sexual orientation and gender identity. However, a third of the responding professionals indicated that they weren't aware if their agency had any policies regarding LGBTQ youth [Figure 7].

Figure 7: Existing Policies Regarding Child Welfare System-involved LGBTQ Youth	Response Percent
Policies prohibiting harassment and discrimination based on actual or perceived sexual orientation and gender identity	59%
Policies regarding LGBTQ sensitivity training requirements for system professionals and caregivers	34%
No policies that I know of	34%
Policies regarding the privacy rights of LGBTQ youth	31%
Policies regarding LGBTQ competent services (e.g.: medical, mental health, developmental) whether provided by agency or outside agencies	24%
Policies ensuring educational equity for LGBTQ youth	22%
Policies regarding permanency efforts specifically for LGBTQ youth	14%
Policies regarding clothing or personal appearance for LGBTQ youth	9%
Policies regarding with whom LGBTQ youth should be housed while in congregate settings	5%
Other	5%

Some respondents provided clarification about their answers, explaining that while they know there are non-discrimination policies in place, those policies do not explicitly prohibit discrimination of LGBTQ youth. Instead, these general policies are expected to apply to all system-involved children and youth. At least one professional noted that if a social worker or caregiver does not accept or respect LGBTQ identities, the existing policies will not have much of an effect—implying that enforcement of non-discrimination policies is lacking.

Juvenile Justice System Observations

Of the 364 survey respondents, 160 indicated that they worked in Washington State’s juvenile justice system (44 percent of the total). Approximately 50 percent of juvenile justice professionals responding to the survey were employed by the Juvenile Justice & Rehabilitation Administration and approximately 30 percent were identified as Juvenile Court employees. The balance of survey respondents did not provide sufficient information to determine where they worked.

Juvenile justice professionals were also asked to estimate how many of the youth in the juvenile justice system identify as LGBTQ. Of the 158 juvenile justice professionals who responded to the question, the most frequently selected estimate was 5-10% [Figure 8].

Professionals also were asked to share how often they ask the youth with whom they work about their sexual orientation and/or gender identity. Of the 157 professionals who responded, the most frequent response was that

Figure 8: Estimated Number of Juvenile Justice-Involved LGBTQ Youth	Response Percent
0-5%	24%
5-10%	32%
10-20%	21%
20-30%	16%
30-40%	6%
50-60%	1%

they never asked (31 percent). The second most frequently given response (25 percent) was that they only asked if the client brings it up. Of the 159 professionals who responded, 50 percent also indicated that they were “very comfortable” talking to their clients about their sexual orientation and/or gender identity.

Dual System Involvement

A majority of professionals thought that juvenile justice involved LGBTQ youth are either “very likely” or “somewhat likely” to be simultaneously involved in the child welfare system and be homeless. However, nearly one third of the 142 respondents also indicated that they didn’t know how likely dual system involvement is for LGBTQ youth.

The Literature Review suggests that system-involved LGBTQ youth—perhaps because of their dual system involvement—are likely to lack the same support and involvement of their family compared to non-LGBTQ youth. Of the 141 professionals who responded to the question, 50 percent indicated that LGBTQ youth were less likely than non-LGBTQ youth to have family support and involvement while in the juvenile justice system.

Entering the Juvenile Justice System

The Literature Review indicates that LGBTQ youth often get involved in the juvenile justice system because of survival crimes and status offenses. Available research also suggests LGBTQ youth may be more likely than non-LGBTQ youth to enter the system for these reasons. When compared to straight and gender conforming youth, the 142 respondents most frequently indicated that LGBTQ youth are equally likely to get involved in the juvenile justice system because of prostitution, shoplifting/theft, sexual activity, substance-related offenses, aggravated assault, disorderly conduct, truancy, and ARY/CHINS petitions [Figure 9]. However, for prostitution, substance-related offenses, truancy, and ARY/CHINS petitions a substantial number of respondents indicated LGBTQ youth are more likely to get involved. A majority of respondents believe that LGBTQ youth are more likely to get involved in the juvenile justice system for running away.

Research included in the Literature Review reflects that LGBTQ youth, especially those who are homeless, may experience disproportionate targeting from law enforcement officers because of their perceived sexual orientation/gender identity. Of the 142 professionals who responded, 36 percent said they didn't know how likely it was that LGBTQ youth are disproportionately targeted by law enforcement officers. Only five percent thought disproportionate targeting of LGBTQ youth by law enforcement was "very likely."

Figure 9: Likelihood of LGBTQ Youth to be Arrested and/or Detained for Select Offenses Compared to Non-LGBTQ Youth

Answer Options	Less likely	Equally likely	More likely	Don't know
Prostitution	5%	39%	28%	27%
Shoplifting/Theft	2%	61%	11%	24%
Sexual activity	7%	48%	19%	27%
Substance-related offenses	1%	46%	32%	19%
Aggravated assault	12%	53%	6%	28%
Disorderly conduct	8%	59%	7%	25%
Running away	1%	27%	54%	18%
Truancy	1%	41%	35%	23%
At-Risk Youth (ARY)/Children in Need of Services (CHINS) petitions	2%	38%	32%	28%

Pre-Disposition Secure Confinement

The Literature Review indicates that LGBTQ youth may be more likely to be incarcerated pre-disposition. However, nearly one half of the responding professionals indicated that LGBTQ youth are as "equally likely" as non-LGBTQ youth to be held in detention prior to disposition. A significant number of the 142 professionals who responded did not know if LGBTQ youth were more or less likely to be held in detention compared to non-LGBTQ youth.

Figure 10: Likelihood That Juvenile Justice-Involved LGBTQ Youth Will Experience Select Issues

Answer Options	Very likely	Somewhat likely	Somewhat unlikely	Very unlikely	Don't know
Segregation/isolation in congregate care facilities (e.g.: detention, JRA institutions)	12%	28%	16%	21%	22%
Mistreatment (abuse, harassment, discrimination, etc) from peers	33%	40%	11%	5%	11%
Mistreatment (abuse, harassment, discrimination, etc) from detention or JRA staff	6%	18%	21%	40%	14%
Mistreatment (abuse, harassment, discrimination, etc) from probation/parole officers	4%	13%	13%	43%	26%
Mistreatment (abuse, harassment, discrimination, etc) from judicial officers and other court professionals	3%	12%	15%	39%	30%
Insensitive and discriminatory social services (e.g.: medical, mental health, counseling)	6%	20%	20%	35%	17%
Sanctions for gender non-conforming appearances or behaviors	10%	16%	16%	38%	18%
Requirements to change sexual orientation and/or gender identity (e.g.: conversion therapies)	4%	9%	11%	48%	28%
Requirements to go through sex offender treatment/counseling solely because of LGBTQ identity	1%	9%	9%	61%	21%

Treatment within the System

The Literature Review identified a variety of harmful issues LGBTQ youth might experience while system-involved. When asked how likely it is for system-involved LGBTQ youth to experience these issues, the 141 professionals who responded to this question gave varying answers. While 40 percent believed it was “very likely” or “somewhat likely” that LGBTQ youth were segregated/isolated in congregate care facilities, 38 percent believed it was “somewhat unlikely” or “very unlikely.” A substantial majority (74 percent) believed that mistreatment from peers was “very likely” or “somewhat likely” for system-involved LGBTQ youth. In contrast, majorities also thought that it was “somewhat unlikely” or “very unlikely” that LGBTQ youth are subject to mistreatment from detention/JRA staff; probation/parole officers; and judicial officers/other court professionals. Similarly, majorities thought it was “somewhat unlikely” or “very unlikely” that LGBTQ youth experience insensitive and discriminatory social services; sanctions for gender non-

conforming appearances or behaviors; requirements to change sexual orientation/gender identity; and requirements to go through sex offender treatment/counseling solely because of LGBTQ identity [Figure 10].

Existing Policies

The Literature Review identified several policy areas that are important for ensuring the safety and well-being of system-involved LGBTQ youth. Just as many of child welfare professionals indicated that policies prohibiting discrimination and harassment based on actual or perceived sexual orientation and gender identity currently exist, the majority of juvenile justice professionals (58 percent) also indicated that non-discrimination policies existed in their agencies. Also similar to the child welfare professionals who participated in this survey, a substantial number (31 percent) were not aware of any policies that addressed these areas. The respondents who provided further details about existing policies indicated that their agencies are in the process of developing and implementing policies that cover many, if not all, of these areas as required by the federal Prison Rape Elimination Act of 2003 (PREA). Some of the 138 juvenile justice professionals who responded were not aware of any policies and practices relating to these areas, but assumed that general policies protecting system-involved youth existed [Figure 11].

Figure 1: Existing Policies Regarding System-involved LGBTQ Youth	Response Percent
Policies prohibiting discrimination and harassment based on actual or perceived sexual orientation and gender identity	58%
No policies that I know of	31%
Policies regarding the privacy rights of LGBTQ youth	28%
Policies regarding LGBTQ sensitivity training requirements for system professionals	26%
Policies ensuring educational equity for LGBTQ youth	26%
Policies regarding with whom LGBTQ youth should be housed while in detention/congregate care	16%
Policies regarding LGBTQ competent services (e.g.: medical, mental health, developmental) inside or outside the agency	14%
Other	8%
Policies regarding clothing or personal appearance for LGBTQ youth	7%

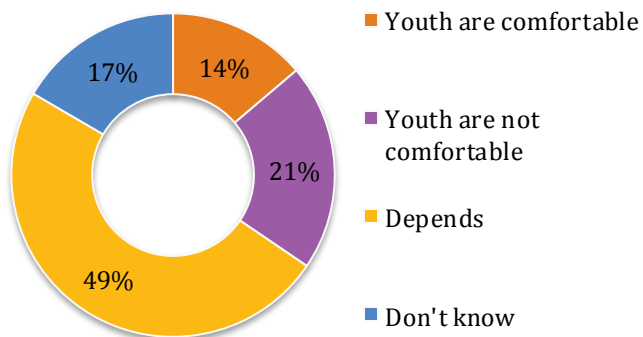
General Observations

Disclosing Sexual Orientation and/or Gender Identity

As illustrated with the system-specific findings described earlier in this report, system professionals are not consistently inquiring about their clients' sexual orientations and gender identities even though a majority claim to be very comfortable discussing the topic with their clients. When asked if their clients were comfortable disclosing their sexual orientations and/or gender identities to system professionals, nearly 50 percent of the 362 respondents said that it depends, followed by 21 percent who said that that youth in their system are not comfortable disclosing [Figure 12]. The reasons given for why it would depend included: the level of rapport between the youth and professional; the level of privacy around their disclosure; the youth's level of self-acceptance around their LGBTQ identity; the youth's previous experiences with disclosure; and the willingness of the professional to discuss the topic.

Nearly half of survey respondents suggested that whether a youth feels comfortable disclosing his/her sexual orientation and/or gender identity depends on the level of rapport they have with

Figure 12: Comfort Level of System-Involved LGBTQ Youth Around Disclosing Their Sexual Orientation and/or Gender Identity to System Professionals



the professional. With good rapport between the youth and the professional, survey respondents believe that the youth is more likely to trust the professional and feel safe disclosing this very personal information. Closely related, professionals noted the level of privacy around the disclosure also impacts how comfortable a youth feels in disclosing his/her sexual orientation and/or gender identity. For instance, if the professional and youth are meeting in a public space in which the youth's information could be overheard, the youth would not feel comfortable disclosing.

Professionals also described how the youth's level of self-acceptance around their sexual orientation/gender identity also impacts their willingness to disclose. Some noted that youth who are still questioning their sexual orientation/gender identity are less likely to disclose. In addition, those who have been taught that their LGBTQ identity is wrong, may feel too ashamed to tell anyone. Overall, a youth's level of maturity around his/her LGBTQ identity was noted as a significant factor in how comfortable the youth would feel disclosing.

Closely related, a youth's previous experiences with disclosure was described as a significant factor in the youth's comfort in disclosing. Professionals believe that if a youth had a negative experience disclosing their LGBTQ identity to their family of origin, foster families, religious leaders, or previous professionals, then they would be hesitant to disclose to another person. Several respondents noted how youth may be afraid to disclose their LGBTQ identity if they didn't think the person they are telling will be accepting. This reason also corresponds with the previously mentioned level of rapport—if youth do not have trusting relationships with the professionals, they may have no reason to believe that this disclosure experience would differ from the previous negative disclosure experiences. One professional succinctly described how child welfare system-involved youth are likely to have trust issues and are afraid of being “un-loved” again. For LGBTQ youth specifically, they may be afraid to disclose information that will result in further harassment, discrimination, and abuse.

Survey respondents described how a professional's comfort and competence level around LGBTQ issues impacts the willingness of a youth to disclose their sexual orientation/gender identity. More than one professional noted that if a professional says or does things that suggest to youth that they will be negatively judged after disclosing, then youth are unlikely to disclose. If a professional makes clear his/her discomfort with LGBTQ people or issues, or otherwise shows disrespect or ignorance, the youth is likely to feel unsafe disclosing.

Professionals provided a variety of observations about how the LGBTQ youth with whom they have interacted have disclosed their sexual orientations/gender identities. A handful remarked that some youth are bold about disclosing their LGBTQ identity. For example, one professional claims that some youth exhibit their LGBTQ identity “defiantly” in the professionals' face. Another professional asserts that LGBTQ youth “wear it [their LGBTQ identity] like a badge of honor as a way of being different/unique and mostly because they like to “shock the parents/adults.””

Outcomes

The Literature Review suggests that system-involved LGBTQ youth are likely to experience a myriad of harmful outcomes after system involvement. With the exception of poor general health, incarceration, and low educational achievement substantial majorities of system professionals believe it to be “very likely” or “somewhat likely” that LGBTQ youth would experience these harmful outcomes. For the health, incarceration, and education outcomes, 44 percent, 40 percent and 46 percent respectively of the 303 survey respondents to this question believe it to be “very likely” or “somewhat likely” that LGBTQ youth would experience these outcomes [Figure 13].

Figure 13: Likelihood That System-Involved LGBTQ Youth Will Experience Select Outcomes

Answer Options	Very likely	Somewhat likely	Somewhat unlikely	Very unlikely	Don't know
Homelessness	26%	49%	6%	2%	17%
Suicidal ideation/suicide attempts	34%	51%	4%	0%	11%
Mental health issues	38%	50%	3%	0%	10%
Risky sexual behavior	30%	49%	6%	0%	15%
Substance abuse/dependence	30%	61%	4%	0%	13%
Poverty	20%	44%	10%	1%	25%
Sexual victimization	32%	47%	7%	0%	14%
Harassment because of identity	52%	37%	3%	0%	8%
Discrimination because of identity	35%	36%	9%	3%	17%
Poor general health	12%	32%	25%	5%	24%
Social isolation	26%	51%	9%	1%	12%
Incarceration	8%	31%	22%	7%	30%
Low educational achievements	10%	36%	21%	5%	27%
Physical victimization	26%	47%	9%	2%	15%

Existing Training

Throughout these survey findings, several respondents noted how the competence and comfort level of the professionals interacting with LGBTQ youth has a significant impact on the youth's experience within the systems. The Literature Review and the system alumni input also confirm the importance of professional training on LGBTQ identities and issues in order to improve worker competence and comfort level with these topics. The professionals participating in this survey indicate that training on these issues currently is not available to all of them and is rarely required. Of the 301 professionals who responded to the question, 42 percent informed that they have not been offered workplace training relating to LGBTQ youth and how to competently provide services to this population [Figure 15]. Furthermore, 74 percent of 298 professionals indicated that they were not required to complete training on competently working with LGBTQ youth [Figure 16].

Figure 14: LGBTQ Cultural Competency Training Has Been Offered in the Professionals' Workplace

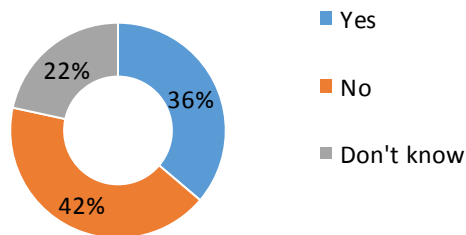
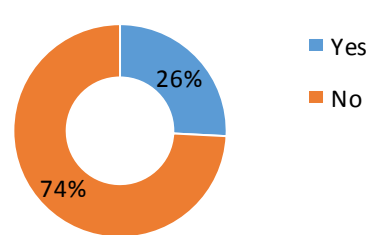


Figure 15: LGBTQ Cultural Competency Training Has Been Required as Part of a Professionals' Position



Service Provider Interviews

Themes on How LGBTQ Youth Enter the Systems

The service providers interviewed shared that it is often difficult for them to know exactly in which systems their clients have been involved and how they got involved in those systems. They observed that many of the young people with whom they work, regardless of their sexual orientation and gender identity, are very wary of authority figures and reluctant to reveal much about their circumstances. Some of these young people develop trusting relationships with service providers over time and begin to share their stories. However, even with an established, trusting relationship, the young people remain guarded when it comes to revealing information about how they got involved in the systems or how their involvement impacted their life. However, what providers have learned from those young people willing to share reinforces the Literature Review and alumni input themes.

First, several interviewees described how LGBTQ young people become system-involved because of family conflict, abuse, domestic violence, stressors, and similar challenging circumstances. Those working with homeless youth noticed that some LGBTQ youth may be kicked out by their families when they disclose their identity—this may happen before they turn 18 or it might happen after they turn 18.

Second, LGBTQ youth may enter the systems because they do not have support systems that accept them for who they are. In some cases, this lack of support could occur alongside family conflict and rejection—leading to system involvement and/or homelessness. Several providers described how an LGBTQ young person might turn to drug use and other high risk behaviors as a way to cope with rejection. These coping mechanisms may potentially lead to juvenile justice involvement.

Dual system involvement for LGBTQ youth

At least one provider noted how dual system involvement is assumed to be common among LGBTQ youth. However, she has not observed this frequently among the young people in the area in which her organization works. Another provider noted that dual system involvement is more likely for those who are involved in the juvenile justice system but not necessarily likely for those in the child welfare system. Specifically, someone in the juvenile justice system is likely to also be in the child welfare system but not the other way around. A few providers suggested a specific pathway to how dual system involvement might occur: a young person with child welfare experience becomes homeless and then engages in survival crimes. The juvenile justice system or, if they are arrested as adults, the adult criminal justice system, becomes involved when the person is arrested for these crimes. Overall, they thought dual system involvement was largely influenced by instability and a lack of connections.

Experiences within the systems

Several service providers noted how the system-involved young people with whom they work believe that because of their LGBTQ identity there is a lack of safety, permanency, privacy, and respect for them while system-involved. One provider worked with a transgender youth who was placed according to their birth sex in a group home and was harassed by the other youth in the facility. Group care staff neglected to address this harmful behavior resulting in the youth running away from the placement and becoming homeless. Many other youth with whom they work have high placement change rates and few support systems. In addition, many young people reported to providers being treated like a number instead of getting the individualized attention and respect they needed.

Many of these service providers shared that system-involved LGBTQ youth do not have easy access to culturally competent services. Several shared stories about youth who were treated by providers who were not accepting and knowledgeable about LGBTQ identities and issues. One provider explained how many system professionals and service providers think LGBTQ youth are “sexually acting out” and that their sexual orientations/ gender identities are behaviors instead of inherent identities.

The lack of accepting and culturally competent services leads to youth hiding their LGBTQ identity in order to avoid judgment, efforts to change their sexual orientation/gender identity, and other harmful treatment. This need to hide their LGBTQ identity hinders their ability to receive needed services. As one service provider aptly explained, because they are hiding their LGBTQ identity they are unable to be open and honest with their service providers. This results in treatment that is not as effective as it could be if it was provided by a supportive therapist where the youth felt safe and respected.

Outcomes

Many of the service providers interviewed work primarily with youth and young adults. Some of their clients recently have aged out of the child welfare and/or juvenile justice systems and are now experiencing homelessness. Service providers shared that many of these young people lacked the support they needed to successfully transition into adulthood and are not ready to be independent. Other youth may have been reunited with their families of origin but leave or are pushed out as soon as they turn 18. They see low educational achievement, financial illiteracy, lack of life skills, and other similar issues as critical barriers for a successful adulthood. Furthermore, many of these youth have experienced significant trauma, and have mental health and chemical dependency issues.

Service providers also described how these young people are more streetwise, are jaded about the world around them, and have a difficult time trusting authority figures. For many, rehabilitation is not happening; instead, they focus on surviving rather than staying out of trouble. However, in the view of some interviewees, given all the barriers these youth face, accomplishments such as getting high school diploma, a job, their own car, and similar successes are incredible achievements for these young people.

Suggestions

System Professionals

A majority of system professionals currently are not required to complete training on competently working with LGBTQ youth, nor are they offered such training in their workplaces. Of the 290 professionals who responded to this question, 55 percent indicated that requiring LGBTQ cultural competency training for system professionals would be helpful and 35 percent indicated that requiring all service providers to be LGBTQ competent would be helpful. Forty-eight percent though that educating caretakers on LGBTQ issues also would also be helpful [Figure 16].

Figure 16: Suggestions Considered Most Helpful in Improving the Systems for LGBTQ Youth	Response Percent
Requiring LGBTQ cultural competency training for system professionals	55%
Educating caretakers on LGBTQ issues	48%
Requiring all service providers to be LGBTQ competent	35%
Focusing on permanency for LGBTQ youth, taking into account their identities	29%
Requiring the system to advocate for the well-being of youth in other systems (e.g.: how they are treated at school)	27%
Policies prohibiting harassment and discrimination based on actual or perceived sexual orientation and gender identity	27%
Developing and implementing LGBTQ inclusive assessments	18%
Other	8%

Several professionals contributed additional suggestions for how the systems could improve and provided their personal thoughts on the issues presented. System improvement suggestions included:

- Establishing peer support systems;
- Changing system assessments to include LGBTQ questions or remove questions that could wrongly target LGBTQ youth;
- Training on how professionals should bring up LGBTQ issues;
- Training specifically focused on transgender youth and their needs;
- Training on the differences between a youth's sexual orientation, sexual exploration, and sexual offenses;
- Developing LGBTQ "experts" within the system;
- Addressing system-wide workload and resource availability issues; and
- Improving professional accountability with regard to following policies and practices.

Service Providers

The interviewed service providers offered the following suggestions for how the child welfare and juvenile justice systems could change to better serve system-involved LGBTQ youth:

- There needs to be a cultural shift in the systems; acknowledging the presence of LGBTQ youth and how their needs are currently not being met;
- Demographic data on sexual orientation and gender identity needs to be collected;
- Non-discrimination policies should be implemented system-wide and adequately enforced;
- System professionals need more training and education on LGBTQ identities and how to work competently with LGBTQ youth;
- Systems should adopt best practices on working with this population and require their contracted service providers to follow these standards;
- The child welfare system should implement proactive methods to determine where a LGBTQ youth will be placed while in care and ensure they are being placed in a respectful and loving home;
- Both systems need to create a more accessible and effective grievance process so that youth can report discrimination and mistreatment;
- System-involved youth need to be aware of their rights;
- The systems need to provide youth with better representation throughout their system involvement;
- Systems need to better collaborate with community resources, such as LGBTQ youth centers and advocacy organizations, when training professionals and referring youth to culturally competent services; and
- A classification system should be developed in order to identify those service providers who are LGBTQ culturally competent to avoid referring LGBTQ youth to services that could further harm them.

Washington State Law & Policy Review Summary



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Introduction

As an additional source of baseline information, CCYJ completed a comprehensive review of existing laws, rules, policies, practices, and resources pertaining to LGBTQ youth in the child welfare and juvenile justice systems in Washington State. Some explicitly include sexual orientation and/or gender identity when addressing non-discrimination, cultural competency, service provision, training, and data collection, while others do not explicitly address LGBTQ issues. For example, the term “culture” is frequently used, especially in policies informing cultural competency and service delivery standards. In most cases, “culture” is not defined to include sexual orientation or gender identity, but these policies are included in this review since such policies may be expanded to include sexual orientation and gender identity. This section provides a summary of the Review. See Appendix B for the complete Washington Law & Policy Review.

Non-Discrimination

Three authorities provide protections against discrimination within Washington State’s child welfare and juvenile justice systems. Revised Code of Washington (RCW), Washington Administrative Code (WAC), and Department of Social and Health Services (DSHS) Policy.

- **RCW 49.60.030**: prohibits discrimination based on sexual orientation. For the purpose of this RCW, sexual orientation is defined to include gender identity and expression.¹⁰
- **WAC 388-148-0425**: requires child welfare facilities, homes, and child placing agencies to follow state and federal non-discrimination laws.¹¹
- **DSHS Policy No. 18.81**: prohibits DSHS employees from discriminating against clients because of sexual orientation. The policy does not state whether gender identity is included within the definition of sexual orientation.¹²

The Children’s Administration (CA), Juvenile Justice & Rehabilitation Administration (JJ&RA), and the 33 county-based juvenile departments set nearly all policy within Washington’s child welfare and juvenile justice systems. As DSHS administrations, CA and JJ&RA are required to follow DSHS policies in addition to applicable state and federal laws. The county juvenile departments are also accountable to applicable state and federal laws. Many of the policies regarding LGBTQ youth involved in JJ&RA and the county juvenile departments are guided by requirements of the federal Prison Rape Elimination Act (PREA), which establishes guidelines for treatment of LGBTQ youth in the juvenile justice system.¹³

¹⁰ R.C.W. § 49.60.030 (2006). Available at <http://app.leg.wa.gov/rcw/default.aspx?cite=49.60.030> . Sexual orientation is defined in R.C.W. § 49.60.040(26) (2006). Available at <http://apps.leg.wa.gov/rcw/default.aspx?cite=49.60.040>

¹¹ W.A.C. § 388-148-0425 (2001). Available at <http://app.leg.wa.gov/wac/default.aspx?cite=388-148-0425>

¹² *Administrative Policy No. 18.81: Nondiscrimination in Direct Client Services*, Washington State Department of Social & Health Services, (2006). Available at: <https://www.dshs.wa.gov/sites/default/files/SESA/odi/documents/07-22.pdf>

¹³ For more information on PREA, see the National PREA Resource Center: <http://www.prearesourcecenter.org/>

- **CA Case Services Policy Manual Section 1600**: requires CA to support the ethnic identity and cultural diversity of CA clients and prevent discrimination in service delivery. While the policy references RCW 49.60.030, sexual orientation and gender identity are not explicitly included in the identities covered from discrimination.¹⁴
- **JJ&RA Policy 50**: prohibits JR staff from discriminating against and harassing LGBTQI youth and requires staff to protect LGBTQI youth from discrimination and harassment from other youth. This policy was implemented to meet the requirements of PREA.¹⁵
- **County Juvenile Departments**: CCYJ surveyed the county juvenile departments in Washington to learn about their non-discrimination policies. Of the 18 counties who participated in the survey, 16 departments with detention facilities and 14 with probation departments indicated that they have non-discrimination policies that cover sexual orientation and gender identity or have such policies under development.

Cultural Competence

CA and JJ&RA are required by DSHS policy to meet DSHS cultural competence standards. These standards require each DSHS administration to incorporate cultural competence into their organizational culture, continuously improve service delivery, provide staff with cultural competence training, and ensure that service provider contracts require cultural competence.¹⁶ CA and JJ&RA have both developed cultural competency plans in accordance with these requirements.

- **Children's Administration 2014 Cultural Competency Plan**: is comprised of five goals which contain several objectives, action steps, targets, and indicators of progress, this plan explicitly addresses LGBTQ cultural competence by providing LGBTQ workgroups, training, community partnerships, webpages and webinars, and targeted recruitment of LGBTQ foster homes.¹⁷
- **Juvenile Justice & Rehabilitation Administration Cultural Competency Plan, 2014-2016**: this plan focuses primarily on addressing race and ethnicity cultural competency; it does not explicitly mention LGBTQ youth or issues.¹⁸
- **County Juvenile Departments**: almost all of the juvenile departments with detention facilities and nearly half of those with probation departments indicated that they have policies requiring culturally competent services in place or in progress.

¹⁴ DSHS/Children's Administration Case Services Policy Manual § 1600 (2013). Available at <https://www.dshs.wa.gov/ca/1000-introduction/1600-cultural-diversity-and-non-discrimination>

¹⁵ *Policy 50: Ensuring the Health and Safety of LGBTQI Youth in JR*, DSHS/Juvenile Justice & Rehabilitation Administration, (2014).

¹⁶ *Cultural Competence Guidelines*, Washington State Department of Social & Health Services, (2011). Available at <https://www.dshs.wa.gov/sites/default/files/SESA/odi/documents/DSHS-CC-Guidelines.pdf>

¹⁷ *Children's Administration 2014 Cultural Competence Plan*, DSHS/Children's Administration, (2014). Available at <https://www.dshs.wa.gov/sites/default/files/SESA/odi/documents/CA-2014.pdf>

¹⁸ *Juvenile Justice & Rehabilitation Administration Cultural Competence Plan, 2014-2016*, DSHS/Juvenile Justice & Rehabilitation Administration, (2014). Available at: <https://www.dshs.wa.gov/sites/default/files/SESA/odi/documents/JJRA-2014.pdf>

Service Provision

CA, JJ&RA, and the county-based juvenile departments each have their own policies regarding service provision for system-involved youth. In many cases, policies found in this review do not include explicit instruction on service provision for LGBTQ youth. However, the policies do include instruction around providing services to clients of various cultural identities.

- **CA Operations Manual Section 4300**: states that CA strives to provide clients with culturally relevant services.¹⁹
- **CA Case Services Policy Manual Section 4425**: states that CA strives to place children and youth in placements that meet their cultural needs by providing services such as cultural competency training for foster parents and selecting culturally responsive home-based and community services for the child.²⁰
- **CA Practices and Procedures Guide Section 43102**: says that dependent youth 12 and older must be provided information about their rights annually. A resource titled “Your Rights, Your Life” is used for this purpose, but it does not include information on rights specific to system-involved LGBTQ youth.²¹
- **JJ&RA Policy 50**: outlines several requirements for JR staff working with LGBTQI youth, including instructions on keeping a youth’s sexual orientation/gender identity confidential, addressing disrespectful behavior and violence against LGBTQI youth, making placement decisions that are respectful, addressing the specific needs of transgender and intersex youth, and much more.²²
- **County Juvenile Departments**: CCYJ surveyed county juvenile departments about existing and in-progress policies including confidentiality practices, placement procedures, appearance/grooming regulations, and pronoun/name use. Three-fourths of the responding departments with detention facilities indicated that they have such policies in place or in-progress. More than half of the responding departments with probation departments indicated that they also have these policies in place or in-progress.

¹⁹ DSHS/Children’s Administration Operations Manual § 4300, (2014). Available at <https://www.dshs.wa.gov/ca/4000-non-discrimination-minority-affairs/4300-culturally-relevant-services>

²⁰ DSHS/Children’s Administration Case Services Policy Manual § 4425, (2013). Available at <https://www.dshs.wa.gov/ca/4400-out-home-case-planning/4425-cultural-needs-child-and-family>

²¹ DSHS/Children’s Administration Practices & Procedures Guide, § 43102, (2013). Available at <https://www.dshs.wa.gov/ca/4310-services-adolescents/43102-ca-responsibilities-youth-12-and-older>

²² Policy 50, *supra* note 15

Training

Washington State has several laws and policies that inform training requirements for judicial officers, child welfare system professionals, juvenile justice system professionals, and law enforcement officers.

- **General Rule (GR) 26: Mandatory Continuing Judicial Education:** required that judicial officers must have at least 45 continuing judicial education credit hours every three years. Areas of education are not mandated with the exception of a six hour judicial ethics education requirement.²³
- **Alliance for Child Welfare Excellence:** provides training for foster parents, CA social workers, and CA supervisors. The Alliance uses a competency-based curriculum that is divided by levels titled foundation, in-service, and focused. The Alliance currently has a few competencies that directly address LGBTQ issues and a few trainings that address working with LGBTQ children and youth, and additional competencies and curriculum specific to LGBTQ youth and issues are currently under review.
- **RCW 43.101.080:** requires the Washington State Criminal Justice Training Commission (WSCJTC) to establish standards for the training of criminal justice personnel in addition to creating and operating training and educational programs these professionals.²⁴
- **WSCJTC Juvenile Justice Rehabilitation Administration Academy:** provides entry-level training for juvenile justice employees who work with youth in county and state custody facilities and have a counseling caseload. Instruction blocks do not include training with regard to sexual orientation and gender identity cultural competency.
- **WSCJTC Juvenile Corrections Personnel Academy:** will begin in December 2014 and will combine and replace the Juvenile Corrections Officers Academy (for detention staff) and the Juvenile Services Academy (for probation staff). During the first week, this academy will incorporate diversity training that includes LGBTQ issues.

²³ GR 26: *Mandatory Continuing Education Standards*, Washington State Judicial Education (2002).

²⁴ R.C.W. § 43.101.080. Available at <http://app.leg.wa.gov/rcw/default.aspx?cite=43.101.080>

Data Collection Practices

Collecting data on sexual orientation and gender identity from system-involved youth poses significant challenges. It is extremely sensitive information that many youth do not feel comfortable disclosing to system professionals. Even if a youth is willing to disclose his/her sexual orientation and/or gender identity, there are limitations on recording this information.

- **CA Child Information Placement and Referral Form:** includes fields for recording sexual orientation and for gender identity, but indicates that this information should only be shown when a youth is 12 or older. Anecdotal reports indicate these fields are often not completed, regardless of the youth's age.²⁵
- **JR&RA Policy 50:** requires that JR staff must try to respectfully determine a youth's sexual orientation and gender identity during the health screening process in order to discover special concerns and needs.²⁶
- **JJ&RA Policy 14:** states that if youth disclose their sexual orientation and/or gender identity during the health screening process, the information will be documented in a medical database with restricted access.²⁷
- **Judicial Information System (JIS):** used by Washington's courts and juvenile departments, this database maintains court processing and case management data and is comprised of several information systems—including the Juvenile and Corrections Management Information System (JCS). JIS does not collect data on sexual orientation or gender identity. JCS is reported to have an "alert" field in its detention module that allows professionals to select an option titled "same sex attraction."

²⁵ *Child Information Placement and Referral Form*, DSHS/Children's Administration, (2014).

²⁶ Policy 50 *supra* note 15, at page 2

²⁷ *Policy 14(6): Providing Health Care for JR Youth*, DSHS/Juvenile Justice & Rehabilitation Administration, at 2 (2014).

National Law & Policy Review Summary



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Introduction

CCYJ also conducted an extensive review of existing policies and laws regarding the treatment of LGBTQ youth involved in the child welfare and/or juvenile justice systems nationwide. The purpose of this review is to identify system reform efforts and relevant case law in other states. This section provides a summary of the Review. The complete review is available under Appendix C under the title National Law & Policy Review.

Child Welfare System

Discrimination and abuse is a significant issue for LGBTQ youth who are involved in the child welfare system nationwide. Several federal, state, departmental, and local laws and policies have been enacted in order to identify and respond to the needs of dependent LGBTQ youth. Key laws and policies are outlined below.

- **State Regulations:** multiple states have implemented laws and policies that impact the treatment of LGBTQ youth in the child welfare system including non-discrimination policies, training/education requirements, requirements for agencies to promote and maintain safe environments for LGBTQ individuals, and requirements for agencies to investigate discrimination reports in a timely manner.
- **Departmental Policies:** various state specific departments providing care for dependent youth have implemented policies regarding the treatment of LGBTQ youth including non-discrimination policies, training requirements for staff, foster parents, and mentors, mental health assessment and treatment standards for LGBTQ youth, and standards for connecting LGBTQ youth with accepting services and resources.
- **City and county-specific policies:** cities and counties throughout the nation have implemented policies regarding the treatment of dependent LGBTQ youth. Policy subjects include prohibiting the use of slurs and disrespectful comments against individuals because of sexual orientation/gender identity, non-discrimination policies (explicitly including sexual orientation and gender identity/expression) staff training requirements, resources and policies for involved youth, reporting procedures for staff and youth, and policy enforcement. In addition, extensive policy regarding sexual and reproductive health care for dependent LGBTQ youth in New York is currently being finalized.

In addition to governmental laws and policies, there are select court rulings that influence how dependent LGBTQ youth are treated. Specifically, state and federal courts have heard several cases on the treatment of dependent youth under the care of the New York City Administration for Children's Services (ACS). Key cases are described below.

- **Joel A. v. Giuliani:** a 1999 case on behalf of LGBTQ youth in the New York City child welfare system. The complaint presented issues such as homophobic harassment, physical injuries, and sexual assault and violence from peers, caretakers, and staff against LGBTQ youth. This case was subsumed into *Marisol A. v. Giuliani*—which was focused broadly on mistreatment against all children in state care. When *Marisol A. v. Giuliani* was settled, there was little redress for the specific needs LGBTQ youth in New York City's child welfare system.²⁸
- **Doe v. Bell:** a 2003 case in which a New York state court ruled that ACS had to allow a transgender female housed in a male facility to wear feminine clothes that were consistent with her gender identity. The facility responded by changing the dress code policy to prohibit residents from wearing dresses or skirts. The court then ruled that ACS failed to meet the youth's needs and therefore the plaintiff would be allowed an exemption from the dress code.²⁹
- **Brian L. v. Admin. For Children's Servs.:** A 2008 case following rulings by several New York courts on whether ACS could make the administrative decision to not pay for the sex reassignment surgery of a transgender youth in ACS' care. The Supreme Court for New York County recently ruled in *D.F. v. Carrion* (the case continuing *Brian L. v. Admin for Children's Servs.*) that ACS would be required to pay for the Plaintiff's transgender-specific medical care.³⁰

While not specific to LGBTQ youth involved in the child welfare system, several cases have held that states cannot make blanket denials for transition-related medical procedures for individuals on Medicaid. In addition, a number of courts have ruled on the treatment of dependent youth in general. For example, an Illinois federal district court ruled that children in the Illinois' child welfare system must be protected from mental and emotional harm and must have the right to access services in order to prevent physical or psychological harm. The First Amendment right of religious freedom may also apply to dependent LGBTQ youth by allowing them freedom from religious proselytizing while system-involved.

²⁸ S.E. Valentine, *Traditional Advocacy for Nontraditional Youth: Rethinking Best Interest for the Queer Child*. 2008 Michigan State Law Review, 1053, 1095. Available at: http://msulawreview.org/wp-content/uploads/2012/10/2008-4_Valentine.pdf

²⁹ *Doe v. Bell*, 194 Misc.2d 774, 754 N.Y.S.2d 846 (2003) Available at: <http://courts.state.md.us/fccip/docs/lgtbq2014/summitplanningmaterials/matterofdoevbell.pdf>

³⁰ *Brian L. v. Admin. For Children's Servs.*, 51 A.D.3d 488, 859 N.Y.S.2d 8 (2008). Available at: https://scholar.google.com/scholar_case?case=5903196873620684983&q=859+N.Y.S.2d+8&hl=en&as_sdt=6,48; *D.F. v. Carrion* 2014 NY Slip Op 24078. N.Y. Sup. Ct. (2014). Available at: https://scholar.google.com/scholar_case?case=5748448750018266877&q=D.F.+v.+Carrion&hl=en&as_sdt=6,48

Juvenile Justice System

Discrimination and abuse is a significant issue for LGBTQ youth who are involved in the juvenile justice system nationwide. Several federal, state, departmental, and local protections have been enacted to address these issues. Key protections for this population are outlined below.

- **Law Enforcement Policies:** over 180 US cities have enacted policies that explicitly prohibit discrimination based on actual or perceived sexual orientation and/or gender identity. Some of these policies explicitly protect against discriminatory treatment by city police departments. In addition, some police departments have internal non-discrimination policies and specific procedures regulating how LGBTQ individuals are to be treated by police officers.
- **Prison Rape Elimination Act (PREA):** enacted by the US Congress in 2003, PREA and the accompany implementation standards from the Department of Justice (DOJ) contain significant protections for LGBTQ adults and juveniles who are incarcerated. Some issues covered by PREA include housing for transgender individuals, the use of protective custody, staff training requirements, and reporting procedures for individuals who have experienced sexual abuse/assault. All state run facilities must be audited for their compliance to PREA every three years. Some states have implemented policies that go beyond PREA in order to protect incarcerated LGBTQ individuals.³¹
- **State Regulations:** a number of states have implemented regulations concerning the treatment of LGBTQ youth who are involved in the juvenile justice which include non-discrimination policies and the use of isolation and protective custody.
- **Departmental Policies:** various state specific departments overseeing juvenile justice-involved youth have implemented policies regarding the treatment of LGBTQ youth. One example of an extensive departmental policy is the New York State Office of Children & Family Services' (OCFS) which includes protections against discrimination (explicitly including sexual orientation and gender identity/expression) in addition to staff training requirements, resources and policies for involved youth, reporting procedures for staff and youth, and policy enforcement.³²
- **City and County-Specific Policies:** various cities and counties throughout the nation have implemented policies regarding the treatment of juvenile justice-involved LGBTQ youth. Some of these policies are general non-discrimination policies that apply to all governmental employees, and others explicitly include requirements for those who work with system-involved LGBTQ youth in their respective jurisdiction.

In addition to governmental laws and policies, there are court cases nationwide that impact how LGBTQ youth are treated in the juvenile justice system. Much of this impact is a result of court

³¹ For more information on PREA, see the National PREA Resource Center: <http://www.prearesourcecenter.org/>

³² New York Office of Children and Family Services Procedures & Policies Manual § 3442.00, (2008). Available at http://www.equityproject.org/pdfs/LGBTQ_Youth_Policy_PPM_3442_00.pdf

settlement agreements that require implementation of policies to improve protection and care of incarcerated LGBTQ youth. Key themes from the existing case law are described below.

- ***R.G. v. Koller***: a 2005 case from the Hawaii federal district court in which the three plaintiffs were abused and harassed while incarcerated in the Hawaii Youth Correctional Facility (HYCF) because of their perceived LGBTQ identities. The case resulted in the Department of Justice (DOJ) requiring HYCF to implement policies to substantially improve LGBTQ youth protections from harm, medical and mental health care, monitoring and enforcement standards, and much more.³³
- ***Rodriguez v. Johnson et al.***: a 2006 case in which a transgender youth sued New York State Office of Children & Family Services (OCFS) for depriving her of prescription hormone medication and sanctioning her gender expression while incarcerated. The case led to a settlement agreement requiring OCFS to pay the plaintiff monetary damages in addition to implementing policies to improve treatment of system-involved transgender youth.³⁴
- ***In re Antoine D.***: a 2006 case in which a California Appeals court allowed the Plaintiff to challenge the denial of his housing request by the California Youth Authority (CYA) to move to a LGBTQ homeless youth transitional living facility during his probation term. The plaintiff sued because CYA failed to ensure his safety resulting in significant harm, discrimination, and abuse while detained because of his sexual orientation. While the court did not rule on the case, the court sent the case to the local juvenile court for a ruling on the plaintiff's request, holding that the juvenile court could grant his request.³⁵

In addition to these court decisions specifically regarding the treatment of incarcerated LGBTQ youth, other case law has general application to the treatment of LGBTQ youth who are involved in the juvenile justice system such as personal security protections under the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution. Courts have used the Fourteenth Amendment as the legal basis for requiring safe conditions for and training requirements to protect incarcerated youth. Included within the definition of "safe conditions" are several critical rights for LGBTQ youth, such as the right to protection from sexual assault and the impermissible use of isolation, as well as the right to medical treatment.

³³ *R.G. v. Koller*, 415 F.Supp.2d 1129 (D. Hawaii 2005). Available at: <http://www.hivlawandpolicy.org/sites/www.hivlawandpolicy.org/files/R.G.%20v.%20Koller%20-%20Injunction.pdf>; The DOJ requirements can be found in *Memorandum of Agreement Between the United States and the State of Hawai'i*, Department of Justice, (2006). Available at: http://www.justice.gov/crt/about/spl/documents/hawaii_moa_2-7-06.pdf

³⁴ Information about *Rodriguez v. Johnson et al.* can be found on Lambda Legal's website at: <http://www.lambdalegal.org/in-court/cases/rodriguez-v-johnson-et-al>

³⁵ *In re Antoine D.*, 137 Cal. App. 4th 1314 40 Cal. Rptr. 3d 885 (2006).

Court Professionals

LGBTQ youth continuously interact with the court system whether involved in the child welfare or the juvenile justice system. Throughout the nation, there are several professional codes of conduct for judges and attorneys that can impact how they work with LGBTQ youth. Key standards for these court professionals are described below.

- **Codes for Judicial Conduct:** 41 states explicitly prohibit judges from showing bias or prejudice based on sexual orientation while performing their judicial duties. The American Bar Association Model Code of Judicial Conduct contains several examples of how judges may show bias or prejudice such as using slurs, stereotyping, disrespectful jokes, biased or hostile body language/facial expressions, and much more.³⁶
- **Codes for Attorney Conduct:** states have general professional conduct codes for attorneys that require attorneys to maintain loyalty, confidentiality, diligence, and competence when working on behalf of clients. In addition, thirty states also include professional conduct standards that prohibit attorneys from actions that are biased because of sexual orientation. In many of these states, attorneys can be sanctioned for discrimination against LGB clients if the discrimination is considered significant enough. Several advocacy organizations have also developed model standards for attorneys that inform how these professionals should work with LGBTQ youth.

It is important to note that these codes and standards only address sexual orientation; therefore, it is unclear whether they apply to judges and attorneys interacting with transgender youth.

³⁶ American Bar Association Model Code of Judicial Conduct Rule 2.3 (Comment), (2015). Available at: http://www.americanbar.org/groups/professional_responsibility/publications/model_code_of_judicial_conduct/model_code_of_judicial_conduct_canon_2/rule2_3biasprejudiceandharassment/commentonrule2_3.html

Recommendations



CCYJ's research provides a snapshot of how LGBTQ youth enter the child welfare and juvenile justice systems, what they experience while system-involved, and what outcomes are likely after they exit either system. In addition, this Report presents the observations of system professionals and community-based services providers who work with system-involved LGBTQ youth and LGBTQ system alumni. To fully inform this picture, the current landscape of laws and policies relevant to LGBTQ youth in the child welfare and juvenile justice systems both in Washington State and also nationally is included. While significant efforts have been made in Washington State to improve services for all system-involved youth, this Report illustrates the multiple barriers for LGBTQ youth and the policy gaps that remain.

Our 12 recommendations for improving Washington's child welfare and juvenile justice for LGBTQ youth are listed below. Many of these recommendations will enhance existing system reform goals and efforts. For many, only minimal fiscal impacts are expected. By addressing the unique needs of LGBTQ youth in Washington's child welfare and juvenile justice systems, professionals will be better equipped to serve all youth.

- 1. Permanency:** Improve permanency outcomes for LGBTQ youth in the child welfare system by increasing the number of accepting, long-term placements, consistently screening potential placements for LGBTQ acceptance, including LGBTQ youth in the placement process, and evaluating placements when unsuccessful.
- 2. Housing:** Ensure appropriate housing for LGBTQ youth in both systems by considering the youth's gender identity and safety concerns when placing youth in facilities divided by gender (detention, congregate care, etc.). Prohibit the separation or isolation of LGBTQ youth from other youth because of their LGBTQ identity.
- 3. Equitable Treatment:** Provide equitable treatment for LGBTQ youth regarding rules and sanctions. Explicitly prohibit the labeling of LGBTQ youth as sexually deviant or as sex offenders based on their sexual orientation and/or gender identity.
- 4. Harassment:** Develop effective strategies to address harassment and bullying against LGBTQ youth from peers and adults. Ensure that such harmful behavior can be easily reported.
- 5. Cultural Competence:** Expand the existing cultural competence framework to explicitly include sexual orientation and gender identity. Require all services (mental health, family reunification, etc.) to be culturally competent for LGBTQ youth.
- 6. Non-Discrimination Policies:** Update all non-discrimination policies to explicitly prohibit discrimination based on actual or perceived sexual orientation and gender identity. Train all system professionals on these policies and implement effective enforcement mechanisms.
- 7. Training:** Provide training to all system professionals on LGBTQ identities and issues, referring LGBTQ youth to appropriate services, and respectfully identifying a youth's sexual orientation, gender identity, and preferred pronouns.

8. **Visibility:** Improve the knowledge and visibility of LGBTQ youth by expanding existing data collection methods (intake forms, assessments, etc.) to respectfully gather information on sexual orientation, gender identity, and preferred pronouns. Ensure that this data is kept confidential and only used to identify needed services or safety risks.
9. **Rights:** Ensure that LGBTQ youth are informed about their rights (in general, and specifically regarding their rights as LGBTQ youth) and how they can report grievances through age-appropriate and up-to-date strategies. Reports should be promptly and appropriately addressed.
10. **Community Resources:** Connect LGBTQ youth with resources such as information on healthy identity development, local LGBTQ organizations or clubs, and other affirming educational and social opportunities.
11. **Dual-System Involvement:** Research factors leading to dual system-involvement for LGBTQ youth in order to reduce the prevalence of dual system-involvement for this population.
12. **Homelessness:** Research the relationship between system-involvement and homelessness for LGBTQ youth in order to reduce the prevalence of homelessness among currently and formerly system-involved LGBTQ youth.

Nearly all the recommendations affect LGBTQ youth in both systems. These recommendations will require collaboration from all system professionals, community stakeholders, and the continuing voice of youth and families.

Washington has taken groundbreaking steps to ensure legal protection and marriage equality for LGBTQ people. These accomplishments set the stage for child welfare and juvenile justice system reform that purposely considers and addresses the unique needs of system-involved LGBTQ youth. CCYJ is dedicated to working closely with law and policy makers, system leaders, and community stakeholders to ensure that LGBTQ youth are given the equal protection and respectful services they deserve while in Washington's child welfare and juvenile justice systems. We hope you will join us in these critical efforts.

Appendices



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Appendix A:

eQuality Literature Review

Available literature concerning LGBTQ youth
involved in the Child Welfare and
Juvenile Justice Systems



September 2013

Sarah Ganzhorn, BASW

Introduction

The experiences of lesbian, gay, bisexual, transgender, questioning (LGBTQ) youth in the child welfare and juvenile justice systems was a topic rarely researched until the last two decades. Even in the last twenty years, the research conducted on the subject has been limited in scope and applicability. The existing research typically examines LGBTQ youth in the child welfare or the juvenile justice system; however, very little considers both systems in-depth together. Certain studies only examine gay, lesbian, and bisexual youth and other research focuses specifically on transgender youth. In this review, differentiation of the exact population being examined has been attempted in order to accurately represent research findings. Furthermore, much of the available research is qualitative with small sample sizes; therefore the generalizability of these findings is questionable. This review summarizes the available literature (peer reviewed and non-peer reviewed) concerning LGBTQ youth in the two systems in the most cohesive manner possible.

Disproportionate Representation

Exact calculations on how many youth in the child welfare and juvenile justice systems are LGBTQ is difficult to make as sexual orientation and gender identity is often stigmatized and hidden. While it is estimated that 5-7% of the national youth population identify as LGBTQ, it is clear that LGBTQ youth compose a disproportionate amount of system-involved youth.¹ Within the child welfare system, it is estimated that 20-60% of youth involved identify as LGBTQ.² In Washington State specifically, a 2008 survey of youth in the state's foster care system found that approximately 14.5% of the 706 youth between the ages of 15 and 18 surveyed identified as lesbian, gay, bisexual, transgender, or questioning.³ Overall, LGBTQ youth are twice as likely to become involved in the child welfare system as heterosexual and gender conforming youth.⁴ Within the juvenile justice system, it is estimated that LGBTQ youth compose 13-15% of those involved with around 300,000 LGBTQ youth being arrested or detained each year.⁵ The number of LGBTQ youth of color in both systems is especially disproportionate. The U.S. Children's Bureau reports that in 2012, 22% of those who entered the child welfare system were black or African American and 21% were

¹ J. Hunt & A.C. Moodie-Mills, *The Unfair Criminalization of Gay and Transgender Youth: an Overview of the Experience of LGBT Youth in the Juvenile Justice System*, Center for American Progress, (2012). Available at <http://www.americanprogress.org/issues/lgbt/report/2012/06/29/11730/the-unfair-criminalization-of-gay-and-transgender-youth/>

² R. Woronoff, R. Estrada, & S. Sommer, *Out of the Margins: A Report on Regional Listening Forums Highlighting the Experiences of Lesbian, Gay, Bisexual, Transgender, and Questioning Youth in Care*, Child Welfare League of America 5 (2006).

³ J. Tarnai & R. Krebill-Prather, *2008 Survey of Washington State Youth in Foster Care*, Social & Economic Sciences Research Center, 96-98 (2008).

⁴ A. Irvine, "We've Had Three of Them": *Addressing the Invisibility of Lesbian, Gay, Bisexual and Gender Non-conforming Youths in the Juvenile Justice System*, Vol. 19 No. 3 Columbia Journal of Law and Gender 675, 691 (2010). Available at: <http://www.nccdglobal.org/sites/default/files/content/weve-had-three-of-them.pdf>

⁵ Hunt & Moodie-Mills, *supra* note 1; Irvine, *supra* note 4, at 676-677; L. Schaffner, *Girls in Trouble with the Law*. New Brunswick, NJ: Rutgers University Press, Project MUSE, 139 (2006).

Hispanic.⁶ Another report found that black or Latino/a youth compose 60% of the LGBTQ youth detained or arrested each year.⁷ The literature also indicates that non-heterosexual and gender non-conforming girls are disproportionately represented in the juvenile justice system.⁸ These findings demonstrate that while LGBTQ youth compose a minority of the general population, they represent a significantly disproportionate number of the child welfare and juvenile justice population.

Pathways into System-Involvement

Some of these pathways are unique to LGBTQ youth in the child welfare system and some are unique to LGBTQ youth in the juvenile justice system. These pathways are frequently intertwined for LGBTQ youth, causing substantial complexity. For clarity, the different pathways have been divided by system in this review.

Child Welfare System

Regardless of sexual orientation and/or gender identity, youth enter the child welfare system for similar reasons—primarily because of family disintegration and conflict, abuse, and neglect.⁹ However, LGBTQ youth face unique circumstances as they develop their sexual identities and gender expression in an environment in which their caregivers may not be accepting of their sexual orientation and gender identity.¹⁰ Indeed, one study found that 45% of parents reacted negatively with anger and disgust toward their LGBTQ child's identity.¹¹ Another report describes how parents may also respond with disappointment, disapproval, and blatant rejection.¹² Some caregivers may respond by seeking to change their child's sexual orientation or gender identity with ineffective and unethical "conversion therapies" designed to convert them into heterosexual and gender conforming individuals.¹³ Some caregivers oppose LGBTQ youths' identities because of religious

⁶ *The AFCARS Report: Preliminary Estimates for FY 2012 as of July 2013 (No. 20)*, U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, 2 (2013). Available at <http://www.acf.hhs.gov/sites/default/files/cb/afcarsreport20.pdf>

⁷ Hunt & Moodie-Mills, *supra* note 1

⁸ J.N. Graziano & E.F. Wagner, *Trauma Among Lesbians and Bisexual Girls in the Juvenile Justice System*, Vol. 17 No. 2 *Traumatology* 45, 47 (2011); K.E.W. Himmelstein & H. Brückner, *Criminal-Justice and School Sanctions Against Nonheterosexual Youth: A National Longitudinal Study*. Vol. 127 No. 1 *Pediatrics* 49, 50 (2010).

⁹ G.P. Mallon, *We Don't Exactly Get the Welcome Wagon: The Experiences of Gay and Lesbian Adolescents in Child Welfare Systems* at 4 (1998).

¹⁰ *Id.* at 36; S. Wilber, C. Ryan & J. Marksamer, *CWLA Best Practice Guidelines: Serving LGBT Youth in Out-Of-Home Care*, Child Welfare League of America at 3 (2006).

¹¹ R. Feinstein, A. Greenblatt, L. Hass, S. Kohn, & J. Rava, *Justice for All? A Report on Lesbian, Gay, Bisexual and Transgendered Youth in the New York Juvenile Justice System* at 13 (2001). Citing *Anti-Gay/Lesbian Victimization*, National Gay and Lesbian Task Force (1984).

¹² C. Sullivan, S. Sommer, & J. Moff, *Youth in the Margins: A Report on the Unmet Needs of Lesbian, Gay, Bisexual and Transgender Adolescents in Foster Care*, Lambda Legal Defense and Education Fund 14 (2001). Available at <http://www.lambdalegal.org/publications/youth-in-the-margins>

¹³ B. Fedders, *Coming Out for Kids: Recognizing, Respecting, and Representing LGBTQ Youth*, 6 Nevada Law Journal 774, 778 (2006). Available at: <http://scholars.law.unlv.edu/cgi/viewcontent.cgi?article=1387&context=nlj>; Woronoff et al., *supra* note 2, at 7. [Note: these therapies have been discredited by most major health and social service organizations including the American Psychological Association, American Academy of Pediatrics, the National Association of Social Workers, and many more]

beliefs that consider homosexuality a sin.¹⁴ Other caregivers may reject LGBTQ youth in their care because of cultural factors.¹⁵ All of these responses send messages to LGBTQ youth that their sexual orientation and/or gender identity is unacceptable, straining family relationships and negatively impacting the youths' mental health.¹⁶ These strained relationships can include abuse and neglect—directly leading to child welfare involvement.

Determining the exact number of LGBTQ youth who experience abuse from their families is very difficult; however, around 75% of the LGBTQ youth involved in the child welfare system have experienced abuse from their families of origin.¹⁷ Studies estimate that between 12% and 30% of youth experience physical violence by a family member after disclosing their LGBTQ identity.¹⁸ Youth who have not disclosed their identity but are assumed to be LGBTQ are also subject to abuse and neglect within their families as well.¹⁹ These damaging responses may even come from parents who are typically open and accepting of their children.²⁰ Therefore, many LGBTQ youth involved in the child welfare system have been removed from their families of origin in an effort to keep them safe from harm.

Not all LGBTQ youth in the child welfare system entered directly because of their sexual orientation or gender identity. According to one study, around a third of the LGBTQ youth involved in the child welfare system entered directly because of their sexual orientation.²¹ While caregivers' lack of acceptance directly leads to some LGBTQ youth entering the child welfare system, it can also increase other relationship problems—leading to increased family conflict that indirectly causes system involvement.²² Furthermore, some LGBTQ youth in the child welfare system are involved long before their sexual orientation and gender identity develop.²³ Therefore, family conflict over their sexual orientation and/or gender identity is a significant factor for the majority of LGBTQ youth involved in the child welfare system.

¹⁴ N. Ray, *Lesbian, Gay, Bisexual and Transgender Youth: An Epidemic of Homelessness*, National Gay & Lesbian Task Force and the National Coalition for the Homeless at 21 (2007). Available at http://www.thetaskforce.org/downloads/Homeless_Youth.pdf

¹⁵ Sullivan et al., *supra* note 12

¹⁶ A. Cray, *3 Barriers that Stand Between LGBT Youth and Healthier Futures*, Center for American Progress (2013). Available at <http://www.americanprogress.org/issues/lgbt/news/2013/05/29/64583/3-barriers-that-stand-between-lgbt-youth-and-healthier-futures/>; G.P. Mallon & T. DeCrescenzo, *Transgender Children and Youth: A Child Welfare Practice Perspective*, Vol. 85 No. 2 Child Welfare 215, 219 (2006).

¹⁷ C. Sullivan, *Kids, Courts and Queers: Lesbian and Gay Youth in the Juvenile Justice System*, 6 Law & Sexuality 45 (1996).

¹⁸ Himmelstein & Brückner, *supra* note 8, at 50; M. Wolfsun, C. Lee-Davis, & S. Vardatira, *Reach Out: Enhancing Services to Out-of-Home Gay, Lesbian, Bisexual, Transgender, Queer and Questioning Youth. Evaluation 2004-2006*. New England Network for Child, Youth & Family Services, at 7 (2007). Available at <https://www.youthcatalytics.org/wp-content/uploads/2012/07/REACHOUTEVAL.pdf>

¹⁹ Wilber et al., *supra* note 10, at 2-3

²⁰ Mallon, *supra* note 9, at 36

²¹ *Id.* at 4

²² D. Elze, *In-Home Services for Families of LGBTQ Youth*, National Resource Center for In-Home Services, at 2 (n.d.).

²³ J. Jacobs & M. Freundlich, *Achieving Permanency for LGBTQ Youth*, Vol. 85 No. 2 Child Welfare 299, 303 (2006).

Juvenile Justice System

Most youth become involved in the juvenile justice system due to criminal activity or family breakdown—both of which are generally intertwined around sexual orientation and/or gender identity for LGBTQ youth.²⁴ The following summarizes some of the most common pathways discussed in the literature on LGBTQ youth and juvenile justice system involvement.

LGBTQ youth get involved in the juvenile justice system when Persons in Need of Supervision (PINS) petitions are filed against them. Non-accepting or unaware caregivers may respond to their youths' LGBTQ identity by filing PINS petitions in local courts (either family court or juvenile court) because they feel the youth is disobedient or beyond their control.²⁵ These caregivers may file these petitions merely because of their child's LGBTQ identity or they may file the petitions because of behaviors that stem from rejection of the child's identity such as running away, truancy, and other status offenses.²⁶ Without consideration of environmental factors such as family rejection, the youth is likely to be seen by the court as disobedient and out of control.²⁷ In response, courts may impose punitive sanctions upon the youth—reinforcing the idea that non-heterosexual and gender non-conforming identities are wrong.²⁸ These sanctions may include detainment and out-of-home placements in either the child welfare or the juvenile justice system.²⁹ Therefore, PINS petitions can lead to LGBTQ youth becoming involved with both systems.

Another pathway into the juvenile justice system for LGBTQ youth is sexual activity. Adolescents younger than the established age of consent who engage in sexual activity with another minor youth can be charged with a sex offense in many jurisdictions, even if the youth considers the activity consensual.³⁰ While the decriminalization of consensual sexual activity between same-sex adults occurred in 2003 with the Supreme Court decision on *Lawrence v. Texas*, some jurisdictions hold that this decision does not decriminalize same-sex activity among minors; therefore, LGBTQ youth can still be prosecuted for sexual activity in such jurisdictions.³¹ LGBTQ youth are particularly vulnerable as their sexual activity is stigmatized and pathologized. LGBTQ youth who engage in sexual activity with peers are more likely to be sanctioned for sex offenses, such as statutory rape, compared to heterosexual youth whose adolescent sexual activity is more normalized and expected.³² In some cases, parental disapproval of same sex relationships and

²⁴ Irvine, *supra* note 4, at 677; Sullivan, *supra* note 17, at 35-36

²⁵ Feinstein et al., *supra* note 11, at 16-17; W. Ware, *Locked Up & Out: Lesbian, Gay, Bisexual & Transgender Youth in Louisiana's Juvenile Justice System*, Juvenile Justice Project of Louisiana 14 (n.d.).

²⁶ H. Squatriglia, *LGBT Youth in the Juvenile Justice System: Incorporating Sexual Orientation and Gender Identity into the Rehabilitative Process*, 14 *Cordoza Journal of Law and Gender* 793, 803 (2008). [Note: some jurisdictions, such as New York, no longer allow caregivers to file PINS petitions based on sexual orientation or gender identity.]

²⁷ Fedders, *supra* note 13, at 793

²⁸ *Id.*; Feinstein et al., *supra* note 11, at 16-17

²⁹ Feinstein et al., *supra* note 11, at 16-17

³⁰ E. Garfinkle, *Coming of Age in America: The Misapplication of Sex-Offender Registration and Community-Notification Laws to Juveniles*, Vol. 91 No. 1 *California Law Review* 163, 186-187 (2003). Available at: <http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1388&context=californialawreview>

³¹ Sullivan, *supra* note 17, at 39; J.J. Wardenski, *A Minor Exception?: The Impact of Lawrence v. Texas on LGBTQ Youth*, Vol. 95 No. 4 *The Journal of Criminal Law & Criminology* 1363, 1365 (2005). Available at: <http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=7211&context=jclc>

³² M.H. Meidinger, *Peeking Under the Covers: Taking a Closer Look at Prosecutorial Decision-making Involving Queer Youth and Statutory Rape*, 32 *Boston College Journal of Law & Social Justice* 421 (2012).

sexual activity may result in those parents pressuring for a LGBTQ youth to be prosecuted.³³ Upon conviction, these charges can result in a youth being required to register as a sex offender, a label with long-lasting, marginalizing effects.³⁴ It is apparent that the stigma and disapproval of non-heterosexual sexual activity among youth can increase the sanctions LGBTQ youth receive and the possibility of permanent restrictions.

Another pathway into the juvenile justice system for LGBTQ youth is the status offense of truancy occurring because of hostile school environments. The Gay, Lesbian, and Straight Education Network (GLSEN)'s 2011 National School Climate Survey Report illustrates that many school environments are neither accepting of nor safe for non-heterosexual and gender non-conforming youth due to high rates of verbal, physical, and sexual harassment from both peers and school staff in addition to assault, exclusion, bullying, and much more.³⁵ The report also describes how school staff often fails to adequately intervene to address this harm toward LGBTQ students.³⁶ Indeed, more than one fifth of the LGBTQ students studied state that they are discriminated against in their school environments through policies and practices whether formal or informal in nature.³⁷ The Report states that 63.5% of the LGBTQ students surveyed felt unsafe at school because of their sexual orientation and 43.9% felt unsafe because of their gender expression.³⁸ Because they felt unsafe, 29.8% of these students purposely did not attend a class in the last month studied while 31.8% reported that they purposely did not attend school for an entire day within the last month studied.³⁹ Harassment experienced at school that leads to absence contributes significantly to LGBTQ youth being the subject of a truancy petition; therefore, it is a key factor in why LGBTQ youth are vulnerable to becoming involved in the juvenile justice system.⁴⁰ These statistics make it clear that the educational environment has a significant impact on LGBTQ youth and their involvement in the juvenile justice system.

The literature describes how hostile school environments can also lead to LGBTQ youth getting in trouble out of self-defense. One report states that LGBTQ high school students are three times as likely to bring a weapon to school in addition to being likely to get into fights with other students.⁴¹ Another study found that LGBTQ students are disproportionately targeted for sanctions in the school setting while also frequently blamed by school authority figures for the harassment they experience.⁴² With the increasing reliance on the juvenile justice system to address school discipline issues, many LGBTQ youth are becoming involved in the system when they try to address

See also C. Silhan, *The Present Case Does Involve Minors: An Overview of the Discriminatory Effects of Romeo and Juliet Provisions and Sentencing Practices on Lesbian, Gay, Bisexual, and Transgender Youth*, 20 *Law & Sexuality* 97 (2011).

³³ Meidinger, *supra* note 32, at 438

³⁴ Fedders, *supra* note 13, at 797; Hunt & Moodie-Mills, *supra* note 1

³⁵ J.G. Kosciw, E.A. Greytak, M.J. Bartkiewicz, M.J. Boesen, and N.A. Palmer, *The 2011 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual and Transgender Youth in our Nation's Schools*, GLSEN 24-26. (2012). Accessed at <http://glsen.org/sites/default/files/2011%20National%20School%20Climate%20Survey%20Full%20Report.pdf>

³⁶ *Id.* at 17-18

³⁷ *Id.* at 73

³⁸ *Id.* at 20

³⁹ *Id.* at 21

⁴⁰ Fedders, *supra* note 13, at 793; Meidinger, *supra* note 32, at 440

⁴¹ Ware, *supra* note 25, at 13

⁴² Himmelstein & Brückner *supra* note 8, at 54; Meidinger, *supra* note 32, at 440

the hostility they face at school.⁴³ In addition, one study describes how exculpatory information such as self-defense or immaturity is often ignored by school officials regarding LGBTQ students—leading to sanctions that non-LGBTQ students may not receive.⁴⁴ The disproportionate sanctioning of LGBTQ youth creates a pathway between schools and the juvenile justice system.

Traumatic experiences can create increased risk for LGBTQ youth involvement in the juvenile justice system. Research indicates that trauma—specifically stemming from interpersonal violence—is a key predictor for youth engagement in delinquent behaviors.⁴⁵ Because LGBTQ youth are very likely to experience family conflict and abuse, these youth are also very likely to experience trauma and PTSD which may lead to juvenile justice involvement.⁴⁶ While the link between delinquent behavior and trauma among LGBTQ youth has not been sufficiently examined to date, it is probable that LGBTQ youths' likelihood of trauma can influence their risk of juvenile justice involvement.

Homeless LGBTQ youth are highly vulnerable to becoming involved in the juvenile justice system. Indeed, homelessness is the “greatest predictor” for LGBTQ youth to become involved in the juvenile justice system.⁴⁷ Researchers state that LGBTQ youth engaging in delinquent activity is most often a result of leaving home.⁴⁸ While on the streets, many LGBTQ youth engage in “survival crimes” such as theft and sex work in order to support themselves.⁴⁹ One study found that 10% of gay, bisexual, and questioning boys, 7% of gender non-conforming boys, 11% of lesbian, bisexual, and questioning girls, and 6% of gender non-conforming girls were detained for prostitution—rates that were at least twice as high as the heterosexual and gender conforming youth study participants.⁵⁰ Transgender youth may specifically engage in illegal activity in order to obtain access to medical care such as black market hormones.⁵¹ Overall, it is estimated that at least 39% of LGBTQ homeless youth have been involved in the juvenile justice system at some point in their lives.⁵² The literature is confident that homelessness is a significant factor, if not the most significant factor, in juvenile justice involvement for LGBTQ youth.

LGBTQ youth become involved in the juvenile justice system for status offense of running away. One study found that 28% of gay, bisexual, and questioning boys, 22% of gender non-conforming boys, 37% of lesbian, bisexual, and questioning girls, and 33% of gender non-conforming girls were detained for running away—all rates that were significantly higher than the heterosexual and gender conforming participants.⁵³ Because LGBTQ youth encounter rejection and mistreatment

⁴³ Hunt & Moodie-Mills, *supra* note 1

⁴⁴ Himmelstein & Brückner, *supra* note 8, at 54

⁴⁵ Graziano & Wagner, *supra* note 8, at 47

⁴⁶ *Id.* at 46

⁴⁷ Fedders, *supra* note 13, at 796; see also Hunt & Moodie-Mills, *supra* note 1

⁴⁸ Feinstein et al., *supra* note 11, at 15

⁴⁹ *E.g.* Fedders, *supra* note 13, at 796; *Id.* at 18-19; Himmelstein & Brückner, *supra* note 8, at 50

⁵⁰ Irvine, *supra* note 4, at 694

⁵¹ D. Spade, *Transformation: Three Myths Regarding Transgender Identity Have Led to Conflicting Laws and Policies That Adversely Affect Transgender People*. Los Angeles Lawyer at 38 (2008) Available at <http://srtp.org/files/Trans%20Formation%20Article.pdf>

⁵² Hunt & Moodie-Mills, *supra* note 1

⁵³ Irvine, *supra* note 4, at 694

from their families and communities at such significant rates, they are likely to leave in order to avoid these negative responses and then become at risk for juvenile justice involvement.

The available research suggests that LGBTQ youth (homeless or otherwise) are disproportionately targeted by law enforcement on the streets. Indeed, one study found that LGBTQ youth are approximately twice as likely to be stopped by the police compared to non-LGBTQ youth.⁵⁴ LGBTQ may be charged more frequently for non-violent offenses such as loitering and trespassing influenced by these youth having nowhere safe and accepting to spend their time.⁵⁵ Law enforcement officers also disproportionately target LGBTQ youth on the streets because they are assumed to be sex workers or because the officers equate LGBTQ identities with deviancy.⁵⁶ The literature documents that LGBTQ issues are not included in law enforcement training; furthermore, many officers in training exhibit very homophobic attitudes.⁵⁷ This targeting contributes to the disproportionate number of LGBTQ youth involved in the criminal justice system.

Researchers find that LGBTQ youth have significantly higher rates of substance use than heterosexual youth. One meta-analysis found that odds for substance abuse among LGBTQ youth was 190% higher than the odds for substance abuse among non-LGBTQ youth.⁵⁸ This substance usage can lead to criminal activity in order to access needed substances and a higher frequency of drug possession charges.⁵⁹ While this pathway has not been examined in much detail to date, substance abuse among LGBTQ youth can be a pathway for system involvement.

Overall, LGBTQ youth are more likely than heterosexual and gender conforming youth to become involved in the juvenile justice system due to “correlated risk factors such as substance abuse, familial problems, mental health issues, homelessness or poverty, difficulty in school, and other factors”.⁶⁰ LGBTQ youth in the juvenile justice system are twice as likely to have experienced child abuse, homelessness, and child welfare involvement, while also being more likely to be held in detention before trial on charges relating to truancy, probation violations, running away, warrants, and sex work.⁶¹ While there may not be a consensus about the number of LGBTQ youth involved in the juvenile justice system, it is apparent that there is a consensus among researchers that these youth are over represented within the system.

⁵⁴ Himmelstein & Brückner, *supra* note 8, at 54

⁵⁵ Fedders, *supra* note 13, at 796

⁵⁶ K. Majd, J. Marksamer, & C. Reyes, *Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts*, Legal Services for Children, National Juvenile Defender Center, and National Center for Lesbian Rights 61-62 (2009); Ware, *supra* note 25, at 15

⁵⁷ Ray, *supra* note 14, at 70

⁵⁸ M.P. Marshal, M.S. Friedman, R. Stall, K.M. King, J. Miles, M.A. Gold, O.G. Bukstein, and J.Q. Morse, *Sexual Orientation and Adolescent Substance Use: A Meta-Analysis and Methodological Review*, 103 *Addiction* 546, 553. (2008).

⁵⁹ Ray, *supra* note 14, at 72; Sullivan, *supra* note 17, at 41

⁶⁰ Ware, *supra* note 25, at 15

⁶¹ Irvine, *supra* note 4, at 689-695

System Experience Themes

Invisibility

Once in the child welfare and juvenile justice systems, LGBTQ youth are invisible. They are made invisible by assumptions that most, if not all, youth are heterosexual and gender conforming.⁶² This assumption is perpetuated by stereotypes of what LGBTQ individuals look and act like; therefore, unless a youth fills these stereotypes, child welfare professionals may not think to consider their sexual orientation or gender identity.⁶³ Specific to the juvenile justice system, the myth that LGBTQ youth are privileged and white hides the existence of the many minority youth who are LGBTQ within the system.⁶⁴ LGBTQ youth also become invisible within these systems because they are socialized to hide out of fear.⁶⁵ Many LGBTQ youth attempt to keep their sexual orientation and gender identity a secret in order to protect themselves against abuse, rejection, and differential treatment.⁶⁶ Those who choose to disclose are often denied control over who knows about their identity and who does not—leading to increased vulnerability in an already unprotected environment in addition to a loss of control over their own identity.⁶⁷ When LGBTQ youth do not feel safe or comfortable disclosing their sexual orientation or gender identity, their invisibility continues within these two systems.

Significant Mistreatment

It is clear from the available literature that once LGBTQ youth enter the child welfare and juvenile justice systems, they experience significant mistreatment. In the child welfare system, this mistreatment includes harassment and abuse from peers, child welfare staff, and caregivers.⁶⁸ Studies have documented multiple instances of group home staff both mistreating LGBTQ youth and neglecting to address the mistreatment committed against these youth by their peers.⁶⁹ Instead of ensuring their safety, LGBTQ youth are often punished for their own mistreatment with isolation.⁷⁰ Staff may even claim that these youth deserve to be harassed and abused because of their sexual orientation or gender identity.⁷¹ One study examining the experiences of LGBTQ youth in group care facilities in New York City reported that 100% of their participants experienced verbal harassment and 70% experienced physical violence based on their identity from peers,

⁶² *Id.* at 676; Sullivan et al., *supra* note 12, at 11-12

⁶³ Mallon, *supra* note 9, at 7

⁶⁴ Irvine, *supra* note 4, at 676

⁶⁵ Sullivan et al., *supra* note 12, at 11-12

⁶⁶ M. Matarese, *Improving Outcomes for LGBT Youth in Out-Of-Home Care Settings: Implications and Recommendations for Systems of Care, in Improving Emotional and Behavioral Outcomes for LGBT Youth: A Guide for Professionals* (S.K. Fisher, J.M. Poirier, & G.M. Blau, eds. 2012).

⁶⁷ *Id.*

⁶⁸ *Recommended Practices: To Promote the Safety and Well-being of Lesbian, Gay, Bisexual, Transgender, and Questioning (LGBTQ) Youth and Youth at Risk of or Living with HIV in Child Welfare Settings*, Child Welfare League of America 2 (2012). Available at: <http://www.lambdalegal.org/sites/default/files/publications/downloads/recommended-practices-youth.pdf>

⁶⁹ Fedders, *supra* note 13, at 794; G.P. Mallon, *Let's Get This Straight: A Gay- and Lesbian-affirming Approach to Child Welfare* 118-119 (1999).

⁷⁰ Fedders, *supra* note 13, at 794

⁷¹ Mallon, *supra* note 9, at 85; Ware, *supra* note 25, at 22; Wilber et al., *supra* note 10, at 7

facility staff, and service providers.⁷² Another study found that 78% of youth and 88% of the child welfare professionals reported that identifying as LGBTQ in group homes or congregate care was not safe.⁷³ Neglecting to address the cause of this harmful behavior toward LGBTQ youth reinforces the idea that harassing and abusing these youth is acceptable. The research makes it apparent that much of the congregate care within the child welfare system is not safe for LGBTQ youth.

LGBTQ youth also experience mistreatment and rejection from foster care families. One study examined the perceptions of foster care parents toward LGBTQ youth and found themes of confusion about the cause of homosexuality and gender identity, fears that all LGBTQ youth are sexual predators, in addition to religious convictions that disallow acceptance of these youth.⁷⁴ Accurate numbers concerning the number of LGBTQ youth in foster care families who experience mistreatment is unknown. While not specific to LGBTQ youth, a 2008 survey of youth ages 15-18 in Washington State's foster care system found that 14.1% of the youth surveyed felt unsafe at their placement and 32.7% of that 14.1% felt unsafe specifically because of a foster parent.⁷⁵ Because the child welfare system rarely trains or monitors foster care families concerning their treatment of these youth, it is likely that LGBTQ youth are at especially high risk of mistreatment and rejection within foster care placements.⁷⁶ Overall, the literature indicates that LGBTQ youth who are removed from their families of origin experience equal if not worse harassment and abuse in the system that is intended to protect their safety and well-being.⁷⁷

Within the juvenile justice system, mistreatment of LGBTQ youth is rampant. The literature asserts that the juvenile justice system is not a safe place for youth regardless of their sexual orientation or gender identity; however, LGBTQ youth are more likely to be harmed compared to their non-LGBTQ peers.⁷⁸ Indeed, these vulnerable youth are likely to be subjected to harassment, abuse, and discrimination because of their LGBTQ identity. For example, LGBTQ youth are more likely to experience sexual abuse than other youth in the juvenile justice system.⁷⁹ The Bureau of Justice Statistics reported that 12.5% of the non-heterosexual youth in the juvenile justice system disclosed sexual victimization from another youth (compared to 1.3% of heterosexual youth) while 11.2% reported sexual victimization from staff within the system (compared to 10.2% of heterosexual youth).⁸⁰ Another study found that lesbian, bisexual, and questioning girls, in particular, experienced higher rates of sexual harassment compared to heterosexual girls.⁸¹ Transgender youth, especially transgender girls housed in facilities for boys, are at particular risk for sexual harassment and abuse.⁸² A study from 2001 documents how LGBTQ youth also

⁷² Feinstein, et al., *supra* note 11, at 16

⁷³ G.P. Mallon, N. Aledort, & M. Ferrera, *There's No Place Like Home: Safety, Permanency, and Well-being for Lesbian and Gay Adolescents in Out-of-Home Care*, Vol. 81 No. 2 Child Welfare 407, 418-419 (2002).

⁷⁴ J.A. Clements & M. Rosenwald, *Foster Parents' Perspectives on LGB Youth in the Child Welfare System*, Vol. 19 No. 1 Journal of Gay and Lesbian Social Services 57, 62-64. (2008).

⁷⁵ Tarnai & Krebill-Prather, *supra* note 3, at 89

⁷⁶ E.g. Fedders, *supra* note 13, at 795

⁷⁷ *Id.* at 794

⁷⁸ Ware, *supra* note 25, at 20

⁷⁹ *Id.* at 22

⁸⁰ A.J. Beck, P.M. Harrison, & P. Guerino, *Sexual Victimization in Juvenile Facilities Reported by Youth, 2008-09*, Bureau of Justice Statistics Special Report at 11 (2010). Available at <http://www.bjs.gov/content/pub/pdf/svifry09.pdf>

⁸¹ Schaffner, *supra* note 5, at 138

⁸² Majd, et al., *supra* note 56, at 108-109

experience continuous verbal and physical harassment within the system from both peers and staff.⁸³ In another study, 80% of study respondents considered safety in the system to be a serious concern for LGBTQ youth.⁸⁴ It is clear from the available research that LGBTQ youth are subject to substantial rates of mistreatment within the juvenile justice system.

Research illustrates that juvenile justice professionals both verbally, physically, and sexually mistreat LGBTQ youth and also neglect to intervene appropriately when these youth are harmed by their peers. Staff might respond to the sexual harassment of an LGBTQ youth by ignoring the incident or blaming the victim for the harassment—saying they were asking for the mistreatment.⁸⁵ They may also not know how to respond to situations in which LGBTQ youth are targeted or they may choose to ignore such situations because of their personal biases against them.⁸⁶ In addition, these reports of harassment and abuse might lead to LGBTQ youth being placed in more restrictive custody—supposedly for their safety.⁸⁷ When staff treats LGBTQ youth differently, they create a climate that allows maltreatment of these vulnerable youth and condones neglect of their responsibility to protect all system-involved youth.

Discrimination

Within the juvenile justice system, LGBTQ youth are expected to conform to the dominant norm of heterosexuality and gender conformity. One study found that dress code and grooming rules in the system are disproportionately, even selectively, enforced on gender non-conforming youth.⁸⁸ In addition, LGBTQ youth may be forced into conversion therapies and counseling, admitted to psychiatric hospitals to address their LGBTQ identity, or required to conform as part of their treatment plans.⁸⁹ The literature indicates that LGBTQ youth are often over-sexualized and sanctioned for non-conformity by juvenile justice professionals who lack information on LGBTQ issues and/or are influenced by personal prejudices and biases.⁹⁰ LGBTQ youth may be further stigmatized by assumptions that they are sexual predators and may be required to undergo sex offender treatment or sex offender risk assessments—regardless of whether they have been charged with a sex offense.⁹¹ Furthermore, juvenile justice staff may segregate or isolate LGBTQ youth because of this assumption that they will sexually prey on other youth.⁹² This targeting sends a clear message to LGBTQ youth that they must conform physically and behaviorally to the heterosexual and gender norm or they will be sanctioned.⁹³ Such practices create an unsafe and

⁸³ Feinstein, et al., *supra* note 11, at 32-34

⁸⁴ Majd, et al., *supra* note 56, at 102; J. Marksamer, *And By the Way, Do You Know He Thinks He's a Girl? The Failures of Law, Policy, and Legal Representation for Transgender Youth in Juvenile Delinquency Courts*, Vol. 5 No. 1 Sexuality Research & Social Policy 72, 83 (2008). Available at: http://equityproject.org/pdfs/And_by_the_way_article.pdf

⁸⁵ Majd, et al., *supra* note 56, at 102; Ware, *supra* note 25, at 20; Wilber et al., *supra* note 10, at 7

⁸⁶ Marksamer, *supra* note 84

⁸⁷ Wilber, et al., *supra* note 10, at 7

⁸⁸ Ware, *supra* note 25, at 25

⁸⁹ M. Curtin, *Lesbian and Bisexual Girls in the Juvenile Justice System*, Vol. 19 No. 4 Child and Adolescent Social Work Journal 291 (2002); Majd, et al., *supra* note 56, at 64-65; Marksamer, *supra* note 84, at 73

⁹⁰ Marksamer, *supra* note 84, at 80

⁹¹ Hunt & Moodie-Mills, *supra* note 1

⁹² Wilber, et al., *supra* note 10, at 7-8

⁹³ P.A. Hahn, *The Kids are Not Alright: Addressing Discriminatory Treatment of Queer Youth in Juvenile Detention and Correctional Facilities*, 14 Boston University Public Interest Law Journal 117, 131 (2004-2005).

discriminatory environment in which LGBTQ youth are penalized their identity while homophobia and heterosexism is normalized among their peers.

Lack of Support & Services

Family support has a significant impact on the disposition process in the juvenile justice system. While parental involvement and support is often deficient in delinquency cases regardless of sexual orientation and gender identity, it is nearly absent for LGBTQ youth in the system.⁹⁴ This lack of support coupled with other problems a marginalized youth may have with his/her family and community increases the likelihood that the judge will detain the youth before and during court proceedings, regardless of the nature of the offense.⁹⁵ The literature indicates that a youth is likely to be detained if the youth's caregivers are unwilling to take him/her, if the judge deems that the home is unsafe, or if the judge considers the youth to be a sexual predator.⁹⁶ In addition to a higher likelihood of detainment, youth without family support experience a disadvantage as far as disposition outcomes. Indeed, one study found that LGBTQ youth are more likely to be formally processed as opposed to directed into diversion and other alternatives.⁹⁷ Overall, because LGBTQ youth are likely to be experiencing family conflict, they have a greater risk of being detained and a greater likelihood of receiving more punitive outcomes.⁹⁸ Therefore, the lack of family support is a serious problem for LGBTQ youth in the juvenile justice system.

The literature documents how court professionals (e.g.: judges, attorneys, line staff) are not prepared to deal with the unique circumstances that LGBTQ youth experience. Generally speaking, many youth waive their right to counsel, and those who do receive counsel often receive poor counsel due to high caseloads, a lack of awareness of adolescent development, and a lack of resources and services for delinquent youth.⁹⁹ One study specific to transgender youth notes that juvenile justice professionals are unprepared to support transgender youth and are even openly hostile to these youth increasing the likelihood of discrimination and more punitive dispositions.¹⁰⁰ Another study found that non-heterosexual youth (particularly non-heterosexual girls) receive punishments that are "disproportionate to their rates of transgressive behavior".¹⁰¹ Therefore, the literature suggests that court professionals are not likely to be competent in addressing LGBTQ youth.

While incarcerated, LGBTQ youth are often unable to contact their legal counsel. Without contact, it is difficult for them to take legal action against the mistreatment they experience within the system.¹⁰² When judges are made aware of the mistreatment LGBTQ youth experience from peers and staff, they may respond by sentencing them to more restrictive facilities typically reserved for

⁹⁴ Fedders, *supra* note 13, at 798

⁹⁵ Marksamer, *supra* note 84, at 74

⁹⁶ Fedders, *supra* note 13, at 798; Ware, *supra* note 25, at 15-16

⁹⁷ Majd, et al., *supra* note 56, at 3

⁹⁸ *Id.*; Squatriglia *supra* note 26, at 797

⁹⁹ Marksamer, *supra* note 84, at 76

¹⁰⁰ *Id.*

¹⁰¹ Himmelstein & Brückner, *supra* note 8, at 54

¹⁰² Marksamer, *supra* note 84, at 79-80

serious offenders.¹⁰³ One author posits that these sentences are justified by the belief that more restrictive facilities will be safer for the LGBTQ youth or by the idea that the heterosexual and gender conforming youth in the system need to be protected from the supposed contagiousness of homosexuality.¹⁰⁴ Either way, these decisions do not address the cause of the mistreatment but instead perpetuate homophobia and discrimination against LGBTQ youth. Because they are not protected within the system, LGBTQ youth are likely to respond to mistreatment with self-defense measures (such as fighting with their peers) leading to additional charges.¹⁰⁵ By responding to mistreatment claims with disbelief or harsher sentences, the juvenile justice system pressures LGBTQ youth into silence.

Poor Treatment for Transgender Youth

In both systems, transgender youth are particularly vulnerable to mistreatment as their identities are commonly misunderstood and highly stigmatized. For example, group facilities may automatically place transgender youth according to their birth sex without considering the possible safety and personal comfort concerns.¹⁰⁶ Transgender youth in the juvenile justice system do not have access to adequate health care as their medical and mental health needs are frequently misunderstood or disregarded by system professionals and providers.¹⁰⁷ While medical professionals and organizations have established the medical necessity of treatment (such as hormone therapy, counseling, and sex reassignment surgery) for transgender individuals diagnosed with gender identity disorder (GID), transgender youth are still denied access.¹⁰⁸ Research indicates that when transgender youth are unable to access needed treatment or are forced to conform to their biological gender, they are at serious risk for negative outcomes including depression, suicide attempts, and relationship issues.¹⁰⁹ While there is a lack of literature focusing on transgender youth in the child welfare system, it is likely that their experiences with placement are comparable to the juvenile justice system.

¹⁰³ V. Gwinn, *Locked in the Closet: The Impact of Lawrence v. Texas on the Lives of Gay Youth in the Juvenile Justice System*, Vol. 6 No. 2 Whittier Journal of Child & Family Advocacy 437, 444 (2007).

¹⁰⁴ *Id.*

¹⁰⁵ Ware, *supra* note 25, at 20

¹⁰⁶ Majd, et al., *supra* note 56, at 108-109; Recommended Practices, *supra* note 68

¹⁰⁷ Marksamer, *supra* note 84, at 80-81

¹⁰⁸ Majd, et al., *supra* note 56, at 111-112 [see also *Professional Organization Statements Supporting Transgender People in Health Care*, Lambda Legal at 1-4 (2012). Available at http://www.lambdalegal.org/sites/default/files/publications/downloads/fs_professional-org-statements-supporting-trans-health_1.pdf]

¹⁰⁹ Marksamer, *supra* note 84, at 81

Negative Outcomes

Child Welfare System

Within the child welfare system, permanency is recognized as a critical part of promoting the well-being and safety of youth; however, LGBTQ youths' unique circumstances and needs are not commonly addressed in permanency planning.¹¹⁰ For instance, child welfare professionals may place LGBTQ youth in foster homes without considering whether the placement will be affirming or accepting of a youth's identity and may allow their care to be influenced by personal prejudices.¹¹¹ One study examining permanency among LGBTQ youth in New York found that the average number of placements among the youth involved was 6.35.¹¹² Another study found that 78% of LGBTQ youth are either removed from placements or run away because of negative reactions to their sexual orientation or gender identity.¹¹³ LGBTQ adolescents are frequently added to "hard-to-place" lists because of their high placement rates, while little to no attention is given to why these youth do not stay in placements.¹¹⁴ In addition, LGBTQ youth (especially transgender youth) are more likely than heterosexual and gender conforming youth to be placed in congregate care that does not promote permanency.¹¹⁵ This lack of emphasis on developing permanency with LGBTQ youth plus the routine discrimination, abuse, and violence they experience in the child welfare system leads many youth to run away.

LGBTQ youth who run away from their placements are likely to become homeless. Indeed, LGBTQ youth compose a disproportionate amount of the homeless youth population. While the research concerning homeless LGBTQ youth does not provide significant differentiation between youth who became homeless due to family conflict or due to experiences in the child welfare system, it is estimated that anywhere from 4% to 50% of the homeless youth population identifies as LGBTQ.¹¹⁶ However, most estimates range from 20% to 40%.¹¹⁷ One study of gay, bisexual, and transgender males found that 75% of transgender youth, 33% of bisexual youth, and 23% of gay youth experienced homelessness because of their sexual orientation and/or gender identity.¹¹⁸ It is estimated that 60% of homeless LGBTQ youth were involved in the child welfare system before

¹¹⁰ Jacobs & Freundlich, *supra* note 23, at 299-300

¹¹¹ Sullivan, et al., *supra* note 12, at 15; Woronoff, et al., *supra* note 2, at 71-72

¹¹² Mallon, et al., *supra* note 73, at 421

¹¹³ Feinstein, et al., *supra* note 11, at 16

¹¹⁴ Sullivan, et al., *supra* note 12, at 15

¹¹⁵ Irvine, *supra* note 4, at 692; Jacobs & Freundlich, *supra* note 23, at 309

¹¹⁶ R.A. Hooks Wayman, *Homeless Queer Youth: National Perspectives*, Vol. 7 No. 2 Seattle Journal for Social Justice 587, 600 (2009). Available at <http://www.law.seattleu.edu/Documents/sjsj/2009spring/Hooks%20Wayman%208%200.pdf>

¹¹⁷ E.g. J.W. Gilliam, *Toward Providing a Welcoming Home for All: Enacting a New Approach to Address the Longstanding Problems Lesbian, Gay, Bisexual, and Transgender Youth Face in the Foster Care System*, 37 Loyola of Los Angeles Law Review 1037, 1040. (2003-2004). Citing C. Ryan & D. Futterman, *Lesbian and Gay Youth Care and Counseling: The First Comprehensive Guide to Health and Mental Health Care* (1998); L.C. Hein, *Where Did You Sleep Last Night? Homeless Male Adolescents: Gay, Bisexual, Transgender and Heterosexual Compared*, Vol. 10 No 1. Southern Online Journal of Nursing Research 9 (2010). Available at http://www.resourcenter.net/images/snrs/files/sojnr_articles2/Vol10Num01Art09.pdf; I. Urbina, *Gay Youths Find Place to Call Home in Specialty Shelters*, The New York Times (2007). Available at <http://www.nytimes.com/2007/05/17/us/17homeless.html?oref=slogin&r=0>; Hooks Wayman, *supra* note 116

¹¹⁸ Hein, *supra* note 117

becoming homeless.¹¹⁹ LGBTQ youth are more likely to become homeless instead of obtaining permanency in a child welfare setting compared to heterosexual and gender conforming youth.¹²⁰ Essentially, the literature strongly suggests that homelessness is a likely outcome of child welfare system involvement for LGBTQ youth.

Some LGBTQ youth become homeless without being involved in the child welfare system. One study estimates that 40% of LGBTQ youth who leave their home, do so without child welfare involvement.¹²¹ For these youth, homelessness is a result of several overlapping factors that include “severe family conflict, abuse, neglect, abandonment, poverty, and mental health or physical disabilities”.¹²² Regardless of why they leave home, research indicates that family rejection or conflict is a leading cause in why LGBTQ youth become homeless at such disproportionate rates.¹²³

The instability of homelessness is a real risk for LGBTQ youth whether they are involved in the child welfare system or not. One study concludes that homeless LGBTQ youth experience negative outcomes including “more-frequent departures from home, greater vulnerability to physical and sexual victimization, higher rates of addictive substance use, more psychopathology, and riskier sexual behavior in comparison with homeless heterosexual adolescents”.¹²⁴ A disproportionate number of these homeless youth are also youth of color—leading to additional marginalization based on their ethnic/racial backgrounds.¹²⁵ Another study estimates that 64% of LGBTQ homeless youth have attempted suicide—a rate that is twice as high as non-LGBTQ homeless youth.¹²⁶

Instability in adolescence caused by a lack of permanency frequently extends into adulthood.¹²⁷ One study found that youth who leave the child welfare system without permanent connections in the community are at risk for homelessness, poverty, poor health, and other negative outcomes.¹²⁸ LGBTQ youth without permanent connections are at great risk for social isolation, discrimination

¹¹⁹ E. Hunter, *What's Good for Gays is Good for the Gander: Making Homeless Youth Housing Safer for Lesbian, Gay, Bisexual, and Transgender Youth*, Vol. 46 No. 3 Family Court Review 543, 545 (2008).

¹²⁰ Ray, *supra* note 14, at 12

¹²¹ Hunter, *supra* note 119, *Citing* D. Pumo, *Lesbian & Gay Youth Project, Alternative Advocacy Models for Working with At-Risk LGBT Youth: Bringing Legal Services Directly to Youth Clients*, in *Symposium, Client-Centered Advocacy on Behalf of At-Risk LGBT Youth*, 26 N.Y.U. Review of Law & Social Change 221, 231 (2000–2001)

¹²² National Alliance to End Homelessness, *A National Approach to Meeting the Needs of LGBTQ Homeless Youth*, Explainer: Questions and Answers on Homelessness Policy and Research at 1 (2009). Available at http://b3cdn.net/naeh/103eedec16bb8813b3_3tm6bnji1.pdf

¹²³ *E.g.* K. Miller, *4 Bills Congress Can Enact this Year to Prevent LGBT Youth Homelessness*, Center for American Progress (2013). Available at <http://www.americanprogress.org/issues/lgbt/news/2013/06/04/64997/4-bills-congress-can-enact-this-year-to-prevent-lgbt-youth-homelessness/>; Ray, *supra* note 14, at 16, 21, *citing* C.L. Ringwalt, J.M. Greene, & M.J. Robertson, *Familial Backgrounds and Risk Behaviors of Youth with Throwaway Experience*, Vol. 21 No. 3 *Journal of Adolescence* 241 (1998).

¹²⁴ B.N. Cochran, A.J. Stewart, J.A. Ginzler, & A.M. Cauce, *Challenges Faced by Homeless Sexual Minorities: Comparison of Gay, Lesbian, Bisexual, and Transgender Homeless Adolescents with their Heterosexual Counterparts*, Vol. 92 No. 5 *American Journal of Public Health* 773, 775 (2002).

¹²⁵ Hooks Wayman, *supra* note 116, at 602

¹²⁶ Cray, *supra* note 16, at 7

¹²⁷ M.E. Courtney, A. Dworsky, J.S. Lee, & M. Raap, *Midwest Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at Age 23 and 24*, Chapin Hill at the University of Chicago, Partners for our Children, & the University of Washington School of Social Work at 95 (2010). Accessed at http://www.chapinhill.org/sites/default/files/Midwest_Study_Age_23_24.pdf

¹²⁸ *Id.*

and harassment, physical and sexual abuse, and loneliness.¹²⁹ These are merely a few of the research findings that illustrate the negative outcomes that LGBTQ youth experience when they are unable to develop permanent family and community ties.

Juvenile Justice System

Involvement in the juvenile justice system has significant, long lasting impacts on all the youth involved. While there is a lack of research examining the specific outcomes for LGBTQ youth, there is plentiful data documenting the general negative outcomes of involvement. Research examining youth in secure detention found that incarceration does not deter future delinquent activity for most juveniles; in fact it can be the most significant factor for juvenile recidivism.¹³⁰ One report summarizing the literature on the subject describes how detention can negatively impact adolescent mental health, educational achievement, and employment opportunities while increasing the likelihood of suicide attempts.¹³¹ In addition, research indicates that when youth leave the juvenile justice system, they are released into the community with very few resources and services—frequently leading to homelessness, poverty, and general instability.¹³² Considering that LGBTQ youth are likely to be detained while awaiting trial and are likely to not be diverted, it is probable that these negative outcomes are experienced by LGBTQ youth—perhaps to an even greater degree than heterosexual and gender conforming youth.

Best Practices

Researchers and practitioners who address this population have developed and published a host of best practice recommendations. Some focus on one system; others make recommendations for both. In this review, each recommendation is categorized by subheading. These recommendations may play an important role in facilitating system change to increase equitable treatment of LGBTQ youth in the two systems.

Non-Discrimination Policies

In 2006, Shannan Wilber, Caitlin Ryan, and Jody Marksamer developed and published a comprehensive set of recommendations for inclusion in the Child Welfare League of America's (CWLA) best practice guidelines in order to inform agencies and professionals involved in providing care for LGBTQ youth in out-of-home care. Their first recommendation is for child welfare and juvenile justice agencies to develop, institute, and enforce written non-discrimination policies that explicitly state that discrimination based on actual or perceived sexual orientation and/or gender identity is prohibited.¹³³ These policies should include the prohibition of all kinds of

¹²⁹ Jacobs & Freundlich, *supra* note 23, at 305

¹³⁰ D. Bezruki, D. Varana, & C. Hill, *An Evaluation of Secure Juvenile Detention*, Madison WI: Legislative Audit Bureau at 30 (1999). Available at <http://legis.wisconsin.gov/lab/reports/99-13full.pdf>; B.B. Brenda & C.L. Tollett, *A Study of Recidivism of Serious and Persistent Offenders Among Adolescents*, Vol. 27 No. 2 *Journal of Criminal Justice* 111, 119 (1999).

¹³¹ B. Holman & J. Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*. Justice Policy Institute at 8-10 (2006). Available at http://www.justicepolicy.org/images/upload/06-11_REP_DangersOfDetention_II.pdf

¹³² Hooks Wayman, *supra* note 116, at 596

¹³³ Wilber, et al., *supra* note 10, at 10-11

harassment and abuse, apply to all system professionals regardless of rank, and protect both the youth and the professionals involved. These policies should be instituted in a formal manner and should include enforcement and accountability mechanisms such as a formal way to report policy violations and detailed records of complaints and how they are addressed.¹³⁴

Specific to the child welfare system, a Lambda Legal report adds that states should institute non-discrimination policies that explicitly prohibit discrimination based on the actual or perceived sexual orientation, gender identity, and/or HIV status of system-involved youth, foster care parents/family members, and child welfare staff.¹³⁵ These authors recommend that the policies apply to both state and private agencies to ensure that child welfare involved LGBTQ youth are not discriminated against in either setting.¹³⁶ Another report recommends that these non-discrimination policies should include faith-based agencies that contract with the child welfare system.¹³⁷ Part of non-discrimination with respect to LGBTQ youth is to not target them for sanctions, neglect to address harassment and abuse, and blame them for their own victimization.¹³⁸ Specific to the juvenile justice system, researchers with the Center for American Progress recommend that non-discrimination measures should not be left up to the states, instead federal protections including the prohibition of discrimination based on sexual orientation and gender identity in the juvenile justice system should be developed and implemented.¹³⁹ Formal policies prohibiting discrimination based on sexual orientation and gender identity are considered a critical component of facilitating equitable care for LGBTQ youth in both systems.

The literature proposes that involvement in the child welfare and juvenile justice systems for LGBTQ youth is interconnected with high rates of homelessness and hostile school environments. Therefore, it is recommended that non-discrimination policies including sexual orientation and gender identity be implemented by agencies (whether public or private) providing services to homeless youth through grants from the Runaway and Homeless Youth Act.¹⁴⁰ Similarly, researchers recommend implementing and enforcing non-discrimination policies, anti-bullying policies, and other measures to protect all students in school settings in order to reduce the harm that LGBTQ students face in school environments.¹⁴¹ These recommendations seek to address how other systems have significant impact on child welfare and juvenile justice system involvement for LGBTQ youth.

LGBTQ-Inclusive Training

While non-discrimination policies are the most commonly recommended best practice in the literature, they are ineffective without appropriate training for those involved. CWLA suggests in their best practice recommendations that ongoing professional training on how to implement the non-discrimination policies is crucial for all the professionals (administrators, facility staff, etc.) and

¹³⁴ *Id.*

¹³⁵ Sullivan, et al., *supra* note 12, at 22-23

¹³⁶ *Id.*

¹³⁷ *Recommended Practices*, *supra* note 68, at 16

¹³⁸ *Id.* at 12

¹³⁹ Hunt & Moodie-Mills, *supra* note 1

¹⁴⁰ Miller, *supra* note 123

¹⁴¹ *Id.*; Hunt & Moodie-Mills, *supra* note 1; Sullivan, *supra* note 17, at 61

caregivers (foster families, relatives, etc.) that are involved in the child welfare and juvenile justice systems.¹⁴² It is recommended that this training include a discussion of LGBTQ terms and definitions, including direction on how to interact with these youth in a respectful and equitable manner; myths and stereotypes concerning LGBTQ youth; LGBTQ youth development and adaptive strategies, including the coming out process and how it impacts family relationships; how sexual orientation and gender identity may factor into why these youth are involved in the systems; the unique circumstances for transgender youth; approaches to working with LGBTQ youth and their families; and the available resources in the agency or community that may be relevant to these youth and their families.¹⁴³ In addition, CWLA recommends that agencies provide the opportunity for training participants to openly ask questions and to provide concrete practical suggestions.¹⁴⁴

Specific to the child welfare system, Lambda Legal researchers recommend that foster care agencies provide and require foster parents and foster care staff to participate in training that includes the purpose of the non-discrimination policies and how to implement them. Additionally, this training should include how to be sensitive to sexual orientation and gender identity by recognizing LGBTQ identities as a natural form of sexuality; being aware of the existence of LGBTQ youth in the child welfare system; creating a safe environment for these youth to be “out” by not using marginalizing/derogatory language or assumptions but instead providing these youth with support; advocating for their right to not be the brunt of bias and harassment among their peers and other systems (e.g.: school); working with families of origin to overcome bias and misconceptions about their children; and to respect the LGBTQ youths’ confidentiality concerning their identity.¹⁴⁵ In order to make certain that all individuals caring for these youth have been trained, the Lambda Legal report recommends that training be threshold requirement for foster parent licensure and foster care system employment in addition to licensing renewal and professional development requirements.¹⁴⁶ Overall, it is surmised that without adequate training, non-discrimination policies will not have the desired effect; therefore, training is critical for equitable treatment.

LGBTQ-Inclusive Services & Protocols

Confidentiality is a key component of maintaining the respect and dignity of LGBTQ youth in the child welfare and juvenile justice systems. The CWLA recommends that all child welfare agencies implement strict policies on maintaining the confidentiality of a youth’s sexual orientation, gender identity, HIV status, and other sensitive information.¹⁴⁷ Researchers with the National Institute of Corrections recommend that confidential information such as sexual orientation and gender identity should only be disclosed when given permission by the youth or in order to protect their safety.¹⁴⁸ CWLA agrees, adding that the release of such information without consent can negatively impact identity development and the safety of LGBTQ youth in these systems.¹⁴⁹ Confidentiality

¹⁴² Wilber, et al., *supra* note 10, at 10

¹⁴³ *Id.* at 12

¹⁴⁴ *Id.*

¹⁴⁵ Sullivan, et al., *supra* note 12, at 24

¹⁴⁶ *Id.* at 25

¹⁴⁷ Recommended Practices, *supra* note 68, at 16

¹⁴⁸ B.V. Smith, M.C. Loomis, J.M. Yarussi & J. Marksamer, *Policy Review and Development Guide: Lesbian, Gay, Bisexual, Transgender, and Intersex Persons in Custodial Settings*. National Institute of Corrections at 18 (2013).

¹⁴⁹ Wilber, et al., *supra* note 10, at 35-39

policies help create system environments in which the safety and personal privacy of LGBTQ youth is considered and respected.

Specific to court professionals, Barbara Fedders (an instructor at the Harvard Law School Criminal Justice Institute) recommends that since it is impossible to always determine which youth identify as LGBTQ, it is most important to make certain that all services are respectful and available to all youth regardless of their sexual orientation or gender identity.¹⁵⁰ These recommendations can easily be applied to all professionals in the juvenile justice system and the child welfare system.

A critical part of providing equal treatment to LGBTQ youth involved in these systems is to provide access to medical and mental health services that are safe and appropriate for their needs. It has been established in many jurisdictions that states have the duty to provide medically necessary care to all children and youth in their care.¹⁵¹ CWLA recommends that agencies ensure that LGBTQ youth in these systems are treated by health care providers who are competent in LGBTQ issues, health risks, and experiences with violence and stigma.¹⁵² In addition, Lambda Legal advocates that sexual health education should be offered to all youth in the child welfare system. This education should be neutral toward sexual orientation and behavior, provide accurate information concerning STD/HIV transmission and prevention, and provide information and access to latex barriers.¹⁵³ The child welfare system should also provide confidential HIV/STD testing without parental consent.¹⁵⁴ The Lambda Legal report also recommends that foster care staff and parents be trained in the importance of this inclusive sexual health education and how to provide it to the youth in their care.¹⁵⁵

Because of societal stigmatization and the threat of harassment and discrimination, LGBTQ youth may develop detrimental mental health outcomes. These outcomes may include chronic stress, depression, suicidal ideation and much more.¹⁵⁶ In addition, LGBTQ youth are at risk for receiving inappropriate mental health care.¹⁵⁷ For instance, mental health providers may misdiagnose their gender identity disorder, advocate for involuntary institutionalization, require sex-offender treatment regardless of whether the youth has a sex offense record, or attempt to change their sexual orientation or gender identity with interventions such as conversion therapy (which have been condemned as harmful by major health organizations such as the American Academy of Pediatrics and the American Psychological Association).¹⁵⁸ CWLA asserts that the juvenile justice and child welfare systems should not employ or contract with mental health providers who use such interventions. Instead, mental health providers working with youth in these systems should be aware of and willing to discuss LGBTQ issues and challenges in a non-judgmental manner that affirms the intrinsic worth of each youth and is not influenced by the practitioners' personal bias or

¹⁵⁰ Fedders, *supra* note 13, at 780

¹⁵¹ J.L. Turner, *From the Inside Out: Calling on States to Provide Medically Necessary Care to Transgender Youth in Foster Care*, Vol. 47 No. 3 Family Court Review 552, 556-557 (2009).

¹⁵² Wilber, et al., *supra* note 10, at 54

¹⁵³ Sullivan, et al., *supra* note 12, at 27

¹⁵⁴ *Id.*

¹⁵⁵ Sullivan, et al., *supra* note 12, at 24

¹⁵⁶ Wilber, et al., *supra* note 10, at 55

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

preferences.¹⁵⁹ Furthermore, LGBTQ youth should not be required to undergo sex offender treatment or counseling based solely on their LGBTQ identity; instead, this treatment should be reserved for youth who have a documented history of sexually assaultive behavior.¹⁶⁰ Overall, LGBTQ competent care is a critical component in equitable treatment and outcomes within these systems.

Transgender-Specific Services

Because transgender youth have unique medical and mental health needs in the juvenile justice and child welfare system, researchers and practitioners recommend transgender-specific services. For example, CWLA describes how the diagnosis of gender identity disorder (GID) necessitates certain treatments that may include gender identity-specific counseling, hormone therapy, and sex-reassignment surgery.¹⁶¹ Medical and mental health providers who are competent in transgender issues and willing to help these youth get the treatment they need to feel comfortable in their own body is critical for the physical and mental health of transgender youth.¹⁶² Another author advocates for legislation in each state to affirm that transgender health needs are medically necessary and should therefore be provided and paid for by the child welfare system—regardless of whether Medicaid covers such treatment.¹⁶³ Additionally, transgender youth receiving medical or mental health care (such as hormone therapy) before system involvement should be allowed to continue their treatment.¹⁶⁴ Overall, the literature acknowledges the specific medical and mental health needs of transgender youth and recommends that competent services be provided for the transgender youth in the two systems.

LGBTQ-Inclusive Assessments

The CWLA recommends that all youth should be assessed for risks upon system entry. A comprehensive, non-judgmental health assessment upon system entry could detect risks and urgent health needs for LGBTQ youth that may otherwise be ignored.¹⁶⁵ In order to ensure the safety of LGBTQ youth in the juvenile justice system, researchers at the National Institute of Corrections recommend the implementation of intake procedures that identify youth who are at risk for physical and sexual assault within the juvenile justice system.¹⁶⁶ Agencies should then use this information to inform classification, housing, and other needs for LGBTQ youth in order to ensure their safety.¹⁶⁷ Because many LGBTQ youth experience unsafe and uncomfortable placements, assessing their risks and desires before placement is critical.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ Wilber, et al., *supra* note 10, at 56-57

¹⁶² *Id.* at 58

¹⁶³ Turner, *supra* note 151

¹⁶⁴ Smith, et al., *supra* note 148, at 19

¹⁶⁵ Wilber, et al., *supra* note 10, at 54-55

¹⁶⁶ Smith, et al., *supra* note 148, at 15

¹⁶⁷ *Id.*

Involvement in Other Systems

As established previously in this review, LGBTQ youth are likely to encounter disturbances in their education due to the harassment and discrimination they experience. Therefore, CWLA recommends that these systems ensure that youth in their care are safe and treated equally in the school environment by examining onsite and offsite educational programs, taking reports of harassment and discrimination seriously, and holding schools responsible for ensuring the safety and well-being of the youth.¹⁶⁸ Furthermore, system professionals should advocate for transgender youth to be able to freely express their gender identity without being harassed, harmed, or sanctioned in the educational environment.¹⁶⁹ It is also recommended that the Office of Juvenile Justice and Delinquency Prevention (OJJDP) work with schools to develop alternatives to sanctions that interrupt academic learning in order to keep students in school, thus reducing their risk for juvenile justice involvement.¹⁷⁰ Because the school environment has such a significant impact upon the experiences of LGBTQ youth, ensuring their equitable treatment is critical.

LGBTQ-Inclusive Developmental Services

CWLA recommends that the juvenile justice and child welfare systems provide inclusive development services to support LGBTQ youth in developing positive sexual and gender identities.¹⁷¹ One researcher concludes that developing sexual health for these youth is a key part of the rehabilitation goals of the juvenile justice system.¹⁷² This includes positive social and recreational outlets that are inclusive of LGBTQ youth.¹⁷³ In addition to ensuring that LGBTQ youth are not discriminated against, it is critical that the juvenile justice and child welfare systems allow these youth to express their identities in healthy ways. One concrete way in which to accomplish this is to respect a youth's preferred gender expression and personal pronouns.¹⁷⁴ Another way is to acknowledge and ensure that youth have the right to not participate in religious activities that condemn their sexual orientation and gender identity.¹⁷⁵ Overall, it is critical for the well-being of LGBTQ youth in these two systems to receive developmental support.

Focus on Permanency for LGBTQ Youth in the Child Welfare System

As the literature clearly illustrates, permanency is critical for child welfare-involved LGBTQ youth. Indeed, research indicates that LGBTQ youth who leave the system without permanent family ties have a significant risk of becoming homeless, impoverished, incarcerated, and victimized.¹⁷⁶ CWLA recommends that the juvenile justice and child welfare system make placement decisions that are

¹⁶⁸ Wilber, et al., *supra* note 10, at 60

¹⁶⁹ *Id.* at 61

¹⁷⁰ *Recommended Practices*, *supra* note 68, at 5

¹⁷¹ Wilber, et al., *supra* note 10, at 27-29

¹⁷² Squatriglia, *supra* note 26, at 801

¹⁷³ Wilber, et al., *supra* note 10, at 31

¹⁷⁴ Ware, *supra* note 25, at 26

¹⁷⁵ R. Estrada & J. Marksamer, *The Legal Rights of Lesbian, Gay, Bisexual, and Transgender Youth in the Juvenile Justice System*, Vol. 85 No. 2 *Child Welfare* 171, 189 (2006). Available at <http://lgbt-youth-project.pbworks.com/f/estrada--legal%20rights%20of%20lgbt%20youth%20in%20state%20custody.pdf>

¹⁷⁶ North American Council on Adoptable Children, *A Family for Every Child: Strategies to Achieve Permanence for Older Foster Children and Youth*, Annie E. Casey Foundation at 11 (2005). Accessed at http://www.nacac.org/adoptalk/family_every_child.pdf

individualized to each youth.¹⁷⁷ The youth should be directly involved in identifying and selecting placements that meet their needs whenever possible and placement staff should “ensure that potential caregivers understand and practice inclusive, nondiscriminatory care”.¹⁷⁸ It is suggested that family-like placements are the best option to promote permanency for system-involved youth; however, some youth may need or prefer institutional settings. In the case that congregate care is more appropriate or desired; efforts should be made to ensure that such settings are safe and welcoming to LGBTQ youth.¹⁷⁹

The child welfare system should develop more diverse options for placement that are accepting of LGBTQ youth. To accomplish this, agencies should actively recruit caregivers, providers, and other staff who are dedicated to providing quality care to all youth—specifically LGBTQ youth.¹⁸⁰ Caregivers who are committed to providing LGBTQ competent care should be retained and supported within the juvenile justice and child welfare systems. In order to do this, agencies should require initial and ongoing training on how to provide competent care and continuing education opportunities so that caregivers can be aware of new information relevant to LGBTQ youth.¹⁸¹ Supervision and performance evaluations should be used to reinforce this training.¹⁸² Agencies should also support caregivers and agency staff who address any discrimination or mistreatment experienced by LGBTQ youth.¹⁸³ Overall, safety and acceptance from caregivers, whether in congregate care or family settings, is a critical factor in system-involved LGBTQ youths’ ability to attain permanency.

Family Services for System-Involved LGBTQ Youth

The literature has established the stark reality for LGBTQ youth as they come out in families that reject and mistreatment them because of their identity. The child welfare system has frequently responded to these situations by removing the youth from their homes—assuming that these unaccepting families are harming their LGBTQ children.¹⁸⁴ However, the literature indicates that families become more accepting over time (typically in two years of knowing about their youth’s LGBTQ identity) and can even adjust more quickly with supportive family-centered interventions that encourage acceptance and understanding of LGBTQ identities.¹⁸⁵ Therefore, it is recommended that the child welfare system provide these interventions in order to preserve and strengthen family relationships for LGBTQ youth.¹⁸⁶ It is the responsibility of the child welfare system to ensure that all reasonable efforts are made to re-unify children with their families and providing supportive and educational services to help families accept their LGBTQ youth is a critical

¹⁷⁷ Wilber, et al., *supra* note 10, at 42

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *Id.* at 43

¹⁸¹ *Id.* at 44

¹⁸² *Id.* at 42

¹⁸³ *Id.* at 44-45

¹⁸⁴ Mallon, et al., *supra* note 73, at 432

¹⁸⁵ M.A. Friedland, *Too Close to the Edge: LGBT in the Child Welfare System*. 3 *The Georgetown Journal of Gender & Law* 777, 799 (2001-2002); Wilber, et al., *supra* note 10, at 18, *citing* C. Ryan & R. Diaz, *Family Responses as a Source of Risk & Resiliency for LGBT Youth* (2005).

¹⁸⁶ *Recommended Practices*, *supra* note 68, at 10

component of these efforts.¹⁸⁷ In order to accomplish this successfully, system professionals must be knowledgeable and willing to conduct interventions that take into consideration family rejection and conflict based on sexual orientation and/or gender identity.

Similarly, family rejection is a key factor behind LGBTQ youth becoming involved in the juvenile justice system. Therefore, it is recommended that the juvenile justice system implement family crisis protocols and services in order to help mediate between the LGBTQ youth and their families.¹⁸⁸ CWLA recommends that both systems implement a range of easily accessible, culturally competent services for families with LGBTQ youth. These services should include prevention services; intensive in-home services, including counseling and referrals; educational services to help families learn about LGBTQ identities and adolescent development; and reunification services for youth who have been removed from the home.¹⁸⁹ In addition, the literature recommends detention alternatives for LGBTQ youth involved in the child welfare system in order to maintain community and family relationships.¹⁹⁰ Overall, because family conflict is an influential factor for involvement in the child welfare and juvenile justice systems, preserving and strengthening the relationship LGBTQ youth have with their families is critical for preventing system involvement.

Data Collection & Research

A key factor in the absence of appropriate services and the widespread mistreatment in these two systems is the invisibility of LGBTQ youth. To combat this problem, both systems should collect data on the sexual orientations and gender identities of involved youth in such a way that protects their confidentiality.¹⁹¹ This data will be helpful for increasing awareness of LGBTQ youth within these systems, developing new programs, and determining how accessible existing services are to these youth.¹⁹² The visibility of LGBTQ youth within the two systems is paramount for system improvement; however, the environment must first be safe and accepting for these youth.

Conclusion

The literature concerning LGBTQ youth in the child welfare and juvenile justice systems illustrates how LGBTQ youth are disproportionately represented in both systems; there are several pathways through which LGBTQ youth enter the systems—many of which are influenced by family rejection and unacceptance; and once inside negative experiences are likely for LGBTQ youth. Research indicates that the two systems can be connected for LGBTQ youth through homelessness. Additionally, the literature shows that negative outcomes continue for LGBTQ youth after system-involvement. Although this review is extensive, much more research must be done in order to provide direction for effective system change.

¹⁸⁷ Friedland, *supra* note 185

¹⁸⁸ Irvine, *supra* note 4, at 697

¹⁸⁹ Wilber, et al., *supra* note 10, at 19-21

¹⁹⁰ Irvine, *supra* note 4, at 698

¹⁹¹ *Recommended Practices*, *supra* note 68, at 16; Irvine, *supra* note 4, at 698

¹⁹² *Id.*

Appendix B:

Washington State Law & Policy

Review

Introduction

CCYJ conducted comprehensive reviews of the primary sources in order to assess existing laws and policies impacting LGBTQ youth involved in Washington State's child welfare and juvenile justice system. To obtain clarification of policy and/or practice, CCYJ made follow-up contact with key sources for this information.

During the review process, CCYJ catalogued over 60 laws, rules, policies, and practices that could impact system-involved LGBTQ youth. Many of these primary sources explicitly include sexual orientation and gender identity when addressing non-discrimination, cultural competency, service provision, training, and data collection. Some of the sources included in this review do not explicitly address LGBTQ issues. However, in many cases, the term 'culture' is used—especially in policies informing cultural competency and service delivery standards. In most of these cases, 'culture' is not defined or does not appear to include sexual orientation or gender identity. These policies are included in this review because CCYJ believes they should be expanded to explicitly include sexual orientation and gender identity.

To collect information on the local policies and procedures of the county-based juvenile courts, CCYJ created an online survey in August 2014 [See Appendix I]. The questions asked about a series of policy areas deemed critical through the Literature Review for the safety and equitable treatment of juvenile justice-involved LGBTQ youth. The survey asked respondents to identify the areas in which their departments had policies (whether existing or in-progress) and inquired about the origins of each existing or in-progress policy. Respondents were also asked a series of questions relating to their implementation of policies and procedures required by the Prison Rape Elimination Action of 2003 (PREA).¹ The survey was distributed with the help of the Washington Association of Juvenile Court Administrators (WAJCA). CCYJ collected responses from 18 (representing most of the larger jurisdictions in the state) of Washington's 33 juvenile departments.

This review is divided by five sections each focusing on different law and policy areas regarding the treatment of LGBTQ youth in Washington State's child welfare and juvenile justice systems. These sections include non-discrimination, service provision, cultural competence, training, and data collection. After presenting existing laws and policies in each of these areas, this review presents the key findings from the entire review.

¹ For more information on PREA, see the National PREA Resource Center: <http://www.prearesourcecenter.org/>

Law & Policy Areas

Non-Discrimination

In 2006, the legislature updated Revised Code of Washington (RCW) 49.60.030 to prohibit discrimination because of sexual orientation.¹ For the purpose of this statute, sexual orientation is

RCW 49.60.030

Prohibits discrimination because of sexual orientation (sexual orientation is defined to also include gender identity and expression)

WAC 388-148-0425

Child welfare facilities, homes, and child placing agencies must follow state and federal non-discrimination laws

DSHS Policy No. 18.81

Prohibits DSHS employees from discriminating against clients because of sexual orientation

defined to mean heterosexuality, homosexuality, bisexuality and gender expression or identity.² Under this definition, ‘gender expression or identity’ means “having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.”³

Washington Administrative Code (WAC) 388-148-0425 provides that child foster homes, staffed residential homes, group residential facilities and child placing agencies are expected to follow all state and federal laws regarding non-discrimination while providing services to children in their care.⁴

DSHS Administrative Policy No. 18.81: Non-Discrimination in Direct Client Services states that no DSHS employee may discriminate against a client because of sexual orientation.⁵ The policy does not specify whether gender identity is included within the definition of sexual orientation. The policy was last revised in May 2010. A corresponding DSHS Non-

Discrimination Plan was adopted in April 2002.⁶ Because non-discrimination protections were not extended to cover sexual orientation (which includes gender identity according the RCW definition) until 2006, the Plan limits non-discrimination protections based on sexual orientation to only state employment.

¹ R.C.W. § 49.60.030 (2006). Available at: <http://apps.leg.wa.gov/rcw/default.aspx?cite=49.60.030>

² R.C.W. § 49.60.040(26) (2006). Available at: <http://apps.leg.wa.gov/rcw/default.aspx?cite=49.60.040>

³ *Id.*

⁴ W.A.C. § 388-148-0425 (2001). Available at: <http://app.leg.wa.gov/WAC/default.aspx?cite=388-148-0425>

⁵ *Administrative Policy No. 18.81: Nondiscrimination in Direct Client Services*, Washington State Department of Social & Health Services (2006).

⁶ *DSHS Non-Discrimination Plan*, Washington State Department of Social and Health Services (2002).

A corresponding Non-Discrimination Policy Brochure (last revised April 2011) includes a form for filing a non-discrimination complaint.⁷ Sexual orientation is included among the list of items from which to select as the bases for the complaint.

Children's Administration

The Children's Administration (CA) addresses non-discrimination in two manuals: The CA Operations Manual and the CA Case Services Policy Manual. In the Operations Manual, Section 4100: Non-Discrimination Policy provides that CA staff must follow DSHS Administrative Policy when working with clients.⁸ Section 4200: Work Force Diversity provides that CA is an equal opportunity employer that practices Affirmative Action requirements. It further states that it is CA's "goal is to achieve a statewide workforce that reflects the ethnic and cultural composition of the client population in each service delivery area."⁹ Section 10600: Non-Discrimination Responsibilities of Contractors states that contractors must follow the DSHS Non-Discrimination Plan and also the requirements of the federal and state laws on which the Plan is based.¹⁰

In the Case Services Policy Manual, Section 1600: Cultural Diversity and Non-Discrimination provides that CA "shall respect and support the ethnic identity and cultural diversity of the children and families it serves, shall provide culturally competent services, and shall prevent discrimination on the bases of race, color, creed, national origin, sex, religion, marital status, age or presence of any sensory, mental or physical disability in every aspect of service delivery."¹¹

With the exception of CA Operations Manual Section 4100 which requires CA staff to follow DSHS Administrative Policy (which prohibits discrimination against clients because of sexual orientation), the current CA non-discrimination policies do not explicitly include any protections against discrimination based on sexual orientation and gender identity.

Juvenile Justice & Rehabilitation Administration

As a DSHS administration, the Juvenile Justice & Rehabilitation Administration (JJ&RA) is subject to DSHS Administrative Policy No. 18.81 in addition to all applicable RCWs and WACs. Within JJ&RA, CCYJ found only one policy directly relating to non-discrimination based on sexual orientation and gender identity. Policy 50: Ensuring the Health and Safety of LGBTQI Youth in JR (3.1) states that "[s]taff will not discriminate against or harass any youth in their care based on the youth's actual or perceived sexual orientation, sex, gender, gender identity or expression."¹² This policy also requires

⁷ *Non-discrimination Policy Brochure*, Washington State Department of Social & Health Services (2011). Available at: <https://www.dshs.wa.gov/sites/default/files/SESA/publications/documents/22-171.pdf>

⁸ DSHS/Children's Administration Operations Manual § 4100 (n.d.). Available at: <https://www.dshs.wa.gov/ca/4000-non-discrimination-minority-affairs/4100-dshs-non-discrimination-policy>

⁹ DSHS/Children's Administration Operations Manual § 4200 (n.d.). Available at: <https://www.dshs.wa.gov/ca/4000-non-discrimination-minority-affairs/4200-work-force-diversity>

¹⁰ DSHS/Children's Administration Operations Manual § 10600 (n.d.). Available at: <https://www.dshs.wa.gov/ca/10000-contract-management/10600-non-discrimination-responsibilities-contractors>

¹¹ DSHS/Children's Administration Case Services Policy Manual § 1600 (n.d.). Available at: <https://www.dshs.wa.gov/ca/1000-introduction/1600-cultural-diversity-and-non-discrimination>

¹² *Policy 50 (3.1): Ensuring the Health and Safety of LGBTQI Youth in JR*, DSHS/Juvenile Justice & Rehabilitation Administration at 1 (2014).

JR staff to protect LGBTQI youth in JR facilities from discrimination from other JR-involved youth in addition to requiring that JR-involved youth be given information about their rights and JR non-discrimination policies.¹³ JJ&RA implemented this policy in 2014 to meet the requirements of PREA regarding incarcerated LGBTQ youth. JJ&RA should be acknowledged for going beyond PREA requirements and including in Policy 50 that incarcerated youth will be provided information about JR&RA's non-discrimination policies, and if requested, accurate information about sexual orientation and gender identity.¹⁴

County Juvenile Departments

Of the 18 county juvenile departments who responded to CCYJ's survey, 16 departments indicated whether they have non-discrimination policies that would protect LGBTQ youth in their detention facilities and/or probation departments.¹⁵ Of those with detention facilities, 16 departments indicated that they have non-discrimination policies in place or in-progress. Of those with probation, 14 departments indicated that they have non-discrimination policies in place or in-progress. When asked for the origins of these policies, the most frequently selected options were juvenile department policy, RCW, and PREA for both those with detention facilities and also those with probation departments.

DIMENSIONS OF CULTURE

The DSHS Cultural Competence Guidelines consider sexual orientation and gender identity to be dimensions of culture.

Cultural Competence

Cultural competence efforts in both the child welfare and juvenile justice systems are directed by DSHS Administrative Policy No. 7.22: Cultural Competence. This policy requires that each DSHS administration develop an action plan that supports and guides staff in delivering DSHS services in a culturally competent manner by completing seven steps [Figure 1]. The Policy tasks the DSHS Office of Diversity Affairs (ODA) with creating guidelines to enhance and support cultural competence within DSHS. ODA is also responsible to ensure standardization by reviewing each administration's action plan. Furthermore, "all levels of management are expected to implement and support activities that enhance the cultural competence of their staff."¹⁶ The policy became effective on September 22, 2011.

¹³ *Id.* at § 3.2 and 4

¹⁴ *Id.*

¹⁵ Not all county juvenile departments in Washington State operate their own detention facility. Therefore, a few of the survey respondents did not have policies for their detention facility because their county did not have a facility.

¹⁶ *DSHS Administrative Policy No. 7.22: Cultural Competence*, Washington State Department of Social & Health Services, at 3 (2011). Available at: <https://www.dshs.wa.gov/sites/default/files/SESA/odi/documents/07-22.pdf>

Figure 1: DSHS Cultural Competence Action Plan Steps

- Training all employees on the relevance of cultural competence in the work environment and providing tools to aide employees in achieving cultural competence.
- Continually seeking potential improvements and best practices to provide culturally competent and response services and identifying ongoing training needs.
- Building and maintaining partnerships that promote cultural competence by inviting clients and communities to participate in planning, delivering, and evaluating services.
- Ensuring recruiting, hiring, performance management, and retention practices achieve a diverse and culturally competent workforce.
- Conducting outreach efforts to department employees, sovereign partners, and the communities we serve throughout the state.
- Providing bilingual staff resources and support to remain qualified and appropriately certified.
- Including the requirement to provide culturally competent and responsive services in the performance contracts with service providers.¹⁷

The ODA—now called the Office of Diversity and Inclusion (ODI)—developed the Cultural Competence Guidelines (“the Guidelines”). The purpose of the Guidelines is to “increase the effectiveness of DSHS through planned and specific practices that increase the Cultural Competence awareness for the Department’s workforce.”¹⁸ In these guidelines, ‘culture’ includes the various dimensions that define an individual, and sexual orientation and gender identity and expression is included on the list of example dimensions provided.¹⁹ The Guidelines present several mandates for both DSHS administrations focusing on organizational culture, staff service delivery, cultural competence standards and training, and contracted service delivery. Lastly, the Guidelines state that “[b]ehaviors that interfere with creating and supporting a culturally competent and responsive environment may be corrected through appropriate coaching, counseling, or disciplinary action.”²⁰

Children’s Administration

In accordance with DSHS Administrative Policy No. 7.22, CA has developed the Children’s Administration 2014 Cultural Competency Plan (CA Plan). This plan is comprised of five goals outlined below.

¹⁷ *Id.*

¹⁸ *Cultural Competence Guidelines*, Washington State Department of Social & Health Services at 2 (2011). Available at: <https://www.dshs.wa.gov/sites/default/files/SESA/odi/documents/DSHS-CC-Guidelines.pdf>

¹⁹ *Id.* at 1

²⁰ *Id.* at 3

Goal 1: Review Cultural Competency Practices

This goal contains several objectives and action steps focused on various cultural competency areas. Most relevant to LGBTQ youth is the second objective which is to “[i]ncrease advocacy for and training related to the needs of Gay, Lesbian, Bisexual, Transgender, and Questioning children, youth and families.”²¹ The seven action steps for this objective are quoted in Figure 2.

Indicators of progress for this goal include: “[i]mproved outcomes for LGBTQ children and youth in care”; “[f]oster and relative caregivers will receive training in meeting the needs of LGBTQ children and youth”; and “[s]taff will receive training in meeting the needs of GLBTQ children and youth.”²² Goal 1 also states that CA plans to appoint a designated staff person to work with the GLBTQ population starting in the fall of 2014.

Goal 2: Build Community Partnerships

The relevant objective under this goal is to “[a]ctively engage and collaborate with partner agencies and private agency providers to leverage the best expertise and resources to meet the needs of culturally diverse children, youth and families.”²³ Under action steps for this objective, the CA Plan says that “CA is working with other state agencies and community-based service providers to leverage resources and expertise toward training and advocacy regarding gay, lesbian, bisexual, transgender issues.”²⁴

Figure 2: CA Plan Goal 1 Action Steps

- Designated staff person has been appointed to create a GLBTQ workgroup to target adolescent issues.
- GLBTQ training has been added to the Adolescent Training Track Week for social workers whose primary cases load are teenagers.
- In the fall of 2014, Stonewall Youth Agency will be presenting at CA’s Program and Policy All Staff meeting regarding LGBTQ-related issues.
- A GLBTQ section has been added to the Foster Youth website: www.independence.wa.gov.
- CA has provided webinars addressing GLBTQ to the SETuP contracted providers for educating their staff.
- Children’s Foster Youth and Alumni Advisory Board have a GLBTQ youth who has presented at Caregiver Core Trainings for foster and relative caregivers.
- CA’s contracted provider for Recruitment & Retention of Foster Parents, Olive Crest, are [sic] conducting targeted recruitment for GLBTQ foster homes.²⁵

²¹ *Children’s Administration 2014 Cultural Competence Plan*, DSHS/Children’s Administration at 4 (2014). Available at: <https://www.dshs.wa.gov/sites/default/files/SESA/odi/documents/CA-2014.pdf>

²² *Id.* at 5

²³ *Id.* at 7

²⁴ *Id.*

²⁵ *Id.* at 4-5

Goal 3: Accountability Measurement

The relevant objective under this goal is to “continually assess our commitment to, strategies to further, and outcomes of cultural competency efforts throughout the Administration.”²⁶ Under the action steps for this objective, the CA Plan states that CA is to collect baseline data on system-involved LGBTQ youth.²⁷ In addition, the plan states that an indicator of progress for this goal is that “[c]hildren, youth, and families will have the opportunity to self-report demographic data related to sexual orientation or gender identity if given the option.” The plan also states that LGBTQ data collection is currently being explored.

Goal 4: DSHS Support Cultural Competence

Under this goal, the relevant objective is to have “[i]nteragency collaboration to improve culturally competent talent management and service delivery that is individualized to the needs of the service population but which share integrated values, objectives, and resources.”²⁸ The applicable action steps under this goal state that the “Children’s Administration is represented on the DSHS GLBT workgroup” and “[c]oordinate and collaborate with DSHS to provide comprehensive training to Children’s Administration staff.”²⁹

Goal 5: Support Language Access

The relevant objective under this last goal is “[t]o ensure that all service recipients have equal access to print and electronic publications in their native most fluently spoken languages and to facilitate interpretation services for those we serve.”³⁰ The relevant action step under this goal is that the “GLBT Children, Youth and Families Consultant will work with the Limited English Proficiency Program Manager to ensure that materials designed to support the needs of gay, lesbian, bisexual, and transgender service recipients are accessible and available in the recipient(s) native language.”³¹

Juvenile Justice & Rehabilitation Administration

In accordance with DSHS Administrative Policy No. 7.22, the Juvenile Justice & Rehabilitation Cultural Competence Plan, 2014-16 (“JJ&RA Plan”) was developed. This plan has three phases. The 2014-2016 version represents Phase III of the JJ&RA Plan but includes details about Phase I and II for reference. The JJ&RA Plan does not contain any action items regarding LGBTQ cultural competency, but instead focuses on race/ethnicity and disproportionate representation of youth of color in the state’s juvenile justice system. The JJ&RA Plan does state that JJ&RA has implemented policy regarding LGBTQI youth in its care (presumably JJ&RA Policy 50) and that this policy is being reviewed as a potential guide for similar policies throughout Washington’s juvenile justice system.³²

²⁶ *Id.* at 8

²⁷ *Id.*

²⁸ *Id.* at 9

²⁹ *Id.*

³⁰ *Id.* at 10

³¹ *Id.*

³² *Juvenile Justice & Rehabilitation Administration Cultural Competence Plan, 2014-2016*, DSHS/ Juvenile Justice & Rehabilitation Administration at 3 (2014). Available at: <https://www.dshs.wa.gov/sites/default/files/SESA/odi/documents/JJRA-2014.pdf>

In addition to the JJ&RA Plan, the JR Policy Manual also touches on cultural competency in Policy 20: Establishing Standards of Conduct for Staff. It states that “JR staff will value and support cultural competence and embrace respect for the individual differences of youth, families and colleagues. Every employee must demonstrate a commitment to understanding diverse cultures, social groups and individuals (DSHS AP 7.22) and an understanding of the impact of racial and ethnic disparity in the juvenile justice system.”³³

County Juvenile Departments

Juvenile department survey respondents were asked about their cultural competency requirements for service providers regarding LGBTQ youth within their detention facilities and probation departments. Of the 16 respondents with detention facilities, 15 indicated that they currently have policies requiring service providers to provide culturally competent services or have such policies in-progress. Eleven probation departments indicated they have policies regarding cultural competency requirements for service providers in place or in-progress. The most frequently selected origin for these policies was Juvenile Department Policy and PREA.

Service Provision

The provision of services for system-involved youth in Washington is informed by a variety of policy sources within each system.

Children’s Administration

There are several CA policies that instruct professionals on providing culturally competent services, making appropriate placements, and working with adolescents [Figure 3]. Many of these policies instruct CA professionals on how they should address the cultural needs of system-involved children and youth. While these policies do not explicitly reference sexual orientation and gender identity as a part of a child or youth’s culture, these policies should still inform service provision for LGBTQ youth.

Culturally Competent Services

Section 4300: Culturally Relevant Services of the Operations Manual states that CA “seeks to provide culturally relevant services...”³⁴ Likewise, Section 1600: Cultural Diversity and Non-Discrimination in the Case Services Policy Manual provides that CA “shall respect and support the ethnic identity and cultural diversity of the children and families it services [and] shall provide culturally competent services...”³⁵

³³ Policy 20(8): *Establishing Standards of Conduct for Staff*, DSHS/Juvenile Justice & Rehabilitation Administration at 2 (2014).

³⁴ DSHS/Children’s Administration Operations Manual § 4300 (2014). Available at: <https://www.dshs.wa.gov/ca/4000-non-discrimination-minority-affairs/4300-culturally-relevant-services>

³⁵ Policy 50, *supra* note 12

Placement Considerations

In the Practices and Procedures Guide, Section 4262: Routine and Special Needs states that the social worker “considers and documents the child’s routine and special needs, including cultural, educational, medical, religious, psychological, and safety factors.”³⁶ The social worker also “considers whether the placement provider chosen can cooperate with the overall permanency plan in a positive way that contributes to a timely and safe resolution of problems for the family.”³⁷ Furthermore, the social worker “always considers the child’s need for stability in relationships when choosing a placement.”³⁸

Practices and Procedures Guide, Section 5172: Considerations for Placement includes that the “foster family’s ability to meet the child’s cultural, linguistic, and religious needs” will be among the factors considered by the social worker when identifying a suitable foster home.³⁹

Figure 3: CA Policies Addressing Service Provision	
Culturally Competent Services	<ul style="list-style-type: none"> • CA seeks to provide culturally relevant services and prevent discrimination • CA will provide services to improve the cultural responsiveness of placements
Placement Considerations	<ul style="list-style-type: none"> • CA will consider the cultural needs of the children and families when making placement decisions • CA will consider the foster family’s ability to the child’s cultural, linguistic, and religious needs when making placements • CA will consider the child’s needs, the placement provider’s ability to cooperate with the permanency plan, and the child’s need for stable relationships in the placement
Working with Adolescents	<ul style="list-style-type: none"> • CA will provide dependent youth 12 years and older about their rights and will review this information with them annually • CA will determine if there are cultural issues to be considered during transition planning for dependent youth ages 15-18

³⁶ DSHS/Children’s Administration Practices & Procedures Guide § 4262 (2013). Available at: <https://www.dshs.wa.gov/ca/4260-considerations-placement-choice/4262-routine-and-special-needs>

³⁷ *Id.*

³⁸ *Id.*

³⁹ DSHS/Children’s Administration Practices & Procedures § 5172 (C) (2014). Available at: <https://www.dshs.wa.gov/ca/5170-placement-activities/5172-considerations-placements>

Furthermore, Section 4425: Cultural Needs of Child and Family of CA's Case Services Policy Manual also provides that CA "will attempt to select placements that meet the cultural needs of the child and family."⁴⁰ In order to accomplish this, services will be provided, including: training foster parents to be culturally competent, providing interpreters and communication services for the placement, selecting culturally responsive home-based and community services for the child, and providing the family with reasonable foster care maintenance payments.

Working with Adolescents

Section 43102: CA Responsibilities to Youth 12 and Older in the Practices and Procedures Guide identifies information to be provided to dependent youth within 30 days of the youth becoming age 12 and annually thereafter.⁴¹ Included in the list is a booklet titled "Your Rights, Your Life: A Resource for Youth in Foster Care."⁴² The Social Worker also is required to review the document with the youth and answer any questions. The booklet outlines the various rights of child welfare system-involved youth, but does not explain any rights specific to sexual orientation or gender identity.

Section 43104: Transition Planning for Dependent Youth 15-18 Years (In care 30 days or more), under Cultural Considerations in the CA Practices and Procedures Guide states: "[d]etermine if there are cultural considerations that need to be addressed as part of the planning process, for example, obtaining information about protocols, such as, how to approach a family, use of a cultural elder, matriarch or patriarch or the need for a culturally appropriate support person."⁴³

Juvenile Justice & Rehabilitation Administration

The three policies identified as having an impact on service provision for system-involved LGBTQ youth are located in the JR Policy Manual.

Policy 20: Establishing Standards of Conduct for Staff states that "JR staff will use respectful and non-judgmental language when interacting with youth, families and colleagues."⁴⁴ This policy also says that "staff must guard against employing an officious or overbearing attitude or using language that may belittle, ridicule, or intimidate the individual."⁴⁵

Policy 40: Sex Offender Risk Level Classification provides that JRA "will use the sex offender risk level classification screening tool authorized by JRA in collaboration with the End-of-Sentence Review Committee (ESRC) to assist in determining the risk level classification for youth that have

⁴⁰ DSHS/Children's Administration Case Services Policy Manual § 4425 (2013). Available at: <https://www.dshs.wa.gov/ca/4400-out-home-case-planning/4425-cultural-needs-child-and-family>

⁴¹ DSHS/Children's Administration Practices & Procedures Guide § 43102 (2013). Available at: <https://www.dshs.wa.gov/ca/4310-services-adolescents/43102-ca-responsibilities-youth-12-and-older>

⁴² *Your Rights, Your Life: A Resource for Youth in Foster Care*, DSHS/Children's Administration & the Mockingbird Society (2011). Available at: <http://independence.wa.gov/wp-content/uploads/2014/09/YourRightsbooklet.pdf>

⁴³ DSHS/Children's Administration Practices & Procedures Guide § 43104 (2013). Available at: <https://www.dshs.wa.gov/ca/4310-services-adolescents/43104-transition-planning-dependent-youth-15-18-years-care-30-days-or-more>

⁴⁴ *Policy 20(9): Establishing Standards of Conduct for Staff*, DSHS/Juvenile Justice & Rehabilitation Administration at 2 (2014).

⁴⁵ *Id.*

sexually offended.”⁴⁶ The Washington State Sex Offender Risk Level Classification Screening Tool authorized by JRA includes 21 items, based upon the Sex Offender Screening Tool (SOST), a risk prediction instrument developed by the Minnesota Department of Corrections. One of the items on the Washington State Sex Offender Risk Level Classification Screening Tool is called the “Presence of Multiple Paraphilia” which includes “Transvestism.”⁴⁷ Transvestism is not defined in this tool and some JR staff have questioned its inclusion.

Policy 50: Ensuring the Health and Safety of LGBTQI Youth in JR is a comprehensive policy aligning JR treatment of LGBTQI youth with federal Prison Rape Elimination Act (PREA) standards.⁴⁸ This policy is groundbreaking in the LGBTQ issues addressed. Policy highlights are paraphrased in Figure 4.

County Juvenile Departments

County juvenile court administrators were surveyed in order to gather information on what policies and practices currently exist in detention facilities and probation departments throughout the state regarding service provision for system-involved LGBTQ youth. Specific policy areas inquired about on the survey included confidentiality, placement procedures, appearance/grooming, and pronouns/names.

Sixteen departments indicated that they have policies in their detention facilities that would make information about a youth’s sexual orientation and/or gender identity confidential in place or in-progress. Some respondents noted that their confidentiality policies didn’t explicitly include sexual orientation/gender identity, but their policies would still apply. Twelve probation departments indicated that they have confidentiality policies in place or in-progress. The most frequently selected origins for these policies were Juvenile Department Policy, RCW, WAC, and PREA.

Figure 4: JJ&RA Policy 50 Highlights

- JR staff must maintain the confidentiality of LGBTQI youth
- Actual or perceived sexual orientation cannot be used as the sole basis for placing LGBTQI youth in particular housing, bed, or other assignments
- A youth’s LGBTQI identity cannot be used as an indicator of the youth’s likeliness to be sexually abusive
- Isolation must not be used as a way to keep LGBTQI youth safe from discrimination, harassment, or abuse
- JR staff must address the specific needs of transgender and intersex youth with care and concern
- Threats or actual violence and disrespectful/suggestive comments/gestures concerning JR youth that are anti-LGBTQI in nature will not be tolerated.

⁴⁶ *Policy 40(2): Sex Offender Risk Level Classification*, DSHS/Juvenile Justice & Rehabilitation Administration at 2 (2011).

⁴⁷ *Washington State Sex Offender Risk Level Classification Screening Tool*, Washington State Department of Corrections at 2 (1999). Available at: <http://www.doc.wa.gov/community/sexoffenders/docs/WSSORLCR99.pdf>

⁴⁸ *Policy 50*, *supra* note 13

The juvenile court administrators were also asked whether their detention facilities have placement procedure policies that include consideration of sexual orientation and gender identity. Fourteen departments indicated that they do have policies in this area in place or in-progress. The most frequently selected origins for these policies were PREA and Juvenile Department Policy.

Of those with detention facilities, 14 departments indicated that they have appearance/grooming policies that, for example, allow youth to dress/groom according to their gender identity while in their detention facilities currently in place or in-progress. Eight probation departments indicated that they also had policies in this area in place or in-progress. The most frequently selected origins for these policies were PREA and Juvenile Department Policy.

Lastly, 12 juvenile departments indicated that they have in place or in-progress name/pronoun use policies that, for example, allow youth in their detention facilities to use their preferred name/pronouns even if not legally changed. Nine probation departments indicated that they have policies regarding pronoun/name use for involved youth in place or in-progress. The most frequently selected origins for these policies were PREA and Juvenile Department Policy.

Training

Professional training requirements in Washington are informed by several laws and department-specific policies. These laws and policies apply to judicial officers, child welfare system professionals, and juvenile justice system professionals. This section presents existing training requirements regarding LGBTQ cultural competence specifically and also diversity training more broadly. In some cases, existing training requirements are not specific to LGBTQ training, but instead focus on general diversity training that should include LGBTQ issues.

Judicial Training

Under RCW 2.56.030, the Chief Justice is to direct the Administrator for the Courts in developing, in consultation with the Criminal Justice Training Commission (CJTC) and the [minority affairs] commissions, a “curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families.”⁴⁹ The RCW also states that “[e]thnic and cultural diversity training shall be provided annually so as to incorporate cultural sensitivity and awareness into the daily operation of juvenile courts statewide.”⁵⁰

Key Requirements for Mandatory Continuing Judicial Education

- Judicial officers must have at least 45 continuing judicial education credit hours every three years
- The Board for Court Education (BCE) determines what counts for continuing judicial education programs
- Credits are approved for programs focused on skills and knowledge relevant to judicial office
- Specific content areas are not required for continuing education

⁴⁹ R.C.W. § 2.56.030(17) (2009). Available at: <http://apps.leg.wa.gov/rcw/default.aspx?cite=2.56.030>

⁵⁰ *Id.*

Specific training requirements for judicial officers are informed by the General Rule (GR) 26: Mandatory Continuing Judicial Education. This GR requires that judicial officers must have at least 45 continuing judicial education credit hours every three years.⁵¹ The Board of Court Education (BCE) determines accreditation standards for continuing judicial education programs and has the ability to give education credits for self-study or teaching. BCE accredits programs that are determined to “enhance the knowledge and skills that are relevant to the judicial office.”⁵²

The Washington State Judicial Education Mandatory Continuing Judicial Education Standards were adopted to further inform continuing education programs for judicial officers. These standards do not address specific content for education programs with the exception of the requirement that six of the minimum 45 credit hours are related to judicial ethics.⁵³

Children’s Administration

Training specific to the child welfare system is informed by CA policy, and the Alliance for Child Welfare Excellence provides the training. The Alliance for Child Welfare Excellence is a collaborative partnership between the Children’s Administration, the University of Washington, the University of Washington/Tacoma, Eastern Washington University, and Partners for Our Children. The Alliance provides training for social workers/social service specialists, supervisors, and caregivers divided by various levels titled: foundation, in-service, and focused. Competency-based training curriculums have been developed for each of these groups and levels. Alliance staff inform that the training competencies and curriculum are currently under review by a statewide workgroup comprised of CA staff, Alliance staff, caregivers, stakeholders, and community members. Most importantly, this workgroup is currently reviewing competencies and corresponding curriculum that specifically relate to LGBTQ issues. The information described below represents the training competencies and curriculum currently in place that are relevant to LGBTQ youth, but much of this information could be outdated by 2015.

A prejudice-reduction training titled “Building Bridges” is required for all CA employees. As described in the CA 2014 Cultural Competency Plan, this training “shows how participants have been taught to think and act as members of their racial, gender, and other identity groups and provides skills for bridging differences.”⁵⁴ Some of CCYJ’s contacts inform that this training includes discussion on LGBTQ bias and prejudice; however, the primary focus is on race/ethnicity. Alliance staff inform that the training is currently provided to employees by trained CA instructors in the field but the provision of this training will be taken over by the Alliance in the near future.

⁵¹ GR 26: *Mandatory Continuing Judicial Education*, Washington State Courts (2002). Available at:

https://www.courts.wa.gov/court_rules/?fa=court_rules.rulesPDF&ruleId=gagr26&pdf=1

⁵² *Id.* at §C

⁵³ *Id.* at 3

⁵⁴ Children’s Administration 2014 Cultural Competence Plan, *supra* note 21, at 3

Caregiver Training

CA’s Practices and Procedures Guide Section 45121: Foster Parent Training requires licensed caregivers to complete continuing education every three years beginning April 1, 2014.⁵⁵ After January 1, 2015, this continuing education must include cultural competency training for the first two licensing periods (three years each).

In the Alliance for Child Welfare Excellence’s Caregiver Core Training (CCT), the Child Well-Being and Life Skills topic specifically addresses LGBTQ issues. The foundation, in-service, and focused competencies for this topic are quoted in Figure 5. Alliance staff inform that foundational training is provided during CCT on the topic of adolescent issues, sexuality, and LGBTQ youth. In addition, caregivers are provided with a two hour in-service training titled “Youth Safety and Permanency: Enhancing Services for Lesbian, Gay, Bisexual, Transgender, Questioning Youth and Families.” During this training, caregivers receive information and tools on how to provide appropriate and informed care for LGBTQ youth.

Figure 5: Child Well-Being and Life Skills Training Topic⁵⁶	
Foundation Competencies	<ul style="list-style-type: none"> • Aware of healthy sexual development in children and youth including knowledge of puberty • Aware that some children may question their sexual identity and that some may be gay, lesbian, bisexual or transgendered
In-Service Competencies	<ul style="list-style-type: none"> • Knows how to help children and youth with the development of a healthy sexual identity • Knows how to meet the needs of children and youth in care who may be gay, lesbian, bisexual or transgendered
Focused Competencies	<ul style="list-style-type: none"> • Able to identify and access services and supports to best meet the needs children and youth who may be questioning their sexual identity or identifying as gay, lesbian, bisexual or transgendered

⁵⁵ DSHS/Children’s Administration Practices & Procedures § 45121 (2013). Available at: <https://www.dshs.wa.gov/ca/4512-foster-parent-licensed-family-foster-home-training/45121-foster-parent-training>

⁵⁶ *Caregiver Competencies*, Alliance for Child Welfare Excellence at 17 (2014). Available at: http://allianceforchildwelfare.org/sites/default/files/sites/default/files/caregiver/competencies_for_caregivers_2014-7-1.pdf

Social Worker Training

CA Operations Manual Section 8324: New Employee Orientation states that supervisors and local offices are required to ensure that staff receive training on a variety of topics—including diversity.⁵⁷

The training provided by the Alliance for Child Welfare Excellence for new social workers addresses 26 topic areas and identifies foundation, in-service, and focused competencies for each.⁵⁸ No identified competency specifically mentions sexual orientation, gender identity or other LGBTQ related issues. However, as previously noted, new competencies specifically relating to LGBTQ issues are currently under review.

The Adolescent Track in-service training for social workers is reported to include a specific session on LGBTQ issues. However, Alliance staff inform that the Adolescent Track training currently does not exist, but program-specific in-service training is in development and this training will include training on LGBTQ issues. Furthermore, social workers are provided foundational training on adolescent issues, sexuality and LGBTQ youth. The previously described “Youth Safety and Permanency: Enhancing Services for Lesbian, Gay, Bisexual, Transgender, Questioning Youth and Families” is also part of the in-service training for CA social workers.

Supervisor Training

The Alliance’s competencies for CA supervisors do not explicitly mention sexual orientation, gender identity, or other LGBTQ related issues in the foundation, in-service, and focused training levels.⁵⁹ However, as previously noted, new competencies specifically relating to LGBTQ issues are currently under review.

Juvenile Justice System

Training for juvenile justice professionals is informed by RCW and provided by the Washington State Criminal Justice Training Commission (WSCJTC). As provided in RCW, WSCJTC establishes standards for the training of criminal justice personnel in addition to creating and operating training and education programs for criminal justice personnel.⁶⁰ WSCJTC conducts basic training academies for DSHS Juvenile Rehabilitation staff and county-based juvenile probation counselors and juvenile corrections (detention) officers.

⁵⁷ DSHS/Children’s Administration Operations Manual § 8324 (B) (2014). Available at: <https://www.dshs.wa.gov/ca/8320-staff-training/8324-new-employee-orientation>

⁵⁸ *Developmental Competencies for Social Workers and Social Service Specialists*, Alliance for Child Welfare Excellence (2014). Available at: http://allianceforchildwelfare.org/sites/default/files/sites/default/files/career/competencies_sw_revised_sept_2014.pdf

⁵⁹ *Developmental Competencies for Supervisors*, Alliance for Child Welfare Excellence (2013). Available at: http://allianceforchildwelfare.org/sites/default/files/sites/default/files/media/comps_for_sups_3-31-14.pdf

⁶⁰ R.C.W. § 43.101.080 (2011). Available at: <http://apps.leg.wa.gov/rcw/default.aspx?cite=43.101.080>

Juvenile Justice & Rehabilitation Administration

The Juvenile Rehabilitation Administration Academy is an 80 hour curriculum that provides entry-level training for juvenile justice employees who work with youth in county and state custody facilities and also have a counseling caseload.⁶¹ Job classes for this academy include: juvenile detention workers and juvenile corrections officers with caseload responsibilities and juvenile rehabilitation counselors. Instruction blocks do not currently appear to include training with regard to LGBTQ youth or cultural competency.

County Juvenile Departments

WSCJTC provides training for detention and probation staff. The Juvenile Corrections Officers Academy is an 80 hour curriculum that provides entry-level training for juvenile justice employees working with youth in county and state custody facilities (i.e., county juvenile detention centers and JR facilities).⁶² Job classes for this academy include: juvenile detention officers, juvenile correctional officers, and juvenile security officers. This academy is focused on training employees that are responsible primarily for security, safety, and group supervision and do not have a counseling caseload.

The Juvenile Services Academy is an 80 hour curriculum that provides entry-level training for juvenile justice employees working with juvenile offenders in a community setting.⁶³ Job classes for this academy include: juvenile probation officers, juvenile parole officers, and case aids/assistants.

Beginning in December 2014, the Juvenile Corrections Officers Academy and Juvenile Services Academy will be combined into a two week training titled the Juvenile Corrections Personnel Academy.⁶⁴ Contacts within WAJCA inform that during the first week of this academy, a diversity training will be included in the curricula and this training will include LGBTQ issues.

CCYJ's survey of county juvenile departments discovered that a little over half of the 18 departments who participated have policies regarding staff training on LGBTQ issues and departmental policies that relate to the treatment of system-involved LGBTQ youth. Specifically, 15 departments with detention facilities indicated that they have policies in place or in-progress. Of those with probation departments, 13 departments with probation indicated that they have policies in place or in-progress. The most frequently selected origins for these policies were Juvenile Department Policy and PREA.

⁶¹ *Juvenile Rehabilitation Administration Academy*, Washington State Criminal Justice Training Commission (2014). Available at: https://fortress.wa.gov/cjtc/www/index.php?option=com_content&view=article&id=261&Itemid=210

⁶² *Juvenile Corrections Officers Academy*, Washington State Criminal Justice Training Commission (2014). Available at: https://fortress.wa.gov/cjtc/www/index.php?option=com_content&view=article&id=259&Itemid=208

⁶³ *Juvenile Services Academy*, Washington State Criminal Justice Training Commission (2014).

⁶⁴ *Juvenile Corrections Personnel Academy*, Washington State Criminal Justice Training Commission (2014). Available at: https://fortress.wa.gov/cjtc/www/index.php?option=com_content&view=article&id=408&Itemid=262

Data Collection

Collecting data on sexual orientation and gender identity from system-involved children and youth poses significant challenges. While a child’s sexual orientation typically emerges at puberty, there are some who are aware of their orientation before adolescence. Furthermore, a child’s gender identity can emerge at a much younger age. Societal norms complicate inquiries of this nature, especially with younger children. In addition, a child’s or youth’s comfort with disclosing their sexual orientation and/or gender identity must be considered so that the inquiry doesn’t negatively impact the individual. Even if youth are willing to disclose their sexual orientation and/or gender identity, there are limitations on where to record this information. Current methods are summarized below.

Children’s Administration

DSHS’ FamLink includes an electronic Child Information Placement and Referral form (a hard copy of this form, DSHS 15-300, also exists for use when FamLink cannot be accessed).⁶⁵ The form includes fields for recording sexual orientation and for gender identity. However, the form indicates that this information should only be shown when a youth is 12 or older.

Juvenile Justice & Rehabilitation Administration

JJ&RA’s Policy 14: Providing Health Care for JR Youth states that “[y]outh may identify as lesbian, gay, bisexual, transgender, questioning or intersex (LGBTQI) during the health screening process.”⁶⁶ If disclosed, the information will be documented in the Client Health Screen (medical database with restricted access). JR Policy 50: Ensuring the Health and Safety of LGBTQI Youth provides more detail on this issue by stating “[i]n order to determine if the youth has particular concerns about being victimized or specific needs related to being LGBTQI, health care staff will attempt to ascertain a youth’s sexual orientation or gender identity in a respectful manner during the health screening process.”⁶⁷ Policy 50 continues by stating that “[i]f a youth chooses to disclose their sexual orientation or gender identity, staff will talk with the youth about it in an open and non-judgmental manner and will take appropriate steps to address any identified concerns or needs.”⁶⁸

County Juvenile Departments

Washington’s courts and juvenile departments utilize the Judicial Information System (JIS) for maintaining court processing and case management data. The JIS is comprised of multiple information systems, serving the various court levels in Washington State: Supreme/Appellate; Superior; District; and Municipal. The Juvenile and Corrections Management Information System (JCS) supports juvenile department case management. Demographic data collected by JIS does not include gender identity or sexual orientation. Administrative Office of the Courts (AOC) staff inform that the only place in the JIS where sexual orientation is even indirectly identified is an “alert” field that is found in the JCS detention module. In this field, “same sex attraction” is an option for selection.

⁶⁵ *Child Information Placement and Referral Form*, DSHS/Children’s Administration at 2 (2014).

⁶⁶ *Policy 14(6): Providing Health Care for JR Youth*, DSHS/Juvenile Justice & Rehabilitation Administration at 2 (2014).

⁶⁷ *Policy 50*, *supra* note 12, at §6

⁶⁸ *Id.*

According to CCYJ's survey, several county juvenile departments have policies in place or in-progress to collect information on sexual orientation and gender identity. Specifically, 13 departments with detention facilities indicated that they currently have policies in this area or have policies in-progress. For those with probation departments, eight indicated that they have policies in place or in-progress. PREA, Juvenile Department Policy, and RCW were the most frequently selected origins for these policies.

Conclusion

As seen in this review, there is a significant number of laws and policies that impact non-discrimination protections, cultural competency, service provision, training, and data collection practices within Washington's child welfare and juvenile justice systems. Within each of these policies areas, great strides have been made to protect and meet the needs of system-involved LGBTQ youth. Sexual orientation and gender identity are protected from discrimination under Washington State Law and DSHS prohibits employees from discriminating against DSHS clients based on sexual orientation. Sexual orientation and gender identity are considered dimensions of a person's cultural identity under the DSHS Cultural Competency Guidelines. The CA 2014 Cultural Competency Plan includes several important goals, steps, and targets regarding the provision of culturally competent services for dependent LGBTQ children and youth. JJ&RA has implemented the groundbreaking Policy 50: Ensuring the Health and Safety of LGBTQI Youth in JR which protects incarcerated youth from discrimination, harassment, and violence based on sexual orientation and gender identity or expression in addition to instructing JR staff on how to appropriately work with LGBTQI youth. Many of the county juvenile departments are coming close to compliance with PREA by developing policies that would protect LGBTQ youth in their detention facilities. Training on LGBTQ issues and providing culturally competent services have been added or are being added to curriculums for professionals in both systems. DSHS, CA, JJ&RA, and the county juvenile departments should be congratulated for all of the positive policy changes they have accomplished. However, there is still extensive policy work that needs to be done in order to ensure that LGBTQ youth are given the protection they deserve and the services they need. The Policy Recommendations presented in this Report describe essential policy changes that can be made to ensure the safety and well-being of LGBTQ youth within Washington's child welfare and juvenile justice systems

Appendix C:

National Law & Policy Review

LGBTQ Youth in State Care: Existing Laws & Policies
Darcy Kues || April 2014

Introduction

Lesbian, gay, bisexual, transgender, and queer (LGBTQ) youth disproportionately interact with the juvenile justice and child welfare institutions, based in part on the high rates of family and community rejection that young LGBTQ people face.¹ LGBTQ youth rejected from their home have a higher likelihood of becoming homeless, increasing the chances that they will be arrested (often for status offenses) or become involved in the child welfare system.² For instance, a memorandum by the Administration for Children and Families stated that one study found “65 percent of LGBTQ youth had lived in a foster or group home and 39 percent were forced to leave their home because of their sexual orientation or gender identity.”³ Additionally, biased school discipline of LGBTQ youth also increases the interactions that LGBTQ youth have with the juvenile justice system.⁴ Once in these systems, LGBTQ youth often face discrimination, harassment, and abuse from staff, foster families, and other youth because of their sexual orientation and gender identity.⁵ Because of this stark and unacceptable reality, state and local governments (as well as federal and state courts) have begun to articulate the specific needs LGBTQ youth may have and corresponding policies meant to both protect LGBTQ youth from harm and meet their medical, psychological, and social needs.

This article briefly outlines the existing federal, state, and local policies regarding the treatment of LGBTQ youth under the care of the state – that is, either under the supervision of juvenile justice

¹ Majd, Marksamer, and Reyes, *Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts* 3, The Equity Project (Fall 2009).

² Sarah Mountz, *Revolving Doors: LGBTQ Youth at the Interface of the Child Welfare and Juvenile Justice Systems*, LGBTQ Policy Journal at the Harvard Kennedy School (2011), <http://isites.harvard.edu/icb/icb.do?keyword=k78405&pageid=icb.page414421>. (“Research indicates that 52 percent of homeless youth have had some involvement with the foster care system at some point in their lives”).

³ Bryan Samuels, *Information Memorandum: Lesbian, Gay, Bisexual, Transgender, and Questioning Youth in Foster Care*, U.S. Department of Health and Human Services Administration on Children, Youth and Families (Apr. 6, 2011), http://www.hunter.cuny.edu/socwork/nrcfcpp/info_services/download/IM%20on%20LGBTQ%20Youth%20in%20Foster%20Care.pdf.

⁴ J. Hunt and A.C. Moodie-Mills, *The Unfair Criminalization of Gay and Transgender Youth* 3, Center for American Progress (June 29, 2012), http://www.americanprogress.org/wp-content/uploads/issues/2012/06/pdf/juvenile_justice.pdf.

⁵ See Mountz, *supra* note 2.

institutions or the child welfare system. Furthermore, this article summarizes common themes in current case law regarding the treatment of LGBTQ youth in the juvenile justice and child welfare systems. Finally, the article concludes by identifying basic professional standards for legal actors (i.e. attorneys and judges). This article aims to summarize the current basic legal landscape for LGBTQ youth under the care of the state in hopes that advocates can develop and implement comprehensive policies that protect and uphold the dignity and respect of all youth in juvenile justice and child welfare systems.

LGBTQ Youth & the Juvenile Justice System

LGBTQ youth involved in the juvenile justice system are particularly vulnerable to discrimination and abuse;⁶ in response, federal and state governments have enacted specific protections for LGBTQ youth and adults confined to criminal justice or juvenile justice facilities.

Policing Policies & the Treatment of LGBTQ Youth

Protections from discriminatory police treatment are an important facet of policies protecting LGBTQ youth under the care of the state, especially considering the documented targeted and selective enforcement against LGBTQ youth.⁷ In addition to internal non-discrimination policies for police departments, many cities and municipalities have included actions by police officers in their non-discrimination policies. There are over 180 cities throughout the United States that have enacted non-discrimination policies that protect people from discrimination on the basis of their actual or perceived sexual orientation and/or gender identity.⁸ The coverage of these policies varies from city to city, with some cities explicitly incorporating protection against discriminatory treatment by city police. For example, the Pittsburgh City Non-Discrimination Policy states that “[i]t shall be an unlawful civil rights practice for any City employee, including City of Pittsburgh Police, while acting as an employee, to discriminate in the treatment of any person. In the case of the police, such unlawful discriminatory treatment includes, but is not limited to interviews, confrontations, investigations, interrogations, patdowns, searches, seizures, or arrests conducted because of the person's race, color, religion, ancestry, national origin, place of birth, sex, *sexual orientation*, age, handicap or disability or use of support animals” (emphasis added).⁹ City non-discrimination policies that explicitly proscribe discriminatory police conduct provide one avenue for curbing the disproportionate targeting and arrests faced by LGBTQ youth.

City and county sheriff's departments are also starting to develop and implement their own guidelines for treatment of LGBTQ people. San Francisco County's Administrative Code and Police

⁶ See Majd, Marksamer, and Reyes, *supra* note 1 at 102.

⁷ *Id.* at 3. “. . . evidence exists that police regularly target LGBT youth for arrest and selectively enforce laws against them. In particular, LGBT youth are disproportionately charged with, and adjudicated for, sex offenses in cases that the system typically overlooks when heterosexual youth are involved.”

⁸ City of San Antonio Non-Discrimination Ordinance Facts, available at <https://www.sanantonio.gov/Portals/0/Files/clerk/NDOFactSheet.pdf>. Some of these cities include: Atlanta, Baltimore, Boise, Charleston, Cincinnati, Cleveland, Detroit, Helena, Indianapolis, Lawrence (Kansas), Louisville, Memphis, Miami, Milwaukee, New Orleans, Omaha, Philadelphia, Phoenix, Pittsburgh, Salt Lake City, San Antonio, and St. Louis.

⁹ *Unlawful Civil Rights Practices*, Section 659.07, Pittsburgh City Non-Discrimination Policy (eff. Nov. 1, 1996).

Code prohibit discrimination based on sexual orientation or gender identity by the San Francisco Police Department and Sheriff's Office.¹⁰ Recently, the Sheriff's Office for Harris County (which covers most of Houston, Texas) released its new policy for institutional treatment of LGBTQI individuals.¹¹ Among other procedures, this policy outlines appropriate procedures for police searches of individuals and proscribes harassment or maltreatment of LGBTQI people by any staff members of the Harris County Sheriff's Office.¹² As more cities and police departments strive to meet the standards mandated by the federal Prison Rape Elimination Act (see below), policies protecting LGBTQ individuals from their initial interactions with police will continue to increase in number.

The Federal Prison Rape Elimination Act National Standards

In 2003, Congress enacted the Prison Rape Elimination Act (PREA) in response to the pervasive sexual abuse faced by incarcerated people in America.¹³ Nearly a decade later, the Department of Justice issued regulations for the full implementation and enforcement of the Prison Rape Elimination Act, which included substantive protections for LGBTQ incarcerated people.¹⁴ The Prison Rape Elimination Act National Standards ("The Standards") apply to prisons and jails, short-term police lock-ups, juvenile detention centers, and community confinement facilities (including rehabilitation centers).¹⁵ The Standards have a number of main components relating to the treatment and protection of LGBTQ prisoners; among other issues, the PREA Standards regulate (1) screening and classification of incarcerated and confined people,¹⁶ (2) housing for transgender

¹⁰ San Francisco, Cal., Admin. Code chs. 12A, 12B, 12C, and Police Code art. 33.

¹¹ Harris County Sheriff's Office Department Manual Policy Number 413, *Lesbian, Gay, Bisexual, Transgender and Intersex*, November 13, 2013, available at

[https://docs.google.com/file/d/1PTfrZkjB4js5U2lgSpaFtXc5ixUPN09DlBw\]kgRmbS53qtmDkzyh-hQFFLcA/edit](https://docs.google.com/file/d/1PTfrZkjB4js5U2lgSpaFtXc5ixUPN09DlBw]kgRmbS53qtmDkzyh-hQFFLcA/edit).

¹² *Id.* at 3-4.

¹³ Prison Rape Elimination Act, The National PREA Resource Center, available at

<http://www.prearesourcecenter.org/about/prison-rape-elimination-act-prea> (accessed March 17, 2014).

¹⁴ National Center for Transgender Equality, *Fact Sheet: LGBT People and the Prison Rape Elimination Act* (July 2012), available at http://transequality.org/Resources/PREA_July2012.pdf.

¹⁵ Prison Rape Elimination Act National Standards, 28 C.F.R. § 115 et seq.

¹⁶ *Id.* at § 115.341. Facilities must screen all people at admission and upon transfer to assess risk of experiencing or perpetrating abuse, including identifying those who may be at risk because of their transgender status, gender nonconformity, sexual orientation, or intersex condition. Individuals may not be disciplined for any refusal or nondisclosure during screening regarding gender identity, sexual orientation, intersex condition, disability status, or prior sexual victimization.

people,¹⁷ (3) the use of protective custody,¹⁸ (4) segregated units for LGBTQ prisoners,¹⁹ (5) parameters on lawful searches,²⁰ (6) staff training standards,²¹ (7) reporting procedures for prisoners who have experienced sexual abuse or assault, and (8) support services for survivors of sexual abuse or assault.²²

Individuals must have multiple ways to internally make private reports of sexual abuse and harassment, retaliation, and any staff negligence that may have contributed to abusive incidents. Individuals will also have at least one way to report abuse or harassment outside of the correctional department/agency, and may choose to do so anonymously. No discipline may be taken against an inmate for filing a grievance unless the agency can demonstrate that it was filed in bad faith.

In order to comply with the policies set forth in the PREA Standards, institutions and agencies must also designate staff to oversee compliance, and must ensure those staff members have sufficient time and resources to adequately perform their job functions.²³ Furthermore, all facilities must be audited once every three years by an independent auditor; the Department of Justice may also recommend auditing a particular facility before the three-year mark if an expedited audit is necessary.²⁴ From these audits, the Governor of each state must annually certify that state-run facilities are in compliance with the Standards, or are making good faith efforts to comply with the

¹⁷ *Id.* at § 115.342(c)-(e). Housing decisions must be made on case-by-case basis, and cannot be made solely on basis of a person's birth-assigned gender. Housing 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 of medical treatment.

All trans people and people with intersex conditions must be given opportunity to shower separately from other inmates if they wish, regardless of where they are housed.

¹⁸ *Id.* at § 115.342(b). This restricts the use of "protective custody" by requiring that all available alternatives be assessed before placing an inmate involuntarily in segregated housing (especially when facilities place survivors of abuse or those most vulnerable to abuse in isolation). In cases where prisoners must be placed in segregation or isolation, access to programs, education, and other opportunities must continue to the greatest extent possible.

Segregation should not last longer than 30 days (if longer, agencies must document reasons for extended segregation and restrictions on programs/opportunities).

¹⁹ *Id.* at § 115.342(c)-(d). LGBT people may be housed in separated, dedicated housing units only if such placement is voluntary or is based on a case-by-case assessment that includes other factors.

²⁰ *Id.* at 115.315. All cross-gender strip searches and cavity searches are prohibited except in emergencies, or those conducted by a medical professional. Any cross-gender searches must be documented. All searches must be conducted in the least intrusive manner possible, and staff must be trained on how to be professional and respectful in conducting searches of trans people. No search or physical exam may be conducted when the only purpose is to determine the inmate's genital status.

²¹ *Id.* at § 115.331(a)(9). All facilities must train staff how to interact professionally with LGBT and gender nonconforming people and those with intersex conditions.

²² *Id.* at §§ 115.321-115.386. When a person has experienced sexual abuse, facilities must ensure that the individual is separated from alleged abusers and protected from retaliation. Facilities must provide immediate and ongoing medical and mental health care as needed; gather and preserve evidence and conduct an investigation; report to appropriate law enforcement authorities; report the results of investigations to abuse survivors; and take appropriate corrective action. Facilities must also permit individuals to access support from outside organizations in as confidential a manner as possible.

²³ 28 C.F.R. § 115.313 (2012).

²⁴ *Id.* at §§ 115.393, 115.401.

Standards.²⁵ If the state is not in compliance and has not made sufficient good faith efforts to become compliant, the state will suffer a financial penalty.²⁶ Certain states have now enacted and implemented their own state versions of the Prison Rape Elimination Act, which provide additional protections to prisoners at risk for sexual abuse.²⁷

State Regulations Regarding Treatment of LGBTQ Youth in the Juvenile Justice System

A number of different states have regulations regarding the treatment of LGBTQ youth involved in the juvenile justice system. For example, California provides that “facility staff shall not separate youth from the general population or assign youth to a single occupancy room based solely on the youth's actual or perceived ... *gender, sexual orientation, gender identity, gender expression, mental or physical disability, or HIV status.*”²⁸ Louisiana has a general nondiscrimination policy that includes sexual orientation and gender identity for youth in juvenile detention facilities, as well as specific protocols regarding the placement of youth in isolation or protective confinement.²⁹ New York prohibits staff and volunteers at juvenile detention facilities from discriminating against youth on the basis of sexual orientation or gender identity/expression.³⁰ New York also defined “gender identity or expression” as “gender identity or expression shall mean having or being perceived as having a gender identity, self-image, appearance, behavior or expression whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the sex assigned to that person at birth. Gender identity refers to a person's internal sense of self as male, female, no gender, or another gender, and gender expression refers to the manner in which a person expresses his or her gender through clothing, appearance, behavior, speech, or other like.”³¹ Therefore, although the policy is a general nondiscrimination policy, it specifically defines gender identity or expression to include identities outside of the traditional gender binary, thereby providing greater explicit protections for gender non-conforming youth regardless of their sexual orientation or gender identity.

²⁵ *Id.* at § 115.401.

²⁶ *Id.* at § 115.404(e).

²⁷ *See, e.g.*, Wash. Rev. Code §§ 9A.44.160, 9A.44.170, (1999); *see also, e.g.*, Wash. Rev. Code § 72.09.225 (2005).

²⁸ Cal. Code Regs. tit. 15, § 1352(e) (2013).

²⁹ La. Admin. Code tit. 67, pt. V, § 7515(A)(2)-(E) (2012).

³⁰ N.Y. Comp. Codes R. & Regs. tit. 9, § 180.5(a)(6) (2014).

³¹ *Id.*

Departmental Policies Regarding Treatment of LGBTQ Youth in the Juvenile Justice System

New York State's Office of Children and Family Services (OCFS) departmental policy serves as an example of an extensive statewide policy for treatment of LGBTQ youth under the care of the state.³² The OCFS policy provides a basic nondiscrimination policy for sexual orientation, gender identity, and gender expression,³³ and then outlines the specific standards by which services should be provided. The policy then outlines (1) staff training guidelines, (2) the dissemination of resources and policies to youth under OCFS care, (3) reporting responsibilities and procedures for staff, (4) incident reporting procedures for youth, (5) enforcement, and (6) childcare practices for LGBTQ youth.³⁴ Finally, the OCFS policy provides LGBTQ Youth Guidelines that provide detailed guidelines for treatment of LGBTQ youth, including but not limited to mandates on training, disclosure, youth placement, the creation of an LGBTQ Decision-Making Committee, medical and mental health assessments, counseling, the dissemination of LGBTQ literature and resources, use of appropriate language and preferred names, clothing, bedrooms, hair and personal grooming, and transition/discharge planning for youth leaving OCFS care and/or facilities.³⁵

Various cities and counties have also adopted policies relating to the treatment of LGBTQ youth interacting with the juvenile justice system once confined. Some cities and counties have general non-discrimination policies that apply to all respective government employees or contract employees, including police officers and staff at local police departments.³⁶ The City of New York, on the other hand, has a detailed policy regarding the treatment of LGBTQ youth and families involved in the child welfare, detention, and juvenile justice system.³⁷ The policy applies to all staff employed or contracted with the Administration of Children's Services.³⁸ The policy provides a general non-discrimination policy inclusive of gender identity, gender expression, and sexual orientation, as well as specific guidelines surrounding staff conduct, guidelines for staff interaction with youth, issues of disclosure and confidentiality, used of preferred name and pronoun, provision of LGBTQ-affirming literature and written materials, LGBTQ advocacy, service referrals, medical and mental

³² Office of Children and Family Services. 2008. "Lesbian, Gay, Bisexual, Transgender, and Questioning Youth," No. PPM 3442.00 (iss. March 17, 2008), available at http://equityproject.org/pdfs/LGBTQ_Youth_Policy_PPM_3442_00.pdf

³³ *Id.* at (I). "All OCFS staff, volunteers, and contract providers are prohibited from engaging in any form of discrimination against or harassment of youth on the basis of actual or perceived sexual orientation, gender identity, and gender expression."

³⁴ *Id.* at (III)(A)-(F).

³⁵ *Id.* at Appendix, *NYS OCFS Guidelines for Good Childcare Practices with Lesbian, Gay, Bisexual, Transgender and Questioning Youth* (LGBTQ Youth Guidelines).

³⁶ See, e.g., San Francisco, Cal., Admin. Code and Police Code, *supra* note 10; Pittsburgh City Non-Discrimination Policy, *supra* note 9; Harris County Sheriff's Office Department Manual Policy Number 413, *supra* note 11.

³⁷ City of New York Administration for Children's Services, Policy # 2012/01, Promoting a Safe and Respectful Environment for Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youth and Their Families Involved in the Child Welfare, Detention and Juvenile Justice System (iss. 11/21/12).

³⁸ *Id.* This includes provider agency staff involved "in any way with custodial and/or community-based services provided directly by Children's Services staff or under contract with Children's Service, including child protective and preventive services, alternative-to-detention/placement programs, foster care, congregate care, juvenile justice placements, and detention facilities."

health assessments and services, and staff training.³⁹ The ACS policy also includes requirements and guidelines for specific divisions and/or program areas, including general responsibilities for LGBTQ youth in foster care and juvenile justice placements, the use of hormone therapy, bedrooms placements based on gender identity, bathroom use, hair and personal grooming, clothing, discharge and permanency planning for LGBTQ youth leaving state care, and information on the implementation and network development of provider agency LGBTQ Point Persons.⁴⁰

Common Themes in Case Law for LGBTQ Youth in the Juvenile Justice System

There are few cases to date that directly deal with the treatment of LGBTQ youth in the juvenile justice system; however, many of few cases that exist have resulted in settlement agreements that mandate the implementation of policies aimed at increasing the protection and care of LGBTQ youth in juvenile justice institutions. One case that explicitly addresses the treatment of LGBTQ youth in the juvenile justice system is *R.G. v. Koller*, a 2005 case from a federal district court in Hawaii. The case was brought by three young people confined at the Hawaii Youth Correctional Facility who identified or were perceived as lesbian, gay, bisexual, or transgender.⁴¹ The youth sued the facility after enduring verbal, physical, and sexual harassment; at one point, the administrators isolated the youths to single cells, but the abuse and harassment continued.⁴² The court concluded that the defendants acted with deliberate indifference when they failed to “adopt *any* professionally acceptable methods of maintaining order and safety” even when they knew that the defendants were aware of the abusive environment at HYCF for LGBTQ youth.⁴³ Specifically, the court identified that HYCF likely violated the Due Process Clause of the Fourteenth Amendment when it failed to maintain: “(1) policies and training necessary to protect LGBT youth, (2) adequate staffing and supervision, (3) a functioning grievance system, and (4) a classification system to protect vulnerable youth.”⁴⁴ The court also stated that HYCF violated the youths’ rights when it used isolation as a blanket means of “protecting” LGBT youth in its care.⁴⁵ The court granted the Plaintiffs’ motion for a preliminary injunction as to the plaintiffs’ due process claim, but delayed the injunction until an agreement between HYCF and the Department of Justice (DOJ).⁴⁶ The agreement between HYCF and the DOJ resulted in HYCF implementing policies regarding substantive remedial measures regarding protection from harm, access to medical and mental health care, and monitoring and enforcement (among other items).⁴⁷

Another case resulted in statewide policy change for transgender youth in juvenile justice institutions. In 2006, a young transgender woman brought suit against the New York State Office of

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *R.G. v. Koller*, 415 F.Supp.2d 1129, 1133 (D.Hawaii 2005).

⁴² *Id.* at 1146.

⁴³ *Id.* at 1157.

⁴⁴ *Id.*

⁴⁵ *Id.* at 1154-55.

⁴⁶ *Id.* at 1162.

⁴⁷ *Memorandum of Agreement Between the United States and the State of Hawai’i*, Department of Justice (Feb. 7, 2006), available at http://www.justice.gov/crt/about/spl/documents/hawaii_moa_2-7-06.pdf

Children and Family Services after she was deprived of her prescription hormone medication and punished for presenting as female while in New York juvenile justice institutions.⁴⁸ After her treatment was withheld, Alyssa Rodriguez began to experience “severe health consequences and emotional distress due to withdrawal symptoms....”⁴⁹ The case ended in a settlement agreement that required the New York State Office of Children and Family Services to pay monetary damages to Ms. Rodriguez and to implement policies to improve its treatment of transgender youth in its care.⁵⁰

Although the court did not address the merits on this case, the court in *In re Antoine D* held that a bisexual detained youth was permitted to challenge the denial of his request to transfer to a transitional living facility for LGBT homeless youth for the duration of his probation.⁵¹ The Plaintiff requested to vacate his commitment to the California Youth Authority because it had failed to keep him safe after he was subjected to “serious acts of physical and mental abuse from CYA staff and wards based on his sexual orientation.” He stated that,

Since being confined to the Stark Facility, appellant had, among other things, been cut severely in the face by a ward with a razor blade; confined by CYA to his cell and excluded from school and other group activities “for his own safety” for up to 23 hours a day nearly every day for several weeks; forced by two wards to perform oral copulation on another ward; and singled out repeatedly by staff and wards based on his sexual orientation. Appellant also argued he had not received an adequate education at CYA, an issue plaintiff conceded at the hearing. By January 2005, when appellant was 20 years old, he had completed only 99 of the 200 credits required to earn a high school diploma, in part because CYA had at times removed him from school out of concern for his safety.⁵²

Although the court did not address the merits of Plaintiff’s case, it remanded the case to the juvenile court to rule on Plaintiff’s motion to vacate his CYA commitment, stating that “the [juvenile] court could make any and all reasonable orders for [plaintiff’s] care, supervision, custody, conduct, maintenance, and support—including an order placing him under the supervision of a probation officer” at a facility, like Ark House, which he requests out of concern for his safety and well-being.⁵³

Although there are few cases that address merits specific to the treatment of LGBTQ youth in juvenile justice institutions, many other cases regarding the treatment of youth in the juvenile justice system generally encompass the specific needs and treatment of LGBTQ youth in the juvenile justice system. In *Youngberg v. Romeo*, the Supreme Court held that people who are involuntarily committed to civil institutions retain a right to personal security, a “historic liberty interest protected substantively by the Due Process Clause.”⁵⁴ Since then, a number of United States

⁴⁸ *Rodriguez v. Johnson et al.*, Lambda Legal, available at <http://www.lambdalegal.org/in-court/cases/rodriguez-v-johnson-et-al> (accessed April 21, 2014).

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *In re Antoine D.*, 137 Cal. App. 4th 1314, 1319, 40 Cal. Rptr. 3d 885, 887 (2006).

⁵² *Id.*

⁵³ *Id.* at 1325 (internal citations omitted).

⁵⁴ *Youngberg v. Romeo*, 457 U.S. 307, 315-16 (1982) (internal quotations omitted). “If it is cruel and unusual punishment to hold convicted criminals in unsafe conditions, it must be unconstitutional to confine the involuntarily committed—who may not be punished at all—in unsafe conditions.”

Courts of Appeal have utilized the Due Process Clause of the Fourteenth Amendment to analyze the treatment of youth involuntarily confined in juvenile justice institutions. For example, in *A.M. v. Luzerne County Juvenile Detention Center*, the Third Circuit Court of Appeals held that the confined youth had “liberty interest in his personal security and well-being, which is protected by the Fourteenth Amendment.”⁵⁵ The First Circuit stated that, “juveniles who have not been convicted of crimes, have a due process interest in freedom from unnecessary bodily restraint which entitles them to closer scrutiny of their conditions of confinement” than such an interest accorded to incarcerated adults.⁵⁶

Through the framework of the Fourteenth Amendment, courts have held that youth confined in juvenile justice institutions have a constitutional right to “reasonably safe conditions of confinement, freedom from unreasonable bodily restraint, and minimally adequate training to protect those interests.”⁵⁷ The right to reasonably safe conditions includes the right to protection from the aggression of both staff and other confined youth at juvenile justice institutions,⁵⁸ the right to be protected from sexual assault,⁵⁹ the right to protection against the impermissible use of isolation,⁶⁰ and the right to medical treatment.⁶¹

Although these cases do not specifically address LGBTQ youth confined in juvenile justice institutions (with few exceptions), the protections they identify have important implications for the treatment LGBTQ youth in juvenile justice facilities. LGBTQ youth endure higher rates of assault,

⁵⁵ *A.M. ex rel. J.M.K. v. Luzerne Cnty. Juvenile Det. Ctr.*, 372 F.3d 572, 579 (3d Cir. 2004); see also *Youngberg*, 457 U.S. at 315–19 (1982).

⁵⁶ *Santana v. Collazo*, 714 F.2d 1172, 1179 (1st Cir. 1983), *cert. denied*, 466 U.S. 974 (1984); see also *A.J. by L.B. v. Kierst*, 56 F.3d 849, 854 (8th Cir. 1995); *Gary H. v. Hegstrom*, 831 F.2d 1430 (9th Cir. 1987) (adopting the *Santana* interpretation that the Fourteenth Amendment “implicitly incorporates the cruel and unusual punishments clause standards as a constitutional minimum”); see also, e.g., *H.C. ex rel. Hewett v. Jarrard*, 786 F.2d 1080 (11th Cir. 1986); *Milonas v. Williams*, 691 F.2d 931 (10th Cir. 1982).

⁵⁷ *Alexander S. By & Through Bowers v. Boyd*, 876 F. Supp. 773, 797–98 (D.S.C. 1995), *aff’d in part and rev’d in part on other grounds*, 113 F.3d 1373 (4th Cir. 1997), *cert. denied*, 118 S.Ct. 880 (1998); *Milonas v. Williams*, 691 at 942; *Reaves v. Honorable Peace*, CIV.A. 3:95CV640, 1996 WL 679396 (E.D. Va. Mar. 21, 1996) *aff’d sub nom. Reaves v. Peace*, 108 F.3d 1373 (4th Cir. 1997); see also *Santana v. Collazo*, 714 F.2d at 1183.

⁵⁸ *R.G. v. Koller*, 415 F. Supp. 2d 1129, 1158 (D. Haw. 2006); *Alexander S.*, 876 F. Supp. at 773; see also, e.g., *Milonas v.*, 691 F.2d at 942 (upholding a district court’s determination that the use of isolation rooms and excessive force, among other things, by a private school for children with behavioral issues violated students’ First and Fourteenth Amendment rights); *Pena v. N.Y. Div. for Youth*, 419 F. Supp. 203, 211 (S.D.N.Y. 1976) (stating that the use of isolation, the bounding of children’s hands and feet by handcuffs and plastic straps, and the use of Thorazine as punishment or as a behavioral control device violated the Eighth Amendment and Fourteenth Amendment of the United States Constitution).

⁵⁹ See, e.g., *A.M. v. Luzerne County*, 372 F.3d at 572; *Koller*, 415 F. Supp. 2d at 1158.

⁶⁰ *H.C. ex rel. Hewett v. Jarrard*, 786 F.2d at 1080; *Milonas*, 691 F.2d at 941–42; *Morales v. Turman*, 364 F.Supp. 166 (E.D. Tex. 1973); *Inmates of Boys’ Training Sch. v. Affleck*, 346 F. Supp. 1354 (D.R.I. 1972).

⁶¹ *A.M.*, 372 F.3d at 584–85; *Dolihite v. Maughon*, 74 F.3d 1027 (11th Cir. 1996); *Horn by Parks v. Madison Cnty. Fiscal Court*, 22 F.3d 653, 660 (6th Cir. 1994) (stating that “a detainee’s psychological needs may constitute serious medical needs, especially when they result in suicidal tendencies”); *Jackson v. Johnson*, 118 F. Supp. 2d 278, 289 (N.D.N.Y. 2000) *aff’d in part, dismissed in part*, 13 F. App’x 51 (2d Cir. 2001); see, e.g., *Viero v. Bufaro*, 925 F.Supp. 1374, 1382 (N.D. Ill. 1996) (holding that mental health needs constitute serious medical needs under an Eighth Amendment framework).

sexual abuse, and forced isolation; furthermore, they often have medical health needs that go unmet.⁶² The acknowledgment of confined youths' rights through the Fourteenth Amendment due process clause generally may also set up mechanisms to specifically protect the rights and needs of LGBTQ youth in juvenile justice institutions.

LGBTQ Youth & the Child Welfare System

Because LGBTQ children are often overrepresented in populations involved in the child welfare system, states and governmental agencies have developed laws and policies identifying and responding to the unique needs of LGBTQ youth in the child welfare system.⁶³ Ranging from general nondiscrimination policies to detailed regulations, these laws, regulations, and departmental policies, provide varying levels of protection to LGBTQ youth involved in the foster care and other child welfare systems.

State Statutes & Regulations Regarding Treatment of LGBTQ Youth in the Child Welfare System

In 2004, California passed the Foster Care Nondiscrimination Act (A.B. 458), which promotes the general policy that all people (foster children and adults engaged in care or service provision) have the right to be free from discrimination or harassment on the basis of their actual or perceived sexual orientation or gender identity.⁶⁴ The Act mandates initial and ongoing training for group home administrators, foster parents, and department licensing personnel on the rights of foster children to access services without harassment or discrimination based on sexual orientation or gender identity.⁶⁵

A number of other states have regulations identifying the rights of LGBTQ youth in the child welfare system to be free from discrimination. Colorado's Human Rights Commission regulation include an entire section on sexual orientation discrimination rules, including regulations on dress/grooming standards and gender-segregated facilities, although it is unclear to what extent these regulations apply to children in the child welfare or juvenile justice system.⁶⁶ Mississippi and Rhode Island include basic nondiscrimination policies throughout their regulations and forms that include

⁶² Jerome Hunt and Aisha Moodie-Mills, *The Unfair Criminalization of Gay and Transgender Youth* 6, Center for American Progress (June 29, 2012), http://www.americanprogress.org/wp-content/uploads/issues/2012/06/pdf/juvenile_justice.pdf

⁶³ Bryan Samuels, *Lesbian, Gay, Bisexual, Transgender, and Questioning Youth in Foster Care*, Administration for Children and Families, The United States Department of Health and Human Services (April 6, 2011), available at http://www.hunter.cuny.edu/socwork/nrcfcpp/info_services/download/IM%20on%20LGBTQ%20Youth%20in%20Foster%20Care.pdf

⁶⁴ California Assembly Bill No. 458, *Foster Care*, available at http://www.leginfo.ca.gov/pub/03-04/bill/asm/ab_0451-0500/ab_458_bill_20030908_chaptered.pdf (accessed March 17, 2014); *see also*, New Jersey Administrative Code 10:122C-1.6 (New Jersey anti-discrimination policy for foster parents).

⁶⁵ Cal. Health & Safety Code §§ 1522.41(c)(1)(H), 1529.2(b)(3)(F), 1529.2(b)(4)(F), (2013); *see also* Cal. Health & Safety Code § 1563(c)(5) (2004). For more information on the Foster Care Nondiscrimination Act, see the National Center for Lesbian Rights fact sheet, available at: http://www.nclrights.org/wp-content/uploads/2013/07/ab458_fact_sheet.pdf.

⁶⁶ 3 Colo. Code Regs. § CCR 708-1:81 (LexisNexis 2009).

gender identity and sexual orientation.⁶⁷ New Mexico includes a nondiscrimination policy for foster care placement purposes, as well as training/education requirements for placements to create a supportive home environment for youth in foster care regardless of their sexual orientation or gender identity.⁶⁸ New York State protects “prospective foster parents, foster parents or foster children [from discrimination by agency staff] on the basis of race, creed, color, national origin, age, sex, religion, sexual orientation, gender identity or expression, marital status, or disability,” and requires agencies to promote and maintain a safe environment for LGBTQ people engaged in the New York State child welfare system.⁶⁹ The New York State regulation requires timely investigations of allegations of discrimination or harassment, and also prohibits certified or approved foster parents from engaging in discrimination or harassment against foster children on the basis their sexual orientation, gender identity, or gender expression.⁷⁰

Departmental Policies Regarding Treatment of LGBTQ Youth in the Child Welfare System

Many states also have departmental policies identifying standards of treatment for LGBTQ youth in the child welfare system. Connecticut’s Department of Children and Families includes a general non-discrimination policy, mandates referrals to support groups for LGBTQ youth, for LGBTQ foster parents, and for foster children placed with LGBTQ foster families, and requires the availability of LGBTQI sensitivity trainings for all employees, foster or adoptive parent, and mentors.⁷¹ The Connecticut policy expressly prohibits the removal of a child from a family solely because of the “parent(s)’s gender identity/expression, marital/partner or cohabitation status, or actual or perceived sexual orientation.”⁷² Illinois’s Department of Children and Family Services has a policy for the purpose of establishing “procedures to promote the adjustment and well-being of Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) youth, and to set forth procedures for the assessment and treatment of mental health issues of DCFS/POS wards presenting with LGBTQ identity concerns.”⁷³ The Illinois policy mandates ongoing staff training and education regarding

⁶⁷ 18-6:1 Miss. Code R. § D-XII Appendix L-M (LexisNexis 2011); 14-3 R.I. Code R. §§ 91:2-III, 101:1, 101:3, 159:3VII(0) (LexisNexis 2014); 38-106 R.I. Code R. §§ 1.02 (2014).

⁶⁸ N.M. Code R. § 8.26.5 (2011).

⁶⁹ N.Y. Comp. Codes R. & Regs. tit. 18 § 441.24(a) (2013); *see also* N.Y. Comp. Codes R. & Regs. tit. 18 § 441.24(b) (defining “gender identity or expression” as “having a gender identity, self-image, appearance, behavior or expression whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the sex assigned to that person at birth,” including “internal sense[s] of self as male, female, no gender, or another gender”).

⁷⁰ *Id.*

⁷¹ Department of Children and Families Policy Manual 30-9, “Non-Discrimination of LGBTQI Individuals” (eff. May 14, 2004). The nondiscrimination policy states, “The Department shall not delay or deny any mentoring services, or the placement of a child for adoption or into foster care, or discriminate against any person, including children, youth and adolescents under its care, biological, foster or adoptive parent(s), mentor(s), applicant(s) wishing to become a foster or adoptive parent(s) or mentor(s), who can meet all children’s needs, on the basis of gender identity/expression, marital/partner or cohabitation status, and actual or perceived sexual orientation.”

⁷² *Id.*

⁷³ Jess McDonald, *Assessment and Treatment of Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youths*, No. 2002.17, Department of Children and Family Services (Dec. 23, 2002), <http://www.state.il.us/dcf/docs/ocfp/policy/pg200217.pdf>

LGBTQ youth issues, especially so that staff can effectively counsel youth as there are “com[ing] to terms with their sexual orientation and/or gender identity.”⁷⁴ It provides examples of “Child Welfare Work Do’s and Don’ts When Working With LGBTQ Youth,” including issues of privacy, disclosure, and confidentiality.⁷⁵ Finally, the Illinois policy outlines the procedures for identifying youth’s needs for counseling and information on sexual orientation or gender identity, as well as methods for meeting such identified needs.⁷⁶

A select number of cities and counties have also enacted policies regarding the treatment of LGBTQ youth in the child welfare system. Alameda County in California has an LGBTQ policy (also known as the “Mutual Respect Policy”) which prohibits agency employees from the “the willful or negligent use of slurs or disparaging remarks against any person” on the basis of sexual orientation (among other identity categories).⁷⁷ Furthermore, as noted earlier, New York City’s Administration for Children’s Services has an extensive policy relating to the treatment of LGBTQ youth and families in the child welfare, detention, and juvenile justice system.⁷⁸ In addition to this existing New York City policy, the Administration for Children’s Services is currently finalizing a policy regarding sexual and reproductive health care for youth in foster care.⁷⁹ This policy encompasses treatment for all youth, but specifically incorporates addressing LGBTQ youth sexual and reproductive health issues. For example, “foster parents must be offered ongoing training pertaining to adolescent sexual and reproductive health”, and such trainings must be LGBTQ-affirming.⁸⁰ Additionally, all foster care agencies must provide “meaningful” referrals to the full range of sexual and reproductive health care described in the policy, including access to LGBTQ affirming community reproductive and sexual health services and organizations.⁸¹

Common Themes in Case Law for LGBTQ Youth in the Child Welfare System

Although there is not substantial case law regarding LGBTQ youth in the child welfare system, a number of cases have come from both state and federal courts regarding the treatment of youth under the care of the New York City Administration for Children’s Services. For example, in 1996 six LGBT foster youth brought a federal suit against the Child Welfare Administration of the City of New York (CWA; now renamed the Administration for Children’s Services) as a subclass of eleven youth who experienced abuse within CWA. As part of the suit, the LGBT youth alleged that they were denied equal protection under the law because of their sexual orientation.⁸² These youth

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ ACSSA Model Standards Workgroup, *Department of Children and Family Services LGBTQ Policy*, Alameda County Social Services Agency (Jan. 23, 2007), www.pathwaytohome.org/.../LGBTQPoliciesFinalapproved3-6-07.doc

⁷⁸ See ACS Policy # 2012/01, *supra* note 43.

⁷⁹ City of New York Administration for Children’s Services Draft Policy, *Sexual and Reproductive Health Care for Youth in Foster Care*, iss. 10/28/13

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Marisol A. ex rel. Forbes v. Giuliani*, 185 F.R.D. 152, 170 (S.D.N.Y. 1999) *aff’d sub nom. Joel A. v. Giuliani*, 218 F.3d 132 (2d Cir. 2000). However, the LGBT youth claimed that “none of the *Marisol* named plaintiffs are gay, lesbian, bisexual, or transgendered, and none have alleged an absence of safe placements due to intense bias-related victimization and

experienced physical abuse, harassment, sexual assault, and rape by their peers, CWA staff, and their foster parents. Although the young people told CWA staff about the abuse, staff responded with deliberate indifference, including “blame [and] isolation of the victims rather than the abusers.”⁸³ This case ended in an out-of-court settlement including monetary damages and mandates for policy change for treatment of foster youth generally and LGBTQ foster youth specifically within the CWA.⁸⁴

In *Doe v. Bell*, a New York state court held that the New York City’s Administration for Children’s Services (ACS) must permit a young transgender woman housed in an “all-male, ACS-operated, 24 bed, congregate foster care facility” to wear “feminine clothing consistent with her gender identity.”⁸⁵ After the facility released updated dress code standards for its resident which prohibited its residents from wearing dresses or skirts.⁸⁶ Using the New York State Human Rights Law, the New York Supreme Court (a New York appellate state court) held that ACS failed to reasonably accommodate the Plaintiff’s disability (she was diagnosed with Gender Identity Disorder) and that the Plaintiff must be allowed to wear “feminine clothing” as part of her treatment; the inability to dress and act in accordance with her gender expression caused severe anxiety and psychological harm.⁸⁷ Additionally, the court state that allowing the Plaintiff to dress according to her gender identity allowed her “the equal opportunity to use and enjoy the facilities at Atlantic Transitional—a right that would be denied to her if forced to endure psychological distress as a result of the ACS’s dress policy.”⁸⁸ The court then granted the Plaintiff an exemption from the facility’s dress code based on her disability discrimination claim.⁸⁹

In 2008, the New York State Supreme Court, Appellate Division, reversed an order from the New York County Family Court directing the New York City Administration for Children’s Services to arrange for transition-related medical procedures for a transgender youth under ACS’s care.⁹⁰ ACS opposed the motion, originally brought by the youth’s Law Guardian, based on the grounds that it was “only permitted to pay for medical treatments approved by Medicaid law and that Medicaid law prohibited payment for sex reassignment surgery.”⁹¹ After the Family Court granted the

discrimination, that none of the named plaintiffs adequately represent their concerns.” Both the district court and 2nd Circuit Court of Appeals rejected the LGBT youths arguments that settlement in the *Marisol* case was insufficient for the LGBT youths because their identities were not represented in the named Plaintiffs.

⁸³ Rudy Estrada and Jody Marksamer, *The Legal Rights of Young People in State Custody* 9, National Center for Lesbian Rights (June 2006), http://www.nclrights.org/wp-content/uploads/2013/07/LegalRights_LGBT_State_Custody.pdf

⁸⁴ *Id.* See also *Marisol A. v. Giuliani*, 929 F.Supp. 662 (S.D.N.Y. 1996).

⁸⁵ *Doe v. Bell*, 194 Misc. 2d 774, 775, 754 N.Y.S.2d 846, 848 (N.Y. Sup. 2003).

⁸⁶ *Id.* at 777-78.

⁸⁷ *Id.* at 776-783. The New York State Human Rights Law, Executive Law § 296(18)(2) provides that it is “an unlawful discriminatory practice for the owner, lessee, sub-lessee, assignee, managing agent of, or other person having the right of ownership of or possession of or the right to rent or lease housing accommodations ... [t]o refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford said person with a disability equal opportunity to use and enjoy a dwelling.”

⁸⁸ *Id.* at 783.

⁸⁹ *Id.* at 787. Plaintiff also brought claims based on sex discrimination through the New York State Human Rights Law and the First Amendment; the court did not reach these claims.

⁹⁰ *Brian L. v. Admin. for Children’s Servs.*, 51 A.D.3d 488, 489 859 N.Y.S.2d 8, 11 (2008).

⁹¹ *Id.* at 490.

motion, ACS appealed.⁹² The appellate court held that the Family Court did not have the authority to “provide necessary medical and surgical care,” with that power vested in “commissions of public welfare and city public welfare officers, such as the Commissioner of ACS, by Social Services Law § 398(6).”⁹³ Therefore, the appellate court reversed the family court’s order to provide transition-related medical services because the family court did not have subject matter jurisdiction to review ACS’s denial of Plaintiff’s application for such services.⁹⁴ Finally, the court concludes by stating that the question of whether ACS’s refusal to facilitate the provision of transition-related medical services for the Plaintiff was “arbitrary and capricious, i.e., did not have a rational basis, [was] not a proper subject of this proceeding” and therefore the court would not decide the merits of Plaintiff’s claim.⁹⁵

Recently, the Supreme Court for New York County held that ACS acted in an “arbitrary and capricious” manner when it denied transgender-specific medical procedures to one of the youth in its care.⁹⁶ ACS denied the young transgender woman’s request that ACS pay for “medical procedures that would address her diagnosis of gender dysphoria and allow her to conform her appearance to her female gender identity.”⁹⁷ ACS stated that its denial was based on the assessment of a psychologist that the Plaintiff “may not be capable ‘at this time’” of receiving the requested procedures because she was often absent from her foster care ground home, failed to attend programming, and may not be “compliant with certain postoperative protocols.”⁹⁸

Although the court acknowledged the importance of assessing a youth’s ability to follow the appropriate postoperative care procedures, the court held that the decision was “nonetheless arbitrary and capricious for several reasons.”⁹⁹ First, the court held that ACS’s decision was not substantiated by information in the record; “the mental health professions who supported the petitioner’s applications all knew of her chronic absences, yet all states that she needed the surgeries and procedures in question.”¹⁰⁰ Secondly, ACS did not follow its own procedures in rendering its decision to deny transition-related medical care.¹⁰¹ Third, ACS’s guiding policy contained a “fundamental flaw” by providing “complete discretion to the relevant Deputy Commissioner to approve or disapprove gender affirming surgeries and procedures.”¹⁰²

⁹² *Id.* at 491.

⁹³ *Id.* at 496.

⁹⁴ *Id.* “Thus, Family Court Act § 255 cannot be read as permitting Family Court to order ACS to arrange for a child in its care to receive specific medical or surgical care, since such an order would denigrate from ACS’ statutory authority.”

⁹⁵ *Id.* at 500.

⁹⁶ *D.F. v. Carrion*, --- N.Y.S.2d ---, 400037/14, 2014 WL 1258224, 2014 N.Y. Slip Op. 24078 (N.Y. Sup. Ct. Mar. 21, 2014).

⁹⁷ *Id.* at 1.

⁹⁸ *Id.* at 6.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 7. ACS purported to following the WPATH Standards of Care, which provide guidance to assist health professionals in helping their transgender clients transition. The WPATH Standards of Care state that “[g]enital and breast/chest surgeries as medically necessary treatments for gender dysphoria are to be undertaken after assessment of the patient by qualified mental health professionals.”

¹⁰² *Id.* at 8.

A final and notably important issue that the court identified with ACS's policy guiding its decision to deny Plaintiff's request was that it did not "address at all an important economic factor that intersects with the clinical decision to withhold care."¹⁰³ The court stated,

The inability to pay for gender affirming surgeries and procedures after foster care is not a factor that should trump clinical factors, but it certainly should not be absent from ACS' decision making. Payment by ACS for necessary medical procedures may be a transgender youth's only chance to achieve congruence between her gender identity and her physical appearance.¹⁰⁴

Therefore, the court held that the complete omission of the economic factor in the ACS guiding policy was arbitrary and capricious because it ignored the realities of the economic tangibility of transition-related medical procedures once a foster youth ages out of the system.¹⁰⁵ The court then reversed the ACS decision and ordered ACS to take all reasonable steps necessary to pay for the Plaintiff's transition-related medical procedures.¹⁰⁶

On a related note, a number of cases have held that blanket denials of transition-related medical procedures under Medicaid are unconstitutional. For example, the Eighth Circuit held that gender reassignment surgery must be covered under the state's Medicaid plan because it was "the only medical service available to alleviate [the Plaintiff's] condition."¹⁰⁷ The Supreme Court of Minnesota ordered the state welfare department to fund a transgender Plaintiff's gender reassignment surgery because the department's initial denial was "arbitrary and unreasonable and was based upon rules and standards which we hold to be void and impermissible."¹⁰⁸ A state appeals court in California ordered the California Department of Health to grant the authorization for gender reassignment surgery for the Plaintiff.¹⁰⁹ In rejecting the Defendant's assertion that the surgery was cosmetic, the Court stated, "[w]e do not believe, by the wildest stretch of the imagination, that such surgery can reasonably and logically be characterized as cosmetic."¹¹⁰ These cases do not directly address transgender youth in state care, but the circumstances in both *D.F. v. Carrion* and *Doe v. Bell* illustrate the striking importance of court decisions and laws that explicitly incorporate transition-related services under state Medicaid coverage.

Although the cases above serve as the only cases regarding the specific treatment of LGBTQ youth in the child welfare system, a number of other cases identify trends in the treatment of youth in the child welfare system generally that have implications for the health and well-being of LGBTQ youth

¹⁰³ *Id.*

¹⁰⁴ *Id.* at 9.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Pinneke v. Preisser*, 623 F.2d 546, 550 (8th Cir. 1980). "Pinneke's transsexual surgery thus comes within the medical assistance categories of "inpatient hospital services" and "physicians' services furnished by a physician," and must be covered under the state's Medicaid plan unless not medically necessary."

¹⁰⁸ *Doe v. State, Dep't of Pub. Welfare*, 257 N.W.2d 816, 821 (Minn. 1977).

¹⁰⁹ 80 Cal. App. 3d 90, 95, 145 Cal. Rptr. 570 (Cal. Ct. App. 1978).

¹¹⁰ *Id.*

in the child welfare system. For example, a federal district court in Illinois held that the state must protect child in the child welfare system from mental and emotional harm.¹¹¹ For LGBTQ youth, protection from mental and emotional harm should include protection from harassment, abuse, or discrimination because of a young person’s real or perceived sexual orientation or gender identity. Furthermore, the state’s duty to protect youth in foster care from harm may include the right to receive service to prevent physical or psychological harm while in foster care;¹¹² for LGBTQ youth, this may include LGBTQ-affirming counseling, healthcare, and social services. Finally, the First Amendment right of religious freedom may include the right for LGBTQ youth in foster care to be free from religious proselytizing by staff, contractors, or foster families, although plaintiffs may have difficulties achieving a successful outcome under this clause.¹¹³

Professional Responsibilities for Treatment of LGBTQ Youth by Judges & Lawyers

Because youth in state care interact with the legal system on a variety of levels, from dependency hearings to criminal trials, states should take affirmative steps to protect LGBTQ youth from discrimination in the courtrooms that dictate many different factors regarding their health, safety, and lives. Professional codes of conduct for judges and attorneys serve as one form of maintaining standards of respect for LGBTQ youth in court proceedings.

Codes of Judicial Conduct

A majority of states have codes of judicial conduct that explicitly prohibit judges from manifesting bias or prejudice against lesbian, gay, or bisexual people in the performance of the duties as a judge.¹¹⁴ Comment 2.3 in the American Bar Association Model Code of Judicial Conduct lists examples of actions that constitute bias or prejudice, including “epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based upon stereotypes; threatening, intimidating, or hostile acts.”¹¹⁵ The Model Code even identifies the ways that facial expressions and body language can send messages of bias or hostility against LGB parties to attorneys and jurors, thereby rendering the courtroom as an ineffective venue of justice for LGB people.¹¹⁶

¹¹¹ See, e.g., *B.H. v. Johnson*, 715 F.Supp. 1387 (N.D.Ill. 1989).

¹¹² See, e.g., *Norfleet v. Arkansas Dep’t of Human Serv.*, 989 F.2d 289 (8th Cir. 1993).

¹¹³ See, e.g., *Canell v. Lightner*, 143 F.3d 1210, 1214 (9th Cir. 1998); *R.G. v. Koller*, 415 F. Supp.2d 1129, 1160 (D. Haw. 2006) (stating that, although there was evidence that staff members “endorsed religion to the plaintiffs,” the plaintiffs had not produced enough evidence that the staffs’ conduct constituted “government endorsement of religion”).

¹¹⁴ The forty-one states with judicial canons that include sexual orientation are: Alaska, Arizona, California, Colorado, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, Washington, Wisconsin, and Wyoming.

¹¹⁵ Comment on Rule 2.3, *Bias, Prejudice, and Harassment*, Model Code of Judicial Conduct, American Bar Association (2010).

¹¹⁶ *Id.*

Rules of Professional Responsibility

State codes of professional conduct mandate lawyer rights and responsibilities in their relationship with their clients and in their actions in the courtroom. Generally, attorneys owe a high level of loyalty and confidentiality, and must perform their job diligently and competently.¹¹⁷ Through these general rules on attorney conduct, all people (including LGBTQ youth) should receive a baseline of respect and competence from the attorneys with which they work.

However, the American Bar Association and many states have recognized the importance of identifying populations who are more likely to experience discrimination from attorneys in the course of their professional relationship because of certain identifying characteristics.¹¹⁸ Thirty states currently include some form of proscription against sexual orientation bias in actions taken by lawyers in their professional capacity.¹¹⁹ Most of these state rules of professional conduct mirror the American Bar Association Rules of Professional Conduct Model Rule 8.4, which defines certain actions that constitute professional misconduct.¹²⁰ Specifically, Comment 3 of Model Rule 8.4 provides that “a lawyer who, in the course of representing a client, knowingly manifests by words or conduct, bias or prejudice” based upon a client’s sexual orientation violates Model Rule 8.4(d) when such actions are “prejudicial to the administration of justice.”¹²¹ In the majority of states have enacted similar rules on professional misconduct, attorneys can be professionally sanctioned for discrimination against LGB clients, *if and only if* their discrimination rises to the level of prejudicing “the administration of justice.” Depending on how states have defined “prejudicial to the administration of justice,” this rule may provide varying levels of protection to lesbian, gay, and

¹¹⁷ American Bar Association Model Rules of Professional Conduct: Preamble (zealous advocacy), 1.1 (competence) 1.3 (diligence), 1.4 and 2.1 (communication), 1.6 (confidentiality), & 1.7 - 1.12 (loyalty) (2013).

¹¹⁸ See Model Rule 8.4, Comment 3: A lawyer who, in the course of representing a client, knowingly manifests by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, violates paragraph (d) when such actions are prejudicial to the administration of justice. Legitimate advocacy respecting the foregoing factors does not violate paragraph (d). A trial judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of this rule.

¹¹⁹ The thirty states that include protections against sexual orientation discrimination in their state codes of professional conduct are: Arizona, California, Colorado, Connecticut, Delaware, DC, Florida, Idaho, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, New Jersey, New Mexico, New York, North Dakota, Ohio, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, and Wisconsin.

¹²⁰ Model Rule 8.4, “Misconduct,” under the subsection of “Maintaining The Integrity Of The Profession,” states that it is professional misconduct for a lawyer to:

- “(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.”

¹²¹ *Id.* at Comment 3.

bisexual youth working with attorneys.

To address the varying ways in which sexual orientation and gender identity affect a person's interaction with the legal system, some organizations have identified that unbiased competent legal advocacy for LGBTQ clients requires an attorney to "understand the varied identities of their clients." Attorneys should not only treat their clients with dignity and respect regardless of their sexual orientation or gender identity, but should also "understand the role that sexual orientation and gender identity play in their clients' lives" and the ways in which biases of the justice system render LGBT youth particularly vulnerable to abuse and discrimination."¹²² For more information on model standards for attorneys (specifically criminal defense attorneys) working with LGBTQ youth, see The Equity Project's Practice Tips for Juvenile Defenders.¹²³

Conclusion

LGBTQ youth deserve affirmative protections in every interaction with the state – from police interaction and to the use of solitary confinement, from freedom from harassment in the foster care system to affirming placement in foster care. Although many states provide varying level of recognition and protection to LGBTQ youth under the care of the state, young LGBTQ people will not be sufficiently protected from implicit and explicit bias from staff and other youth until states adopt explicit policies and standards protecting and affirming LGBTQ youth. A number of organizations have developed model policies and standards on treatment of LGBTQ youth under state care for state and local governments and institutions to adopt. A few select policies and standards are included in a list of model standards (Appendices A-D). Comprehensive policies that address discriminatory action that affects the well-being and potential for success for LGBTQ youth from the first interaction with the State – police interaction and child protective investigations – to discharge/release from state care. These policies are yet another critical step towards ensuring that all people, especially those most vulnerable to state and interpersonal violence, are treated with fairness, dignity, and respect.

¹²² Majd, Marksamer, and Reyes, *Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts* 118, The Equity Project (Fall 2009), available at http://www.equityproject.org/pdfs/hidden_injustice.pdf

¹²³ available at http://www.equityproject.org/pdfs/LGBT_Youth_in_Juvenile_Court.pdf

Appendix A: Teen SENSE Model Policy on Sexual Health Care for Youth in State Custody



**MODEL POLICY:
Sexual Health Care for Youth in State Custody**

In order to appropriately address the sexual health needs of youth in the state's care, it shall be the policy of [this agency/ jurisdiction] to ensure that youth in foster care, detention, and other government-operated and -regulated youth facilities receive comprehensive, LGBTQ-inclusive sexual health care services, including:

- Health screenings that address both their physical and mental health, including examinations that include their sexual histories and instances of abuse;
- Universal offers of testing for sexually transmitted infections (STIs) and HIV that include proper pre-test and follow-up counseling even if the tests are negative;
- Written information, counseling, and treatment related to pregnancy, STI and HIV transmission and prevention, and sexual violence; and
- Ongoing care and discharge planning related to sexual and reproductive health.

All health care services shall be conducted in a confidential, culturally competent, and inclusive manner. Youth who are pregnant, gender nonconforming, or LGBTQ shall not be treated differently or receive a lesser standard of care, and shall be offered services consistent with their sexual orientation, gender identity, and gender expression.

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Appendix B: Teen SENSE Model Policy on Sexual Health Literacy for Youth in State Custody Settings



**MODEL POLICY:
Sexual Health Literacy for Youth in State Custody Settings**

In order to appropriately address the sexual health needs and capacity of youth in the state's care, it shall be the policy of [this agency/ jurisdiction] to ensure that youth in foster care, detention, and other government operated- and -regulated youth facilities have access to programming and resources designed to increase their sexual health literacy. Sexual health literacy programming shall include:

- Access to basic, age- and culturally-appropriate information related to pregnancy, sexually transmitted infections and HIV transmission and prevention, sexual violence, and discrimination on the basis of actual or perceived sexual orientation, gender identity, and gender expression, for all youth in custody for 24 hours or more;
- Access to information on topics including anatomy, sexuality and healthy relationships, contraception, reproductive choice, and drug use/ harm reduction skills that are planned proportion to a youth's time in custody;
- Referrals and contact information for sexual and reproductive health care providers;
- Information and discussion on the nature and forms of sexual violence, abuse, and harassment on the basis of sexual orientation, gender identity, and gender expression, and reporting procedures for young people who are targets of such violence;
- Learning environments and instructors that demonstrate nonjudgmental, inclusive attitudes and that create a comfortable space for youth of any sexual orientation, gender identity, and gender expression to learn about the spectrum of sexuality and gender, adopt safer sex practices, and develop the sexual health literacy necessary to improve and maintain sexual health and reduce the incidence and tolerance of sexual violence both immediately and in the long term.

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Appendix C: Teen SENSE Model Policy on Staff Training Focusing on the Needs of Youth in State Custody



MODEL POLICY:
Staff Training Focusing on the Needs of Youth in State Custody

In order to appropriately address the sexual health needs of youth in the state's care, it shall be the policy of [this agency/ jurisdiction] to ensure that staff in foster care, detention, and other government operated- and -regulated youth facilities are equipped to understand and protect all youth in their care, regardless of sexual orientation, gender identity, and gender expression.

Youth facility staff at every level, including caseworkers, medical service providers, security personnel, and probation officers, shall be trained on the right of youth to health, sexual and reproductive health care services, autonomy, safety, and freedom from all forms of discrimination and harassment. Staff training shall also reflect the need for universal staff competence in communicating with and advising all youth. At the conclusion of training, staff shall be able to:

- Identify the effects of stigma and discrimination on the health of LGBTQ youth or youth living with HIV;
- Understand their responsibility to provide comprehensive physical and mental health services to all youth in a confidential, culturally competent, and inclusive manner;
- Maintain an atmosphere of safety and acceptance;
- Ensure access to services and activities consistent with LGBTQ youth's interests and communities with which they identify;
- Abide by relevant laws and agency policies established to support and protect all youth; and
- Explain procedures for reporting and responding to youth and staff complaints regarding conduct that is in conflict with these laws and policies.

Appendix D: Model Standards and Guides for Treatment of LGBTQ Youth in State Care

Model Policies, Standards, Best Practices

- Center for HIV Law and Policy, Teen SENSE Model Standards and Policies
 - *Sexual Health Care*
 - *Sexual Health Education*
 - *Staff Training*
 - Used in NYC ACS standards
- National Center for Lesbian Rights, *A Place of Respect: A Guide for Group Care Facilities Serving Transgender and Gender Non-Conforming Youth*
- National Center for Lesbian Rights, *Youth in the Foster Care System* (2006)
- Lambda Legal, *Supporting LGBTQ Youth In Care*
- ABA, *Supporting LGBTQ Youth: A Judicial Benchmark*
 - http://www.americanbar.org/content/dam/aba/publications/center_on_children_and_the_law/OpeningDoorsBenchcards.authcheckdam.pdf
- ABA, *Opening Doors for LGBTQ Youth in Foster Care: A Guide for Lawyers and Judges*
 - http://www.americanbar.org/content/dam/aba/publications/center_on_children_and_the_law/lgbtq_book.authcheckdam.pdf

Appendix D:

Focus Group Study Information & Consent Form

eQuality Project Focus Group Discussion

Definitions:

- Child welfare system: includes foster care, kinship care, group homes, independent living programs, DSHS family counseling, etc.
- Juvenile justice system: includes detention, probation, truancy petitions, at-risk youth petitions, children in need of services petitions, JRA, etc.

Study Information

Purpose of the Research

The purpose of this study is to provide an opportunity for queer young people who are or have been involved in Washington State's child welfare and/or juvenile justice systems to share their real life experiences and to give suggestions for how these two systems can be improved.

Participant Selection

You have been invited to participate in this study because we believe that your insight will help us understand the experiences of queer youth in the child welfare and juvenile justice systems and to make recommendations for improvement.

Voluntary Participation

Your participation in this study is completely voluntary. In both the questionnaire and the discussion, we will be asking you to share what may be very personal information. We realize that you may feel uncomfortable writing down answers to our questions and talking about some of these topics. You do not have to answer any questions or take part in the discussion on a question if you don't want to. You may choose to stop participating at any time without giving a reason. This means that you can leave during the discussion or choose not to answer questions on the questionnaire without giving a reason. If you are receiving services at the organization hosting this discussion, your choice to not participate or to stop participating during the study will have no effect on the services you receive.

Duration

The questionnaire should not take more than 15 minutes to complete. The discussion will last no more than 90 minutes. We will take breaks periodically during the discussion.

Research Procedure

If you choose to participate in this study, you will be asked to do the following:

1. Complete a short written questionnaire. This asks for information such as your age, how you see yourself, your involvement in the child welfare and/or juvenile justice systems, your experiences at school, and your experiences with homelessness. If you don't understand a question, you may ask either of us for help. This questionnaire is intended to be anonymous, so do not put your name on it.

2. Participate in a discussion. The facilitator will be guiding this discussion between you and your peers here in this room and the note taker will be taking notes. This discussion will be audio-recorded. Your responses will not be tied to any identifying information about you. You will be asked about how you got involved in these systems, how you were treated while in care, and about your recommendations to make the systems better. We aren't here to get the "right" or "wrong" answers; we are interested in your different experiences and opinions whatever they are. Your responses will be used to make recommendations to the people who make decisions in these two systems. After our discussion, we will summarize the themes and ask you whether you feel the summary is accurate or not.

We will use the questionnaire responses, tape recordings, and notes to write a report that summarizes your feedback.

Confidentiality

We want to protect your privacy. All of the information we gather today will be kept completely confidential. We will not tie your name to your responses or use any other identifying information about you in our report. However, we cannot stop or prevent participants who are in the group from sharing things that should be kept confidential after we leave today.

The only reason we will ever disclose information about you is if you give us information about someone who is currently being harmed or is in serious, imminent danger of being harmed. This includes any information you give us about yourself including immediate plans to hurt others or yourself. If anyone connected with this project shares any information you give regarding current or immediate harm, someone will try to contact you.

Benefits

Your participation will help us make informed recommendations to people who can help make Washington State's child welfare and juvenile justice systems more responsive and culturally competent for queer youth.

Compensation

After the discussion is finished, you will be given a \$50 worth of gift cards.

Right to Refuse or Withdraw

Remember: participation in this study is voluntary. You may choose not to participate.

Who to Contact

If you have any questions after your participation in the study, please feel free to contact:

Sarah Ganzhorn
Center for Children & Youth Justice
206-696-7503 ext. 23 or sganzhorn@ccyj.org



eQuality Project Focus Group Consent Form

I agree to participate in the eQuality Project research study conducted by the Center for Children & Youth Justice on lesbian, gay, bisexual, transgender and questioning (LGBTQ)/queer young people who are or have been involved in the child welfare and/or juvenile justice systems. The purpose of the study is to provide an opportunity for young people to share their experiences and to give suggestions for how these two systems can be improved.

I understand that this study involves a guided discussion and an anonymous questionnaire. I understand that my participation in the discussion and completing the questionnaire is voluntary. If I choose to stop participating in this study at any time, I understand that doing so will have no impact on the services I may be receiving from the organization hosting the discussion.

I understand that the discussion will be tape-recorded and the facilitators may take notes. I understand that a report summarizing the results of this group and other groups similar to this one will be written and distributed. All identifying information will be kept confidential.

I promise not to repeat anything heard during this focus group discussion outside of the group.

I understand that any information I give about someone who is currently being harmed or is in serious, immediate danger of being harmed will **not** be kept confidential. This includes any information I give about plans to seriously hurt myself or other people. I understand that if this happens, someone will try to contact me.

If at any time I have questions about the study or want to talk with someone about my experience, I may contact:

Sarah Ganzhorn
Research Associate/Projects Assistant
Center for Children & Youth Justice
206-696-7503 ext. 23
SGanzhorn@ccyj.org

Date	Printed Name of Participant	Signature of Participant
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I certify that the statements written above have been explained to the participant. I believe that the above person fully understands its contents and has signed this agreement freely and without duress.

Date	Printed Name of Project Staff	Signature of Project Staff
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Appendix E:

Focus Group Discussion Questions

Question 1:

- CW: How did you, or LGBTQ youth you know, get involved in foster care, kinship care, group homes, independent living programs, and/or other parts of the child welfare system?
- JJS: How did you, or LGBTQ youth you know, get involved in detention, probation, JRA, Children in Need of Services petitions, truancy petitions, At-risk youth petitions, and/or other parts of the juvenile justice system?

Probe: do you think identifying as LGBTQ had anything to do with these circumstances?

Question 2:

- CW: How did your caseworkers, foster families, and other people you interacted with treat you and/or other LGBTQ youth that you know?
- JJS: How did detention staff, probation officers, police officers, judges, and other people you interacted with treat you and/or other LGBTQ youth that you know?

Probe: Do you think you were treated differently by these people because you are LGBTQ, and if so, how did they treat you differently?

Question 3:

- How willing were these people—the caseworkers, foster families, detention staff, probation officers, judges, and so on—to make sure you were safe and that your needs were met?

Probe: To what extent were your needs as a LGBTQ youth considered important by the people working with you?

Probe: Did you know/were you told about your rights—such as your right to safety—and if so, how do you know about them/who told you?

Question 4:

- How often were you able to find services (such as mental health, substance abuse treatment, counseling, and similar) that were welcoming and accepting of you as a LGBTQ person?

Probe: Did anyone help you find these services? If yes, who did?

Question 5:

- CW: To what extent did you feel safe or comfortable disclosing your sexual orientation and/or gender identity*** to your caseworkers, foster parents, kin caregivers, judges, and anyone else you worked with in the child welfare system?
- JJS: To what extent did you feel safe or comfortable disclosing your sexual orientation and/or gender identity to your probation officers, detention staff, judges, and anyone else you worked with in the juvenile justice system?

Probe: If one of these people asked you about your sexual orientation and gender identity, how would you feel? What would be the best way for them to ask?

Question 6:

- How has being involved in these systems positively or negatively influenced your life?

Probe: To what extent did the people (your caseworkers, probation officers, etc.) help or not help you succeed?

Question 7:

- What do you think needs to change so that LGBTQ youth are treated better?

Probe: How helpful would it be if there were policies prohibiting discrimination based on actual or perceived sexual orientation and gender identity?

Probe: How helpful would it be if your caseworkers, probation officers, foster parents, etc. were required to get training on LGBTQ issues and how to work respectfully with LGBTQ youth?

Question 8:

- Is there anything else you would like to share about your experiences with the child welfare and/or juvenile justice system?

Appendix F:

Focus Group Questionnaire

eQuality Project Questionnaire

Please complete the following short questionnaire so we can learn more about you and your experiences in Washington State’s child welfare and/or juvenile justice systems. All responses are **voluntary** and **anonymous**. **Do not write your name on this form.**

Definitions:

- Child welfare system: includes foster care, kinship care, group homes, independent living programs, DSHS family counseling, etc.
- Juvenile justice system: includes detention, probation, truancy petitions, at-risk youth petitions, children in need of services petitions, JRA, etc.

<p>1. What is your current age:</p>	<p>2. Where did you grow up:</p>
<p>3. Which of the following have you been involved in [check all that apply]:</p> <p>Foster care <input type="checkbox"/></p> <p>Kinship Care <input type="checkbox"/></p> <p>Group homes <input type="checkbox"/></p> <p>Probation <input type="checkbox"/></p> <p>Detention <input type="checkbox"/></p> <p>Truancy petitions <input type="checkbox"/></p> <p>At-risk youth petitions <input type="checkbox"/></p> <p>Children in need of services (CHINS) petitions <input type="checkbox"/></p> <p>Independent living programs <input type="checkbox"/></p> <p>JRA (such as Green Hill, Echo Glen, Naselle, Camp Outlook, regional group homes, etc.) <input type="checkbox"/></p> <p>Other (please describe) <input type="checkbox"/></p> <p>_____</p>	<p>4. If in the child welfare system, how many placements (group homes, kinship homes, foster care families, etc.) have you had:</p> <p style="text-align: center;">1-3 <input type="checkbox"/> 4-6 <input type="checkbox"/> 7-10 <input type="checkbox"/></p> <p style="text-align: center;">More than 10 <input type="checkbox"/> Don't know <input type="checkbox"/></p> <p><i>If you've never been involved in the child welfare system, skip to question 6</i></p> <p>5. If you've had more than one placement, why did your placements change [check all that apply]:</p> <p>Foster care agency reasons <input type="checkbox"/></p> <p>Foster parent(s) requested new placement <input type="checkbox"/></p> <p>Family conflict (major disagreements, fights, etc.) <input type="checkbox"/></p> <p>Previous placement was temporary <input type="checkbox"/></p> <p>You ran away <input type="checkbox"/></p> <p>You requested a new placement <input type="checkbox"/></p> <p>Not sure/No one told me <input type="checkbox"/></p> <p>Other (please explain) <input type="checkbox"/></p> <p>_____</p>

<p>6. Have you ever skipped a class or a day of school because others made you feel uncomfortable/unsafe for being LGBTQ/queer:</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>7. Have you ever dropped out of school or considered doing so because others made you feel uncomfortable/unsafe for being LGBTQ/queer:</p> <p>Dropped out: Yes <input type="checkbox"/> No <input type="checkbox"/> Considered doing so: Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>8. Have you ever been suspended or expelled from school:</p> <p>Suspended: Yes <input type="checkbox"/> No <input type="checkbox"/> Expelled: Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If yes to either, please explain the circumstances: _____</p>
<p>9. In the past 12 months, have you ever stayed a night or several nights at any of the following because you had nowhere else to go [check all that apply]:</p> <p>A friend's house <input type="checkbox"/> A relative's house <input type="checkbox"/> A stranger's house <input type="checkbox"/> On the street or outdoors <input type="checkbox"/> An emergency or transitional shelter <input type="checkbox"/> A hotel, motel, or hostel <input type="checkbox"/> A public space (such as a bus station) <input type="checkbox"/> An abandoned building or house <input type="checkbox"/> Other (please describe) <input type="checkbox"/> _____</p>	<p>10. Have you ever been arrested: Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p><i>If no, skip to question 13</i></p> <p>11. How many times have you been arrested:</p> <p>1-3 <input type="checkbox"/> 4-6 <input type="checkbox"/> 7-10 <input type="checkbox"/> More than 10 <input type="checkbox"/> Don't know <input type="checkbox"/></p> <p>12. Did you go to juvenile court after being arrested:</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know <input type="checkbox"/></p>	
<p>13. Please share any additional information you would like us to know about your experiences in Washington State's child welfare/juvenile justice systems or the experiences of other LGBTQ/queer youth you are aware of:</p> <p>_____</p>		
<p>14. How do you describe yourself [check all that apply]:</p> <p>Bisexual <input type="checkbox"/> Male <input type="checkbox"/> Gay <input type="checkbox"/> Straight <input type="checkbox"/> Genderqueer <input type="checkbox"/> Transgender <input type="checkbox"/> Female <input type="checkbox"/> Two-spirited <input type="checkbox"/> Intersex <input type="checkbox"/> Queer <input type="checkbox"/> Lesbian <input type="checkbox"/> Questioning <input type="checkbox"/></p> <p>Any other words that describe you: _____</p>	<p>15. How do you describe yourself [check all that apply]:</p> <p>Native American <input type="checkbox"/> Native Hawaiian/Pacific Islander <input type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> White <input type="checkbox"/> Multiracial <input type="checkbox"/> Latino/a <input type="checkbox"/></p> <p>Any other words that describe you: _____</p>	

Appendix G:

LGBTQ System Alumni Online Survey

eQuality Project Survey

Do you want foster care to be more supportive of LGBTQ youth? Do you want juvenile detention to be a safer place for LGBTQ youth? Do you have ideas for how foster care, group homes, detention, juvenile courts, probation, and similar can change to better serve youth who identify as LGBTQ?

If yes, we want to hear from you! Survey Qualifications:

- You are between the ages of 18 and 30
- You identify as LGBTQ (this includes lesbian, gay, bisexual, transgender, queer, intersex, genderqueer, pansexual, questioning, two-spirited, and any other non-heterosexual or gender non-conforming identities)
- You have been involved in Washington State's child welfare AND/OR juvenile justice system (this includes foster care, group homes, independent living programs, detention, probation, JRA (such as Naselle, Echo Glen, Camp Outlook), truancy petitions, Children in Need of Services petitions, At-Risk Youth petitions, or similar situations)

This survey should take no longer than 15 minutes to complete and will be available until July 7, 2014.

This survey is being conducted by the Center for Children & Youth Justice (CCYJ) as part of the eQuality Project, a research initiative to address the needs of LGBTQ youth in Washington's child welfare and juvenile justice systems. It is our goal to change these systems so that LGBTQ youth will feel safe and supported.

We want to protect your privacy—we will not collect your name or any other identifying information. All survey responses will be stored in a password protected electronic format that only members of CCYJ's research team will be able to access.

Participation in this study is completely voluntary and all questions are optional. If you do not want to start the survey or decide you do not want to complete the survey once you have started, you will not be penalized in any way.

The information gathered through this survey will be included in a report written by CCYJ that will be used to educate and influence those who have the ability to improve the treatment of LGBTQ youth in state care.

Your voice is critical to the success of the eQuality Project. By completing this survey, you are helping us change the child welfare and juvenile systems to become more inclusive and safe for LGBTQ youth.

If you have questions about this survey, please contact Sarah Ganzhorn at the Center for Children & Youth Justice at 206-696-7503 ext. 23 or sganzhorn@ccyj.org.

For more information about the eQuality Project, please visit:

<http://www.ccyj.org/initiatives/equality>

Before participating in this survey, you must give consent by selecting "agree" below. If you do not wish to participate in this study, please select "disagree" below and exit this survey

1. By selecting "agree", you are confirming the following:
 - You have read the above information
 - CCYJ can use the information you provide in a report
 - You meet the survey qualifications listed above

- Agree
- Disagree

2. What is your current age?

-
3. Which of the following have you been involved in? [check all that apply]

- Foster care
- Kinship care
- Group homes
- Probation
- Detention
- Truancy petitions
- At-risk youth (ARY) petitions
- Children in need of services (CHINS) petitions
- Independent living programs
- JRA (Green Hill, Echo Glen, Naselle, Camp Outlook, etc.)
- Other [please describe]

4. Where were you living while involved? Please list City/County/State if you know. If multiple places, please list all that you can.

-
5. Where do you live now? (City/County/State)
-

6. If you've been in foster care, kinship care, group homes, or in an independent living program in Washington State, how many placements have you had?
 - 1-3
 - 4-6
 - 7-10
 - More than 10
 - Don't know
 - Not applicable

7. If you've had more than one placement, why did your placements change? [check all that apply]
 - Foster care agency reasons
 - Foster family requested new placement
 - Conflict (major disagreements and fights)
 - Placement was temporary
 - You ran away
 - You requested a new placement
 - Not sure/no one told you
 - Not applicable
 - Other (please specify)

8. Have you ever stayed a night or several nights at any of the following because you had nowhere else to go? [check all that apply]
 - A friend's house
 - A relative's house
 - A stranger's house
 - On the street or outdoors (parks, alleys, etc.)
 - An emergency or transitional shelter
 - A hotel, motel, or hostel
 - A public space (bus station, etc.)
 - An abandoned building
 - Other (please specify)

9. Have you ever been arrested or picked up by the police?
 - Yes
 - No

10. How many times have you been arrested or picked up by the police?
 - 1-3
 - 4-6
 - 7-10
 - More than 10
 - Don't know
 - Not applicable

11. Did you go to juvenile court after being arrested?

- Yes
- No
- Don't know
- Not applicable

12. How did you, or other LGBTQ youth you know, get involved in foster care, group homes, independent living programs, DSHS counseling, and similar situations?

13. How did you, or LGBTQ youth you know, get involved in detention, probation, JRA, Children in Need of Services petitions, truancy petitions, At-risk youth petitions, and similar situations?

14. How did the following people treat you or other LGBTQ youth you know?

	Excellent	Good	Fair	Poorly	Very Badly	No Comment/Not Applicable
Caseworkers/Social Workers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Foster Families	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judges	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Probation Officers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parole Officers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Police Officers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Detention Staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Group Home Staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

15. Did these people (caseworkers, foster families, judges, detention staff, etc.) ever treat you differently because you are LGBTQ?

- Yes
- No
- Don't Know

Do you have any examples you'd like to share?

16. How frequently did the following people make sure you were safe and supported?

	Always	Most of the Time	Sometimes	Rarely	Never	No Comment/ Not Applicable
Caseworkers/Social Workers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Foster Families	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judges	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Probation Officers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parole Officers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Police Officers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Detention Staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Group Home Staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

17. Did anyone ever tell you about your rights while in these systems? [For example: your right to be safe, your right to medical care, your right to legal representation, etc.]

- Yes
- No
- Don't know

If yes, who told you about your rights?

18. How often were you able to find services (such as medical care, mental health care, substance abuse treatment, counseling, and similar) that were welcoming and accepting of you as a LGBTQ person?

- Always
- Most of the time
- Sometimes
- Rarely
- Never

Please share more about your answer:

19. While you were involved in the system, how comfortable did you feel telling the following people about your sexual orientation and/or gender identity?

	Very Comfortable	Somewhat Comfortable	Somewhat uncomfortable	Very Uncomfortable	No Comment/Not Applicable
Caseworkers/Social Workers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Foster Families	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judges	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Probation Officers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parole Officers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Police Officers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Detention Staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Group Home Staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Do you have any thoughts you'd like to share about your answers?

20. What would be the best way for a caseworker, judge, probation officer, foster parent, or similar to ask you about your sexual orientation and gender identity?

21. What do you think needs to change in these systems so that LGBTQ youth are treated better?

22. Do you think policies prohibiting discrimination based on actual or perceived sexual orientation and gender identity are helpful?

- Yes
- No
- Don't know

Please share your thoughts:

23. How helpful would it be if caseworkers, judges, probation officers, foster parents, and other professionals were required to get training on LGBTQ issues and how to be supportive of LGBTQ youth?
- Very helpful
 - Somewhat helpful
 - Somewhat unhelpful
 - Not at all helpful

Please share your thoughts:

24. Is there anything else you would like to share about your experiences with the child welfare and/or juvenile justice system in Washington State?

25. How do you describe yourself? [check all that apply]

- Bisexual
- Female
- Gay
- Genderqueer
- Intersex
- Lesbian
- Male
- Pansexual
- Straight
- Transgender
- Two-spirited
- Queer
- Questioning

Any other words that describe you:

26. How do you describe yourself? [check all that apply]

- Native American
- Asian
- Black or African American
- Latino/a
- Native Hawaiian/Pacific Islander
- White
- Multiracial

Any other words that describe you:

27. How did you find out about this survey? [check all that apply]

- Friend/peer
 - Service provider
 - Social media (such as Facebook)
 - Email
 - Pride event
 - Mockingbird Society
 - Other (please specify)
-

Thank you!

Thank you for sharing your experiences and suggestions with the Center for Children & Youth Justice.

The information gathered through this survey will help educate and influence those who can change how queer youth are treated in Washington State's child welfare and juvenile justice system.

Information on the eQuality Project findings will be made available on CCYJ's website once completed: <http://www.ccyj.org/>

If you have any questions or comments about this survey, the eQuality Project, or CCYJ,

please contact: Sarah Ganzhorn
Center for Children & Youth Justice
206-696-7503 ext. 23
sganzhorn@ccyj.org

Appendix H:

System Professional Online Survey

eQuality Project Survey of Professionals

This survey should take no longer than 10 minutes to complete.

As professionals in the child welfare and juvenile justice systems, you have unique insight into the experiences of lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth in care. This survey asks questions about your experiences and observations concerning youth who identify as or are perceived to be LGBTQ. When responding, please consider both the experiences of youth who have told you that they are LGBTQ and also the experiences of youth whom you and/or other involved persons perceive to be LGBTQ. Please include the experiences of LGBTQ youth you know of, even if you did not work with them directly. When the survey asks for numbers or percentages, please provide your best estimate.

This survey is being conducted by the Center for Children & Youth Justice as part of the eQuality Project, a research study designed to identify and address the unique needs of (LGBTQ) youth who are involved in the child welfare and/or juvenile justice system in Washington State. Your responses will be used to produce a report with policy recommendations concerning the treatment of LGBTQ youth in both systems.

Your responses will be kept confidential. We ask for your contact information in order to follow up with you about your responses. Giving your contact information is optional. Your personal information will not be shared with anyone outside of our research team and will not be tied to your responses in our report.

If you have questions about this survey, please contact Sarah Ganzhorn with the Center for Children & Youth Justice at 206-696-7503 ext. 23 or SGanzhorn@ccyj.org.

By continuing with this survey, you are consenting to have your responses studied for our report. Again, your responses and any personal information you provide will be kept completely confidential.

1. How often do you ask the youth you work with about their sexual orientation and/or gender identity:
- Always
 - Sometimes
 - Only when the client brings it up
 - Only when I think it might be relevant
 - Never

2. How comfortable are you with talking to clients about their sexual orientation and/or gender identity:
- Very Comfortable
 - Somewhat Comfortable
 - Somewhat Uncomfortable
 - Very Uncomfortable
 - Don't Know

3. In your experience, are the youth in your system comfortable disclosing their sexual orientation and/or gender identity to you and/or to other system professionals:
- Yes
 - No
 - Depends
 - Don't Know

If it depends, please explain

4. In your system, what total percentage of the youth involved do you estimate are LGBTQ:
- 0-5%
 - 5-10%
 - 10-20%
 - 20-30%
 - 30-40%
 - 40-50%
 - 50-60%
 - 60-70%
 - 70-80%
 - 80-90%
 - 90-100%
5. In which system do you work:
- Child Welfare
 - Juvenile Justice

6. In your experience, how likely is family rejection or disapproval of sexual orientation and/or gender identity to influence system involvement for LGBTQ youth:
- Very Likely
 - Somewhat Likely
 - Somewhat Unlikely
 - Very Unlikely
 - Don't Know
7. In your experience, how likely are LGBTQ youth to experience harassment, discrimination, and/or abuse/neglect because of their sexual orientation and/or gender identity from the following:

	Very Likely	Somewhat Likely	Somewhat Unlikely	Very Unlikely	Don't Know
Congregate Care Staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kinship Caregivers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Foster Families	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Peers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Caseworkers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Families of Origin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8. Does your agency's family reunification services take LGBTQ issues into consideration:
- Yes
 - No
 - Sometimes
 - Don't Know

If sometimes, please explain

9. How often is a youth's sexual orientation and/or gender identity considered when making placement decisions (e.g.: the foster parents are screened for their acceptance of LGBTQ identities before placement):
- In Every Case
 - Usually
 - Sometimes
 - Infrequently
 - Never
 - Don't Know
- Please explain:
-

10. Which of the following reasons for youth changing placements do you think are most likely for LGBTQ youth in care [select up to two]:

- Agency Reasons
- Family and Youth Didn't Get Along (Fighting, Major Disagreements, etc.)
- Foster Parent Abuse/Neglect
- Foster Parent(s) Request for a New Placement
- Previous Placement Was Temporary
- Youth Ran Away
- Youth Request for New Placement
- Not Sure
- Other Reasons

If other reasons, please explain

11. In your experience, are LGBTQ youth more or less likely to change placements compared to non-LGBTQ youth:

- More Likely
- Equally Likely
- Less Likely
- Don't Know

12. Compared to non-LGBTQ youth in care, are LGBTQ youth in care more or less likely to experience homelessness:

- More Likely
- Equally Likely
- Less Likely
- Don't Know

13. Does your agency have any of the following policies regarding LGBTQ youth [check all that apply]:

- Policies regarding with whom LGBTQ youth should be housed while in congregate care
- Policies regarding the privacy rights of LGBTQ youth
- Policies prohibiting harassment and discrimination based on actual or perceived sexual orientation and gender identity
- Policies regarding clothing or personal appearance for LGBTQ youth
- Policies regarding LGBTQ sensitivity training requirements for system professionals and caregivers
- Policies regarding LGBTQ competent services (e.g.: medical, mental health, developmental) whether provided by agency or outside agencies
- Policies regarding permanency efforts specifically for LGBTQ youth
- Policies ensuring educational equity for LGBTQ youth

- Other
- No policies that I know of

If other, please explain

14. Which of the following are youth currently employed by:

- Juvenile Court (e.g.: detention, intake, probation)
- Juvenile Rehabilitation
- Other

If other, please explain

15. In your experience, are LGBTQ youth more or less likely than heterosexual and gender conforming youth to be arrested and/or detained for:

	Less Likely	Equally Likely	More Unlikely	Don't Know
Prostitution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Shoplifting/Theft	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sexual Activity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Substance-Related Offenses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Aggravated Assault	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Disorderly Conduct	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Running Away	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Truancy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
At-Risk Youth (ARY)/Children in Need of Services (CHINS) petitions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

16. How likely is it that LGBTQ youth in the juvenile justice system are also:

	Very Likely	Somewh at Likely	Somewh at Unlikely	Very Unlikely	Don't Know
Involved in the Child Welfare System (e.g.: Foster Care, Kinship Care, Group Homes)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Homeless (e.g.: staying with friends, sleeping outside, staying at a shelter)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

17. In your experience, how likely is it that law enforcement officers disproportionately target youth in public based on their perceived sexual orientation and/or gender identity:

- Very Likely
- Somewhat Likely
- Somewhat Unlikely
- Very Unlikely
- Don't Know

18. Compared to heterosexual and gender conforming youth in the system, are LGBTQ youth more or less likely to be held in detention:

	More Likely	Equally Likely	Less Likely	Don't Know
Prior to Disposition	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
During Disposition	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

19. Compared to heterosexual and gender conforming youth, are LGBTQ youth more or less likely to have family support and involvement while involved in the system:

- More Likely
- Equally Likely
- Less Likely
- Don't Know

20. Compared to heterosexual and gender conforming youth, are LGBTQ youth more or less likely to be offered diversion options:

- More Likely
- Equally Likely
- Less Likely
- Don't Know

21. Below is a list of issues that some believe are likely for LGBTQ youth in the juvenile justice system to experience. In your experience, how likely is each one:

	Less Likely	Equally Likely	More Unlikely	Don't Know
Segregation/Isolation in Congregate Care Facilities (e.g.: Detention, JRA Institutions)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mistreatment (Abuse, Harassment, Discrimination, etc.) from Peers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mistreatment (Abuse, Harassment, Discrimination, etc.) from Detention or JRA Staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mistreatment (Abuse, Harassment, Discrimination, etc.) from Probation/Parole Officers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mistreatment (Abuse, Harassment, Discrimination, etc.) from Judicial Officers and Other Court Professionals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Insensitive and Discriminatory Social Services (e.g.: Medical, Mental Health, Counseling)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sanctions for Gender Non-Conforming Appearances or Behaviors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Requirements to Change Sexual Orientation and/or Gender Identity (e.g.: Conversion Therapies)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Requirements to Go Through Sex Offender Treatment/Counseling Solely Because of LGBTQ Identity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

22. Does your department have any specific policies regarding LGBTQ youth [check all that apply]:

Policies regarding with whom LGBTQ youth should be housed while in detention/congregate care

- Policies regarding the privacy rights of LGBTQ youth
- Policies prohibiting discrimination and harassment based on actual or perceived sexual orientation and gender identity
- Policies regarding clothing or personal appearance for LGBTQ youth
- Policies regarding LGBTQ sensitivity training requirements for system professionals
- Policies regarding LGBTQ competent services (e.g.: medical, mental health, developmental) inside or outside the agency
- Policies ensuring educational equity for LGBTQ youth
- Other
- No policies that I know of

If other, please explain

23. Below is a list of outcomes some believe are likely for LGBTQ youth who have been involved with the child welfare and/or juvenile justice systems. In your experience, how likely is each one:

	Very Likely	Somewhat Likely	Somewhat Unlikely	Very Unlikely	Don't Know
Homelessness	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Suicidal Ideation/Suicide Attempts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mental Health Issues (e.g.: PTSD, depression, anxiety)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Risky Sexual Behavior (e.g.: not using contraceptives or HIV/STI protection strategies)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Substance Abuse/Dependence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Poverty	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sexual Victimization	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Harassment Because of Identity (e.g.: bullying, hate speech)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Discrimination Because of Identity (e.g.: employment discrimination, housing discrimination)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Poor General Health	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Social Isolation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Incarceration	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Low Educational Achievements	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Physical Victimization	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

24. What is your current position (e.g.: probation officer, social worker, etc.)

25. In which county do you work:

26. What best describes the type of city/county in which you work:
- Urban
 - Suburban
 - Rural
27. Has training on LGBTQ youth and how to competently provide services to them been offered in your workplace:
- Yes
 - No
 - Don't Know
28. Have you ever been required to complete training on competently working with LGBTQ youth as part of your position:
- Yes
 - No
29. Below is a list of ideas for how to improve the systems for LGBTQ youth. Please select two that you think would be the most helpful:
- Policies prohibiting harassment and discrimination based on actual or perceived sexual orientation and gender identity
 - Requiring LGBTQ cultural competency training for system professionals
 - Focusing on permanency for LGBTQ youth, taking into account their identities
 - Requiring all service providers to be LGBTQ competent
 - Educating caretakers on LGBTQ issues
 - Developing and implementing LGBTQ inclusive assessments
 - Requiring the system to advocate for the well-being of youth in other systems
 - Other

If other, please explain

30. Please provide the best way to contact you so that we can follow up with you after this survey [optional]:

Name: _____

Email Address: _____

Phone Number: _____

Thank You

Thank you for your participation in this survey.
If you have questions, please contact Sarah Ganzhorn with the Center for Children & Youth Justice at 206-696-7503 ext. 23 or at SGanzhorn@ccyj.org.

Appendix I: Juvenile Court Administrators Survey

eQuality Project JCA Policy/Practice Request

This survey should take no more than 10 minutes to complete.

The following survey is designed to help us learn about your department's policy and practice relating to lesbian, gay, bisexual, transgender, and queer/questioning (LGBTQ) youth involved in Washington's juvenile justice system.

Additionally, we would like to learn about the challenges you face in effectively working with and improving the outcomes for LGBTQ youth. This information will be used for providing examples of how local juvenile departments are addressing the needs of system-involved LGBTQ youth.

We recognize that WA's juvenile courts are currently in the process of developing and implementing policies regarding the treatment of LGBTQ youth in order to meet the requirements included in the Prison Rape Elimination Act (PREA). Therefore, we have included space for you to indicate policies that are in progress—asking that you provide a timeline for when implementation will be completed.

Thank you for your participation!

Below is a list of policy areas, with policy examples included, that our research identifies as impacting LGBTQ youth in juvenile detention facilities.

1. Does your detention facility have policies addressing the following areas?

	Yes	No	Policies In Progress
Non-Discrimination (e.g.: differential treatment of youth based on actual or perceived sexual orientation and/or gender identity is prohibited with enforcement mechanisms in place)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Confidentiality (e.g.: a youth's sexual orientation and gender identity is considered confidential information)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Intake Procedures (e.g.: intake forms gather information about sexual orientation and gender identity in a respectful, non-judgmental way)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Placement Procedures (e.g.: sexual orientation and gender identity is considered when determining where a youth will be placed)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Appearance/Grooming Standards (e.g.: youth are allowed to express the gender consistent with their gender identity)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pronouns/Names (e.g.: youth are referred to by their preferred name and pronouns even if the youth's name has been legally changed)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Service Providers (e.g.: services provided (mental health, medical care, etc.) are required to be culturally competent for LGBTQ youth)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Staff Training (e.g.: detention staff are trained on LGBTQ issues and the departmental policies relating to LGBTQ youth in the facility)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you have any other policies concerning LGBTQ youth, please describe below:

2. What are the origins of any policies you have concerning LGBTQ youth in detention facilities? If your department does not have policies concerning LGBTQ youth in a particular area, select "N/A". Check all that apply.

	RCW	WAC	Court Rule	Local Court Rule	County Ordinance	Juvenile Department Policy	PREA	Other	N/A
Non-Discrimination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Confidentiality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Intake Procedures	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Placement Protocols	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Appearance/Grooming	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pronouns/Names	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Service Providers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Staff Training	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If other, please explain:

Below is a list of policy areas, with policy examples included, that our research identifies as impacting LGBTQ youth on juvenile probation.

3. Does your probation department have policies that address the following areas?

	Yes	No	Policies In Progress
Non-Discrimination (e.g.: differential treatment of youth based on actual or perceived sexual orientation and/or gender identity is prohibited with enforcement mechanisms in place)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Confidentiality (e.g.: a youth’s sexual orientation and gender identity is considered confidential information)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Intake Procedures (e.g.: intake forms gather information about sexual orientation and gender identity in a respectful, non-judgmental way)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Placement Procedures (e.g.: sexual orientation and gender identity is considered when determining where a youth will be placed)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Appearance/Grooming Standards (e.g.: youth are allowed to express the gender consistent with their gender identity)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pronouns/Names (e.g.: youth are referred to by their preferred name and pronouns even if the youth’s name has been legally changed)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Service Providers (e.g.: services provided (mental health, medical care, etc.) are required to be culturally competent for LGBTQ youth)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Staff Training (e.g.: detention staff are trained on LGBTQ issues and the departmental policies relating to LGBTQ youth in the facility)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If your probation department has any other policies concerning LGBTQ youth, please describe:

4. What are the origins of any policies you have concerning LGBTQ youth on probation? If your department does not have policies concerning LGBTQ youth in a particular area, select “N/A”. Check all that apply.

	RCW	WAC	Court Rule	Local Court Rule	County Ordinance	Juvenile Department Policy	PREA	Other	N/A
Non-Discrimination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Confidentiality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Intake Procedures	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Placement Protocols	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Appearance/Grooming	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pronouns/Names	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Service Providers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Staff Training	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If other, please explain:

5. When do you anticipate your department will complete implementation of policies required by PREA?
- Policies Already Implemented
 - Third Quarter 2014
 - Fourth Quarter 2014
 - First Quarter 2015
 - Second Quarter 2015
 - Don't Know

Please share more about your progress:

6. As you develop policies to meet the PREA requirements, will these policies address LGBTQ youth involved in all departmental functions (diversion, probation, etc.) or will the policies only address LGBTQ youth incarcerated in your detention facility?
- PREA policies will apply beyond detention
 - PREA policies will only apply to detention

Please explain your answer:

7. Will your department evaluate the impact of these PREA policies after implementation?
- Yes
 - No

Please share more about your answer:

8. In your experience, how challenging is it to effectively work with and improve outcomes for LGBTQ youth involved in the juvenile justice system?
- Very Challenging
 - Somewhat Challenging
 - Neutral/Don't Know
 - Not Very Challenging
 - Not At All Challenging

Please elaborate on your answer:

9. Please provide the name and contact information for someone in your department who we can follow up with about your responses:

Name: _____

Job Title: _____

County: _____

Email Address: _____

Phone Number: _____

Thank You

Thank you for completing this survey. Your input is critical to the success of the eQuality Project.

If your juvenile department has implemented any policies/procedures relating to LGBTQ youth (whether included in the areas above or not), providing us with a copy of that policy/procedure is requested.

If you have any questions or concerns, please contact:

Sarah Ganzhorn
Research Associate/Projects Assistant
The Center for Children &
Youth Justice
P: 206-696-7503 ext. 23
E: sganzhorn@ccyj.org

Appendix J:

Service Provider Interview Questions

1. Have you heard any common themes for how the queer youth you interact with became involved in the child welfare and/or juvenile justice systems? If so, what are they?

E.G.: we often hear that youth are rejected by their families because of their queer identity; that they become truant because school isn't safe; or they get arrested for survival crimes such as shoplifting or prostitution while homeless

2. How common is dual system involvement—child welfare and juvenile justice—among the LGBTQ youth and young people you work with?
3. Have the LGBTQ youth you work with shared any of their experiences from being involved in either or both the child welfare and juvenile justice systems? If so, what are some frequently heard themes?
4. What kinds of outcomes do you see for LGBTQ youth as they exit these systems?

E.G.: the literature suggests that these youth are at a higher risk for homelessness, poor physical and mental health, substance abuse, adult incarceration, poverty, physical and sexual victimization, etc.

5. What do you think needs to change to make the child welfare and juvenile justice systems safer and more accepting for LGBTQ youth?

E.G.: training, non-discrimination policies, etc.