

LGBT Youth in Juvenile Justice: Creating Agency Policies for an Equitable System on the State and Local Level



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Systemic Issues

- NONDISCRIMINATION POLICIES
 - DATA MANAGEMENT
 - TRAINING
 - LEADERSHIP
-

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DATA

Approximately **20%** of youth in juvenile detention facilities are LGBT, compared to approximately 5%-7% in the general population. Additionally, the data show that LGBT youth are more likely to enter juvenile detention for status offenses such as running away, truancy, and violations of probation.

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Jurisdictions with JJ LGBT Policies

Local	State/Territory
California – Santa Clara County	Massachusetts
California – San Francisco	New York
Pennsylvania – Philadelphia	Ohio
Illinois – Cook County	New Jersey
Louisiana – Orleans Parish	District of Columbia
	Hawaii
	Colorado

<http://www.equityproject.org/type/policy/>

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Toward Equity: Local Engagement Strategies

Beginning in 2011, the Equity Project engaged in intensive-site based work, working with pilot model sites to enhance LGBT advocacy in the juvenile justice system. One objective of the site-based work was to develop a “toolkit” for replication in other localities. However, through this multi-year process, that included many intensive meetings, numerous hours of volunteer work from local stakeholders, training hundreds of juvenile justice professionals, and developing relevant policies and practice tools, the Equity Project learned that there is no “one size fits all” model. Even so, there are some lessons learned and key themes that anyone looking to increase awareness of and improve outcomes for LGBT youth in the juvenile justice system, may find useful.

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TOWARD EQUITY

A Training Curriculum for

Understanding Sexual Orientation, Gender Identity, and Gender Expression, and Developing Competency to Serve Lesbian, Gay, Bisexual, and Transgender Youth in the Juvenile Justice System



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Lesson One: Understanding Sexual Orientation, Gender Identity, and Gender Expression

Lesson Two: Dismantling Bias and Fostering Equity

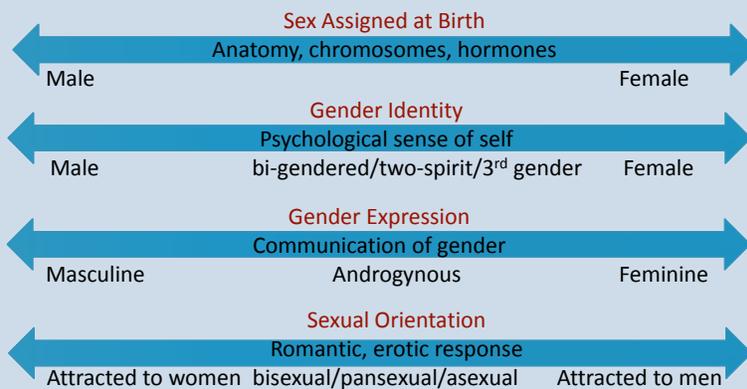
Lesson Three: Enhancing Communication and Building Trust with LGBT Youth

Lesson Four: Reducing Risk and Promoting Protection

Lesson Five: Ensuring Safety and Equity in Secure Settings

Lesson Six: Respecting and Supporting Transgender Youth

SOGIE



Legal Rights

- Right to be free from physical, emotional and sexual abuse
- Right to be free from unreasonably restrictive confinement
- Right to receive adequate medical and mental healthcare
- Right to equal protection under the law
- Right to freedom of speech and expression

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Tools

- CONSTITUTION
 - FEDERAL STATUTES AND REGULATIONS
 - CASE LAW
 - PROFESSIONAL STANDARDS
 - STATE AND LOCAL POLICY
-



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Professional Standards

American Psychological Association, *Policy Statement on Transgender, Gender Identity, and Gender Expression Non-Discrimination*, adopted August, 2008, available at:
<http://www.apa.org/about/policy/transgender.aspx>

National Commission on Correctional Health Care (NCCHC), *Transgender Health Care in Correctional Settings, Position Statement*, adopted October 18, 2009, available at:
<http://www.ncchc.org/transgender-health-care-in-correctional-settings>

World Professional Association for Transgender Health, (2012), *Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People*, available at:
[http://www.wpath.org/uploaded_files/140/files/Standards of Care, V7 Full Book.pdf](http://www.wpath.org/uploaded_files/140/files/Standards_of_Care_V7_Full_Book.pdf). See Chapters VI and XIV for youth and institutional environment specifics.

Annie E. Casey Foundation, (2015), *Lesbian, Gay, Bisexual, & Transgender Youth in the Juvenile Justice System: A Guide to Juvenile Detention Reform*, available at:
<http://www.aecf.org/blog/new-practice-guide-lgbt-youth-in-the-juvenile-justice-system/>

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Professional Associations with positions AGAINST reparative/conversion therapy

- American Psychiatric Association
- American Academy of Pediatrics
- American Counseling Association
- American Psychological Association
- National Association of Social Workers

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Recipe for Change

LGBTQI-GNC AT DYS

Lisa Belmarsh, Esq.
Director of Policy and Training

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DYS Policy

In July 2014, DYS implemented a policy on the Prevention of Discrimination and Harassment of Youth

This policy includes Guidelines for LGBTQI-GNC Youth

The guidelines and policy provide for the following:

- Intake procedures – on how to identify and ask about gender identity and sexual orientation
- Placement decisions for youth based on their gender identity
- Guidance on practices for clothing, hair, showers, searches, medical procedures, preferred names and pronouns
- Detailed reporting procedures for alleged violations of the policy and guidelines
- And more

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What does our policy look like?

If our policy and guideline was a cake, it would look something like this:



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Somewhere in between



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Caking Baking v. Policy Making

CAKE BAKING

- Want a dessert for 10
- How long to bake?
- Ask around for recipe
- Scratch v. Boxed mix
- Gather ingredients
- Mix it all together
- Bake it!
- Mangia!
- How's it taste?



POLICY MAKING

- Want an outcome for the agency
- Set a time frame
- Research best practice
- Draft own v. find sample
- Gather right staff
- Develop final draft
- Get it Signed!
- Distribute through training plan
- Start over? Or tweak?



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1. Agency Priority

Must be a priority from the head of the agency on down



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2. WHO'S IN CHARGE?



"We have too many cooks in the kitchen."

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LET'S GET COOKIN'

Go back to our List:

1. Want an Outcome – What is it?

We - at the executive level - started vague =

Better practices for LGBTQI-GNC Youth

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AND WHO IS IT FOR?

Number of ways to get it incorporated into everyone's working plan:

For State Employees:

- *Strategic Plan
- *PREA – M.G. L. c. 15B – Regulation
- *LGBTQ Commission Recommendations
- ACES
- EPRS
- *Senior Staff Agendas each month or regular basis

For Provider/Contractor Employees

- *Contract – RFR requirements
- *Master Service Agreements
- Monitoring Reports
- Corrective Action Plans/Reports

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2. Time Frame

Set deadlines - When's the party?

- PREA Audit
- LGBT Commission Fiscal Year Recommendations
- Strategic Planning

Prep Time -

- Research
- Draft
- Final draft for review

Cook Time -

- Anticipated Time for Training staff until Implementation



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3. Research Best Practices

- Use ours!
- Boston Police
- MA DESE Guidance for MA Public Schools
- MA regulations on participation of sports based on gender identify 603 CMR 26.06(5)
- Other states:
 - Cook County, Juvenile Temporary Detention Center
 - City of NY Administration for Children's Services
 - Ohio state policy
 - Colleges! List of those with inclusive housing

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4. SCRATCH IS BEST – RIGHT?

- Personally, I don't think so. We went with a boxed mix.
- If you choose this route, find a draft – Use ours!
- Research will help you find a boilerplate to then have as a starting point for discussion.
- Borrowed from NY –as a starting point



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5. Ingredients

- Our senior level managers (remember putting it on everyone's agenda?) committed to this initiative (partly b/c we had to!)
- CONSULTANTS are the secret ingredient!!
 - Missy Sturtevant, Health Imperatives
 - Vickie Henry, Esq., Director of GLAD's Youth Initiative
- And we met and met and met and met
 - Over the course of summer 2013 – we held over 10 meetings that lasted 2-3 hours each.



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6. Developing the Draft(s)

- Policy against all Harassment and Discrimination
 - Describes protections
 - Requires notification of protections to youth
 - Describes the reporting procedure for allegations = serious incident and possible 51A
- Policy on a Grievance Process to report
 - More specific on how a youth can report incidents
- Guidelines For Practices with LGBTQI and GNC Youth

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7. Developing the Draft(s)

Guidelines For Practices with LGBTQI and GNC Youth

Intake

Disclosure – how can a staff determine gender identity? And confidentiality

Placement – HUGE!

Counseling, Mental Health and Substance Abuse

Medical and Health Services

General Programing

Language and Name

Clothing/Hair/Grooming

Individual Bedrooms/Bathrooms/showers

Release planning



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Time to Bake it!

Training Model

- Trained senior staff first
- Then trained Supervisors/mangers
- Then picked stand alone programs and audit sites to go first
- Used our own trainer for DYS policy **and** Consultant, Missy Sturtevant with Health Imperatives for LGBTQ competencies **at every training**
- Continuous training – all current staff then within Basic Training for new staff (keep in mind may have an e learning coming)



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Sticking Points

- Forgot this was hard stuff
- And how far we had come

- Some staff had a hard time – needed extra support

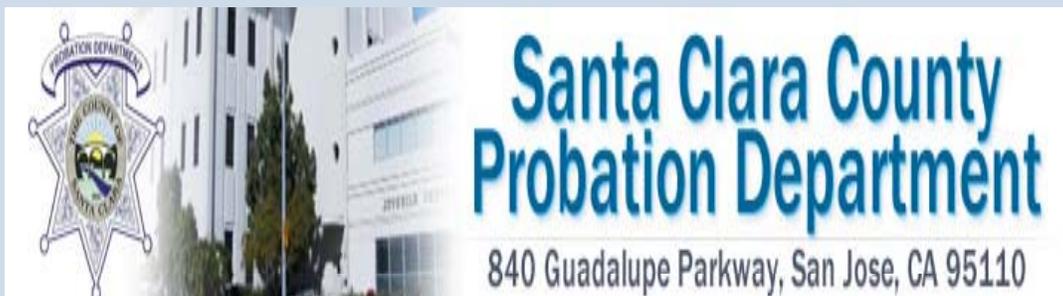
- Need to be able to take little bites but not be afraid of trying something new.

- Need next steps - Not going to get to everything –
 - collecting data,
 - completing evaluation,
 - incorporating into electronic management system,
 - youth education



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Santa Clara Probation Department
 San Jose CA
 Laura Garnette, Chief Probation Officer



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Why a presentation on LGBT youth?

- 20% of youth in juvenile detention facilities are LGBT, compared to approximately 5% - 7% in the general population. (Irvine, 2014)
- Justice stakeholders are already working with LGBT youth even if they don't know it;
- You are required to protect the rights of all youth;
- Understanding the experiences of youth is essential in making sound decisions;
- The juvenile justice system across the country is not meeting its obligation to ensure the safety and well-being of LGBT youth;
- There are best practices that can assist you in your daily work with LGBT youth.

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Two Ways to Develop a Juvenile Justice System Responsive to LGBT Youth

Reactive – Santa Clara County Initial Experience

Proactive – A Better Approach

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LEADERSHIP

*A leader takes people where they want to go.
A great leader takes people where they don't
necessarily want to go, but ought to be.*

Rosalynn Carter

THIS is Leadership !!!

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MEMORANDUM

TO: Sheila E. Mitchell, Chief Probation Officer
Laura Garnette, Deputy Chief Probation Officer

FROM: Lori E. Pegg, Acting County Counsel
Susan Swain, Lead Deputy County Counsel

RE: Placement of Transgender Youth in Juvenile Detention Facility

DATE: September 5, 2012

INTRODUCTION

It has come to the Probation Department's attention that there may be three known transgender minors in the County's juvenile justice detention facilities. You requested general background on the law in this area, and in particular with respect to a male to female (MTF) minor, in order to assist Probation in appropriately classifying and housing transgender minors in a juvenile detention facility. Specifically, Probation has requested clarification on the following issues:

- 1) Whether a transgender minor may be placed in a facility based on his or her gender identity rather than his or her birth gender?
- 2) What are some recommendations and model protocols on the treatment of transgender minors in the juvenile justice system?

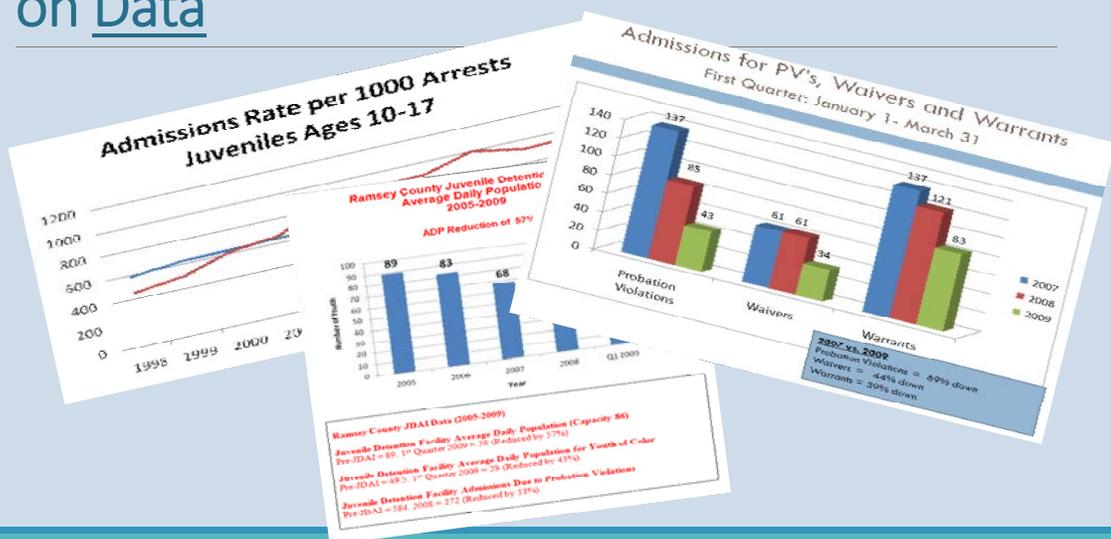
BRIEF ANSWERS

- 1) Probation may house a transgender minor according to their gender identity rather than the minor's birth gender, though it should follow the California Code of Regulations factors in assigning a minor to a particular facility.
- 2) Several recommendations and model protocols on making housing and classification decisions for transgender minors in the juvenile justice system are provided with this memorandum.

Ingredients for Success

- Leadership at all levels is essential and expected
- Develop well informed Policy and Procedures
 - Know and understand current research
 - Learn best practices
- Understand and follow what the experts say
 - Train, model and coach

Juvenile Justice Best Practice and Relying on Data



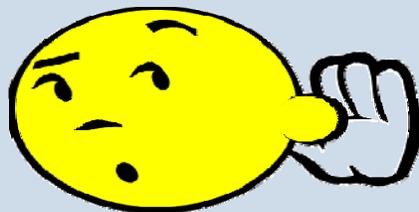


MUST Understand

- Political Climate
- State and Federal mandates
 - Professional Advice
 - Impact to LGBT youth
 - Impact to other youth
- Questions and concerns of staff
 - Navigating family Input

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What You Will Hear vs.
The Truth



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“Too Young to Know”

- Gender Identity and sexual orientation are established at an early age (3-5)
- Based on thoughts and emotions, not necessarily sexual encounter
- Children becoming aware at earlier ages



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“Youth can choose not to be LGBT”

- *Sexual orientation and gender identity are immutable aspects of identity*
- *Attempts to change are both futile and harmful to youth*
- *ALL nationally recognized professional medical and behavioral health organizations condemn “reparative therapy” as harmful.*

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What the experts say...

American Medical Association:

Scientific data suggests that personal choice has little or no influence in determining a person's sexual orientation.



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What the experts say...

American Psychiatric Association

“recommends that ethical practitioners refrain from attempts to change individuals' sexual orientation, keeping in mind the medical dictum to first, *do no harm.*”

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“Transgender youth are just acting out or seeking attention.”

Medical research demonstrates the importance of allowing transgender youth to express their core gender identity



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What the experts say...

AMA and APA, along with other national experts agree that:

“Appropriate medical intervention for a transgender individual is to help them bring their physical body more in line with their internal gender identification...Further, treatment is not ‘cosmetic’ or ‘experimental’ but **medically necessary.**”

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“LGBT youth are mentally ill and abnormal.”

Not mental illness

No connection with predatory conduct

Not caused by sexual abuse

Normal aspect of human experience and identity



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What the experts say...

American Psychological Association

recommends to:

“...avoid sexual orientation change efforts...and seek psychotherapy, social support and educational services that provide accurate information on sexual orientation and sexuality, increase family and school support, and reduce rejection of sexual minority youth.”

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AND..... these youth have families!

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Research on Families

Ryan (2009) has found that LGBT youth experiencing family rejection are:

- 8.4 times more likely to have attempted suicide
- 5.9 times more likely to report high levels of depression
- 3.4 times more likely to use illegal drugs
- 3.4 times more likely to report having engaged in unprotected sex

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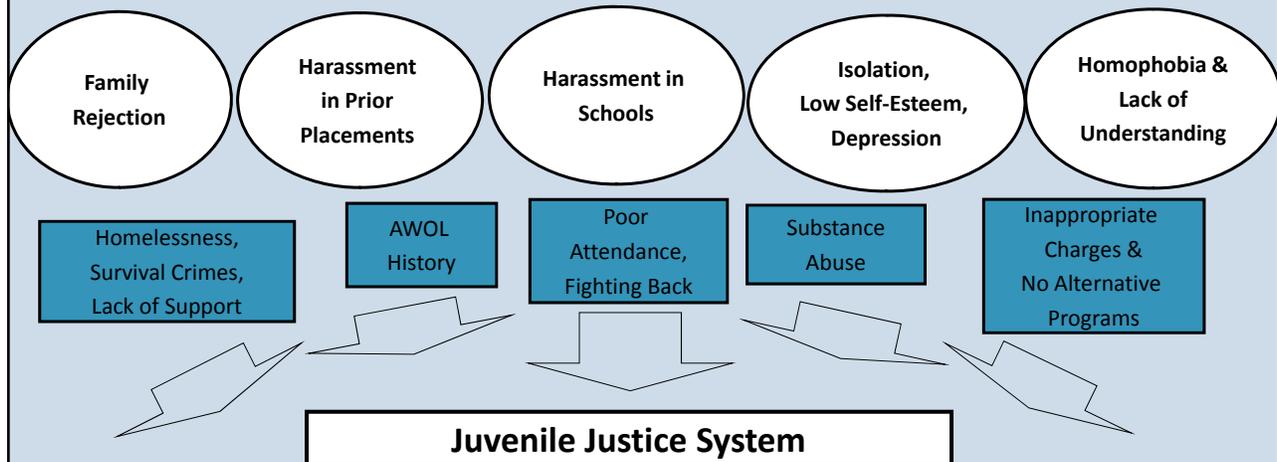
Strengthening Families

- Engage families and meet them where they are
- Provide support and guidance to families
- Educate families with most current research
- Refer families to LGBT affirmative counseling
- Provide intensive home-based services
- Support LGBT youth's connections to extended families.

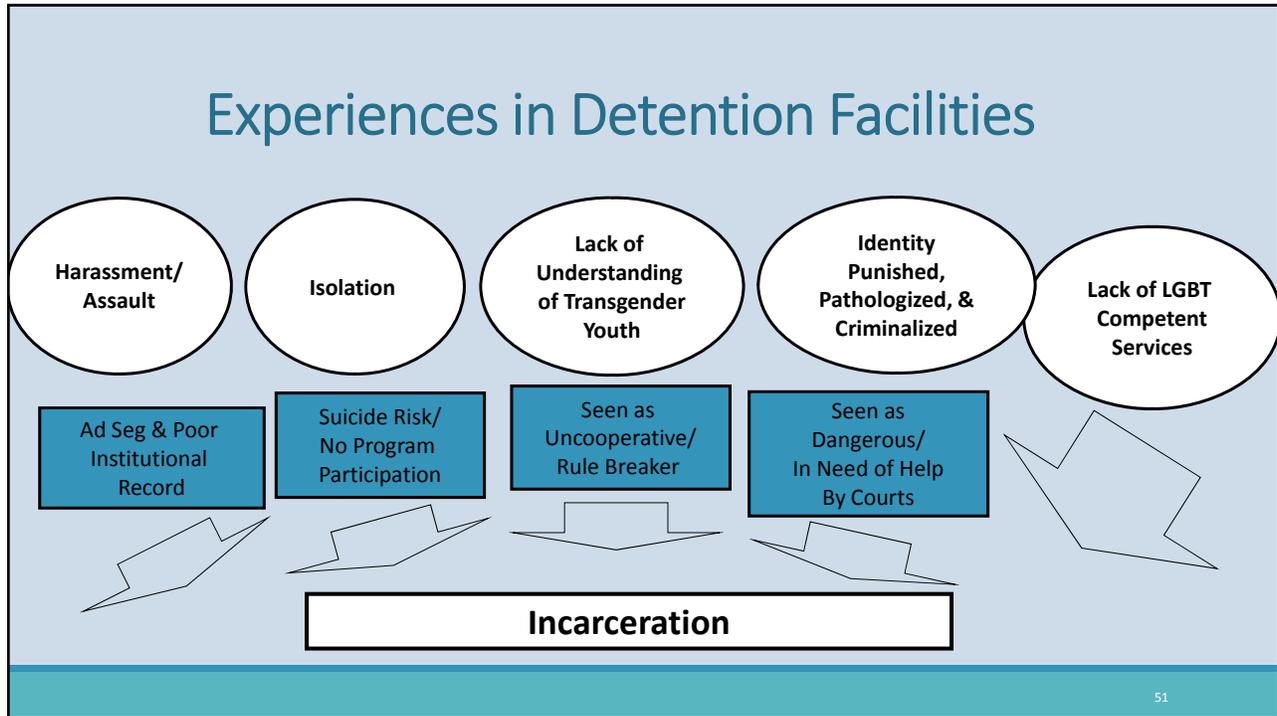


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Why are LGBT youth more likely to be detained?



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LGBT Youth in Detention

- Sexual Abuse
 - 2010 DOJ Report: 12.5 % of youth with sexual orientation other than heterosexual reported sexual victimization by other youth compared to 1.3% heterosexual youth
- Psychological Abuse
- Physical Abuse
- Isolation



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Responsibilities for *All* Youth in Detention

- Provide physical and emotional safety
- Provide adequate and appropriate medical and mental health care
- Prohibit arbitrary isolation and unreasonably restrictive conditions of confinement
- Provide fair and nondiscriminatory treatment

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What this means for LGBT Youth...



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Provide Physical and Emotional Safety

- Awareness of safety risks
- Respond promptly to incidents
- Adequate supervision
- Adequate staff
- Address bias or “homophobia” in overall institutional culture
 - Prohibit slurs or jokes
 - Use respectful and inclusive terminology
 - Display inclusive symbols
 - Encourage dialogue
 - Be fair and avoid double standards



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Expression of Gender Identity

- Validate each youth’s core gender identity as defined by the youth
- Do not force youth to dress, behave, or express themselves in conflict with their gender identity
- Use appropriate name and pronoun for youth

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Transgender Youth and Housing

In most cases, it is most appropriate to house youth according to their gender identity, not their birth gender. Sometimes a youth may not feel comfortable being housed according to their gender identity. (It's your job to ensure their safety regardless of their decision)

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Provide fair and nondiscriminatory treatment

- Equal application of rules and policies
- Respond promptly to complaints of harassment
- Inclusive programming
- Do not allow religious programming that condemns LGBT youth

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Creating Safe Space

- Create and enforce a comprehensive non-discrimination policy
- Initiate conversation - don't avoid discussion
- Have LGBT supportive signage and resources
- Don't participate in gossip and stop the gossip you observe. Respond consistently to all hate talk/degrading humor with youth and adults
- Have a zero tolerance for violence or "bashing."
- Maintain scheduled staff trainings on LGBT issues
- BE A ROLE MODEL AND LEADER

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Contact Information

For more information and resources, please visit: <http://www.equityproject.org>

If you have questions about the webinar content, please contact:

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If you require a certificate of completion for this webinar or you would like to hear about CJJ's future webinars, please contact:

Jonathan Litt, Field Relations Associate, Coalition for Juvenile Justice, litt@juvjustice.org

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