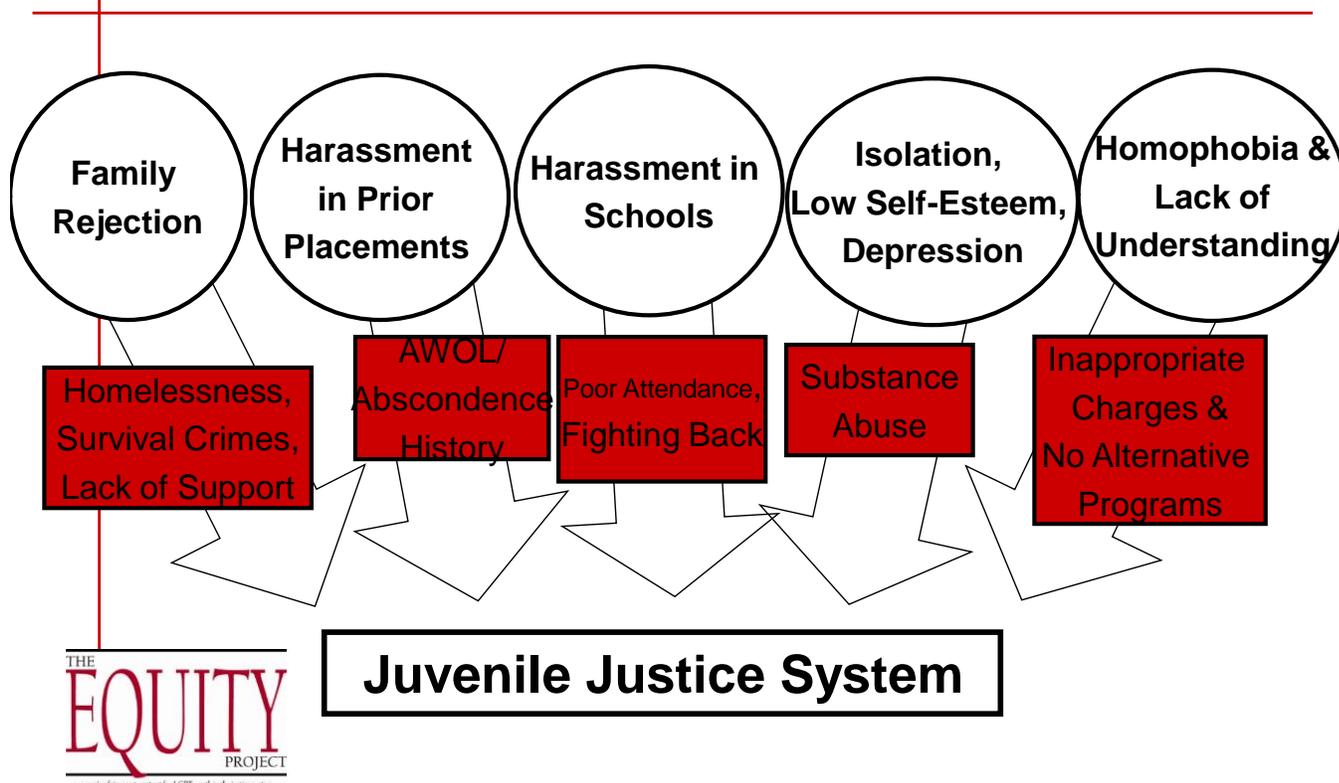


Inspiring Change, LLC presents:

LGBT & Gender-Nonconforming Youth In Juvenile Justice:

Factors Leading to Juvenile Justice Involvement



Understanding anti-LGBT bias and impact on youth is critical to making informed and equitable decisions about all youth involved in the juvenile justice system. 20% of youth in juvenile detention identify as LGBT or gender non-conforming compared with 7-9% in the general community. **“LGBT youth are often rejected and disenfranchised by the very agencies that should be serving them” – Coalition for Juvenile Justice**

More than avoiding biased decisions, juvenile justice personnel must consider the unique experiences and characteristics of every youth in their care, and take affirmative steps to protect their safety and advance their well-being.

www.inspiringchange.life acknowledges that much of this information is provided after study and practice with juveniles throughout our careers. ICLLC wishes to acknowledge: The Equity Project at <http://njdc.info/equity-project/> and the Annie E. Casey Foundation <http://www.aecf.org/>

The Equity Project offers the following recommendations for all agencies and offices involved in the juvenile justice system, including courts, prosecutors, defenders, probation offices and detention facilities.

- Develop, adopt, and enforce policies that explicitly prohibit discrimination and mistreatment of youth based on actual or perceived sexual orientation and gender identity at all stages of the juvenile justice process, from initial arrest through case closure.

- Juvenile justice professionals must receive training and resources regarding the unique societal, familial, and developmental challenges confronting LGBT youth and the relevance of these issues to court proceedings. Trainings must be designed to address the specific professional responsibilities of the audience (i.e., judges, defense attorneys, prosecutors, probation officers, and detention staff).

- Juvenile justice professionals (including judges, defense attorneys, prosecutors, probation officers, and detention staff) must treat—and ensure that others treat—all LGBT youth with fairness, dignity, and respect, including prohibiting any attempts to ridicule or change a youth’s sexual orientation or gender identity.

- Juvenile justice professionals must take responsibility for protecting the civil rights, and ensuring the physical and emotional well-being and safety of LGBT youth placed in out-of-home placements.

- Juvenile courts must commit to using the least restrictive alternative necessary when intervening in the lives of youth and their families and avoid unnecessary detention and incarceration.

- Juvenile courts must collaborate with other system partners and decision makers to develop and maintain a continuum of programs, services, and placements competent to serve LGBT youth, ranging from prevention programs to alternatives to detention to non-secure and secure out-of-home placements and facilities. Programs should be available to address the conflict that some families face over the sexual orientation and gender identity of their LGBT child.

- Juvenile justice professionals must adhere to all confidentiality and privacy protections afforded LGBT youth. These protections must prohibit disclosure of information about a youth’s sexual orientation and gender identity to third parties, including the youth’s parent or guardian, without first obtaining the youth’s consent.

“People [working in the juvenile justice system] need to have a better understanding of what LGBT youth are going through, not just what they did.” - — Jason, a 22-year-old white and Latino gay male youth

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Juvenile Courts, Judges and Juvenile Court Administration

- Require mental health professionals and services providers with whom the court contracts to obtain training in competently providing services to LGBT youth.
- Ensure that all court-based services such as mental health programs, drug or alcohol abuse services, and status offender programs, provide effective and nondiscriminatory services to LGBT youth.
- Keep informed of community-based programs and resources (including diversion programs, out-of-home placements, and aftercare services) that are equipped to work with LGBT youth and provide effective nondiscriminatory services. Ensure that defense attorneys, prosecutors, and probation officers are familiar with these resources as well.

Insist on decorum and respect in the courtroom

- Ensure that all professionals, regardless of their personal views, treat LGBT youth with dignity and respect in court. Immediately respond to instances of discrimination, including comments made in court that belittle, ridicule, or otherwise demonstrate bias towards LGBT youth.
- Where applicable, indicate on court documents a transgender youths preferred name along with the legal name.

Adhere to constitutional and statutory due process provisions

- Ensure the timely appointment of well-resourced, qualified counsel to represent LGBT youth at all stages of delinquency cases.
- Conduct all judicial colloquies using developmentally appropriate language and insist that any waivers of rights by youth meet the knowing, voluntary, and intelligent standard.

Reduce the over-reliance on detention and placement

- Make detention decisions based on appropriate legal standards (i.e., risk of dangerousness or flight). In cases in which these standards are not met but returning home is not an option, explore viable alternatives to detention.
- Support the creation of alternatives to detention that will keep LGBT youth in their communities with the lowest level of supervision necessary, such as informal daily reporting centers, curfews, placement in foster homes, or counseling.

“Gay youth stay in residential or corrections sex offender programs longer, and their normal behavior of being attracted to a same-sex partner is seen as offender behavior” – A Juvenile Probation Officer

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Juvenile Probation Agencies and Officers

Ensure fair case processing

- Consider sexual orientation and gender identity when making disposition recommendations to ensure that youth are not placed in programs that are damaging to them, and instead are placed in programs and provided services that appropriately address their individual concerns.
- Explore possible alternatives to detention and incarceration and recommend the least restrictive disposition necessary in each case. For youth alleged to have violated probation conditions, thoroughly explore the reasons for the behavior and consider whether harassment or abuse associated with sexual orientation or gender identity have contributed to the behaviors before asking the court to revoke probation.

Ensure services and programs provided to youth are LGBT-competent

- Support the creation of a continuum of community-based, LGBT-competent programs, including diversion programs.
- Require that all contracts with community-based providers and other governmental agencies specifically include LGBT-competent services and prohibit discrimination against LGBT youth.
- Juvenile justice professionals must promote the well-being of transgender youth by allowing them to express their gender identity through choice of clothing, name, hairstyle, and other means of expression and by ensuring that they have access to appropriate medical care if necessary.
- Address family conflicts by providing services to families struggling to accept the sexual orientation or gender identity of youth. Secure funding for community-based, LGBT-sensitive conflict resolution programs and counseling services to resolve family conflicts.

“Family Rejection leads to negative outcomes for youth, and impacts all aspects of the court process”

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Glossary of terms:

AGENDER: Describes a person who does not identify with a specific gender.

ALLY: Describes people who confront and challenge heterosexism, sexism, homophobia, transphobia and heterosexual privilege in themselves and others.

ANDROGYNOUS: Describes a person with physical and/or presentational traits ascribed to both men and women.

ASEXUAL: Describes a person who does not feel sexual attraction or a desire to engage in sexual behavior with either men or women.

BIAS: A personal, generalized preference for or against something that has the tendency to interfere with one's ability to be impartial or objective.

BIGENDERED: Describes a person having two genders; exhibiting cultural and/or physical characteristics of male and female roles.

BIPHOBIA: Fear or hatred of, or prejudice against, bisexual people.

BISEXUAL: Describes a person who is attracted to both men and women.

CISGENDER: Describes people whose gender identity matches their sex assigned at birth.

CISGENDERISM: Assuming that every person is cisgender, and marginalizing people who are gender nonconforming. Also, believing cisgender people are superior, and holding others to traditional or stereotypical gender-based expectations.

COMING OUT: The act or process of voluntarily disclosing one's sexual orientation or gender identity.

GAY: Describes a person who is attracted to individuals of the same gender. While historically used to refer specifically to men, it is often used to refer to women attracted to other women as well.

GENDER: A social construct used to classify a person as a man, a woman or some other identity. Fundamentally different from sex assigned at birth, it is often closely related to the role that a person plays or is expected to play in society.

GENDER BINARY: The idea that there are only two genders—male and female—and that a person can only be either exclusively male or female.

GENDER EXPRESSION: Describes how individuals communicate their gender to others. People express and interpret gender through hairstyles, clothing, physical expression and mannerisms, physical alterations of their body or by choosing a name that reflects their gender identity.

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GENDERFLUID: Shifting naturally in gender identity and/or gender expression. The term may be used to refer to a specific gender identity or the fluidity between identities. Other similar terms include: gender creative, gender-nonconforming (GNC), gender expansive, genderqueer, gender variant and pangender.

GENDER IDENTITY: A person's internal identification or self-image as male, female, something in between, or outside of the male/female binary. Everyone has a gender identity. One's gender identity may or may not be consistent with one's sex assigned at birth.

GENDERISM: The belief that there are—and should be—only two genders, and that one's gender, or most aspects of it, are inevitably tied to one's sex assigned at birth.

GENDER NEUTRAL: Describes facilities that any individual can use regardless of gender (e.g. gender-neutral bathrooms); can also be used as a synonym for androgynous, or someone who does not identify with a gender.

GENDER NON-CONFORMING (GNC): Describes a person who does not subscribe to gender expression or roles imposed by society.

GENDER ROLE: A societal expectation of how people should act, think, look, dress, sound and/or feel based upon the gender corresponding with their sex assigned at birth.

HETERONORMATIVITY: The assumption, by individuals or institutions, that everyone is heterosexual, and that heterosexuality is superior to other sexual orientations.

HETEROSEXUALITY: Describes a sexual orientation in which a person feels physically and emotionally attracted to individuals of the opposite sex.

HETEROSEXUAL PRIVILEGE: A term describing the benefits derived automatically from being heterosexual or perceived as heterosexual, which are denied to people of other sexual orientations.

HOMOPHOBIA: The irrational hatred or fear of lesbian or gay people, or disapproval of other sexual orientations, regardless of motive. Homophobia includes prejudice, intolerance, discrimination, harassment and acts of violence against people based on their gay or lesbian identity. It occurs on personal, institutional and societal levels, and is closely linked with transphobia and biphobia. Internalized homophobia is the fear and self-hate of one's own gay or lesbian identity, which can occur for individuals who have been conditioned throughout childhood with negative ideas about sexual orientations other than heterosexuality.

HOMOSEXUALITY: Describes a sexual orientation in which a person feels physically and emotionally attracted to people of the same sex. This term is disfavored in LGBT communities because of its historical association with mental illness.

INTERSEX: Describes people born with sex chromosomes, external genitalia or internal reproductive systems that are not considered "typical" for either males or females.

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“IN THE CLOSET”: Refers to a lesbian, gay, bisexual, transgender or intersex person who chooses not to disclose his or her sex, sexual orientation or gender identity to friends, family, co-workers or society. There are varying degrees of being “in the closet.” For example, a person can be “out” in his or her social life, but “in the closet” at work or with family. Also, known as “Down-low” or “D/L.”

LESBIAN: Describes a woman who is attracted to other women.

LGBT: An acronym used to describe lesbian, gay, bisexual and transgender persons, or the community as a whole.

MSM: An abbreviation for “men who have sex with men,” which refers to men who engage in sexual behavior with other men, but who may not necessarily identify as gay or bisexual.

QUEER: An umbrella term used to refer to all LGBT people; the term can be a political statement as well as an identity, seeking to expand upon limited sexual and gender-based categories. For some, “queer” has a negative connotation, given its historical use as a pejorative term. Many LGBT people, however, have reclaimed the word and now use it in a positive light. Many people use the term “queer” because other terms do not accurately describe them.

QUESTIONING: People who are unsure of, or in the process of, discovering their sexual orientation or gender identity.

SAME-GENDER LOVING: A term used in some communities (often African-American) for people who love, date and/or have attraction to people of the same gender. Often used by those who prefer to distance themselves from the terms they see as associated with primarily white LGBT communities or movements.

SEX: Assigned at birth, a biological construct that is based primarily on physical attributes such as chromosomes, external and internal genital and reproductive anatomy and hormones.

SEXUAL OR GENDER MINORITY: A person whose sexual orientation or sexual behavior is not part of the mainstream. May also refer to members of gender groups that do not fall into the binary categories of male or female.

SEXUAL ORIENTATION: An attraction to others that is shaped at an early age (usually by about the age of 10). Sexual orientation falls on a spectrum that ranges from attraction to only men or only women, to varying degrees of attraction to both men and women, to attraction to neither men nor women.

SOGIE: An acronym for sexual orientation, gender identity and gender expression. Everyone has a sexual orientation, gender identity and gender expression.

STEREOTYPE: A preconceived, generalized and oversimplified opinion, belief or judgment applied to an entire group of people. It is also an assumption that people, groups or events conform to a general pattern and lack any individuality.

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STIGMA: A mark of humiliation or shame associated with a circumstance, quality or group of people.

STRAIGHT: Describes a man who is attracted to women or a woman who is attracted to men.

TRANSGENDER: Describes a person whose gender identity and sex assigned at birth do not match.

TRANSGENDER MAN: A person who was assigned a female sex at birth, but identifies as and is living as a man. Similar terms include: “trans man,” “trans boy” and “transgender boy.” [Note: Some transgender people object to the use of “FTM” or “F2M,” abbreviations for “female-to-male.”]

TRANSGENDER WOMAN: A person who was assigned a male sex at birth, but identifies as and is living as a woman. Similar terms include: “trans woman” and “trans girl.” [Note: Some transgender people object to the use of “MTF” or “M2F,” abbreviations for “male-to-female.”]

TRANSITION: A process by which transgender people align their anatomy (medical transition) or gender expression (social transition) with their gender identity.

TRANSPHOBIA: Fear or hatred of, or prejudice against, transgender people.

TRANSSEXUAL: A term used by the medical community to refer to individuals who wish to alter their bodies to make their anatomy more in line with their gender identities. Transsexual is not a term you will hear very often among youth or transgender community members.

TWO SPIRIT: A term used in some Native American communities for persons who identify with gender roles of both men and women, and/or are considered a separate or third gender.

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