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The Overrepresentation of Lesbian, Gay, Bisexual, Questioning, Gender Nonconforming and Transgender Youth Within the Child Welfare to Juvenile Justice Crossover Population

Angela Irvine Ph.D.

Aisha Canfield M.P.P

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THE OVERREPRESENTATION OF LESBIAN, GAY, BISEXUAL, QUESTIONING, GENDER NONCONFORMING AND TRANSGENDER YOUTH WITHIN THE CHILD WELFARE TO JUVENILE JUSTICE CROSSOVER POPULATION

ANGELA IRVINE, PH.D.*

AISHA CANFIELD, M.P.P. †

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* Angela Irvine, Ph.D, has more than 20 years of experience in education and social policy. Most recently, Dr. Irvine served as the principal investigator of a national study of juvenile de-incarceration; a national study of LGBT youth in the juvenile justice system; a project to improve permanency for LGBT youth and youth of color within the criminal justice and juvenile justice systems; a survey of every detention hall, ranch, and camp in California to understand statewide pathways into the juvenile justice system for LGBT youth; and a National Institute of Justice researcher-practitioner partnership grant in Santa Cruz County to determine whether structured decision making instruments used by adult probation departments can lead to more equitable probation outcomes for Latinos and women. She is currently Vice President at Impact Justice.

† Aisha Canfield is a Policy Researcher and Analyst in Oakland, California. She received a B.A. in Communication Studies from San Francisco State University and holds a M.A. in Public Policy from Mills College. She would like to thank all of the young people for their courage to share their stories, probation professionals for their willingness to collect and share data, and her colleagues for their support.

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I. INTRODUCTION

A new national study shows that lesbian, gay, bisexual, questioning, gender nonconforming, and transgender (LGBQ/GNCT) youth are overrepresented among youth in the juvenile justice system who have been involved in the child welfare system¹ These findings essentially document that the percentage of LGBQ/GNCT youth involved in both the juvenile justice and child welfare systems is higher than the percentage of LGBQ/GNCT youth in the general population.

These youth are sometimes referred to as “dually-involved” or “crossover” youth. Generally, the term “dually-involved” refers to youth who are supervised in both the child welfare system and the juvenile justice system at the same time.² The term “crossover” is a broader term that refers to youth who have been involved in the child welfare system prior to or concurrent with juvenile justice system involvement.³ The authors of this report surveyed and interviewed youth who were currently in the juvenile justice system and used two survey questions to identify child welfare involvement: “Have you ever been *removed* from your home because someone was hurting you?” and “Have you ever been *placed* in a group or foster home because someone was hurting you?” The second question was designed to identify when escalated child welfare action was taken as not all home *removals* result in a *placement* into a group or foster home. Since these questions capture two different child welfare system actions but cannot determine if youth have a current child welfare case, the broader term “crossover” youth is most appropriate.

Additionally, the authors distinguish foster home or group home placement “because someone hurt them” from foster home or group home placement “because they got in trouble.” This is an important distinction for youth in the juvenile justice system who can be sent to an out-of-home placement by the dependency (child welfare) or delinquency (juvenile justice) court. The same does not hold true for child welfare youth, unless

1. The authors recognize that in many places, the juvenile justice system includes both dependency and delinquency. In the sites where the research was conducted for this study, the juvenile justice system refers to delinquency only.

2. DENISE C. HERZ ET AL., CTR. FOR JUVENILE JUSTICE REFORM, ADDRESSING THE NEEDS OF MULTI-SYSTEM YOUTH: STRENGTHENING THE CONNECTION BETWEEN CHILD WELFARE AND JUVENILE JUSTICE 1-2 (2012), http://cjjr.georgetown.edu/wp-content/uploads/2015/03/MultiSystemYouth_March2012.pdf.

3. *Id.*

they become juvenile justice involved. While both the juvenile justice and the child welfare systems have the agency to remove youth from their homes, the reasons differ. The juvenile justice system typically removes a young person from the home as part of their court sentence or because a youth's behavior is "escalating" and resulting in violations of probations. These reasons typically do not meet the threshold of a child welfare home removal, such as physical abuse or neglect. For this study, only child welfare removals were considered.

This study surveyed youth in seven juvenile detention facilities. Results show that lesbian, gay, bisexual, questioning ("LGBQ") or gender nonconforming and transgender ("GNCT") youth in the juvenile justice system are at least three times more likely to have been removed from their home than straight and gender conforming youth and at least five times more likely to be placed in a group or foster home compared with straight and gender conforming youth.⁴

II. DETAILED FINDINGS FROM YOUTH SURVEYS

Youth in juvenile detention facilities were surveyed and Table 1 illustrates that child welfare involvement is not consistent across all sexual orientations. LGBQ youth are three times more likely to have been removed from their home than straight youth: only 11% percent of straight youth in the juvenile justice system had a history of being removed from their home by social workers compared to 30% of LGBQ youth.

Table 1 shows even greater disparities when looking at child welfare system placement into group or foster homes (as opposed to juvenile justice placement). Only 3% of straight youth in the juvenile justice system had been previously placed in a group or foster home while 23% of LGBQ youth had. This means that LGBQ youth are more than seven times more likely to be placed in a group or foster home than straight youth.

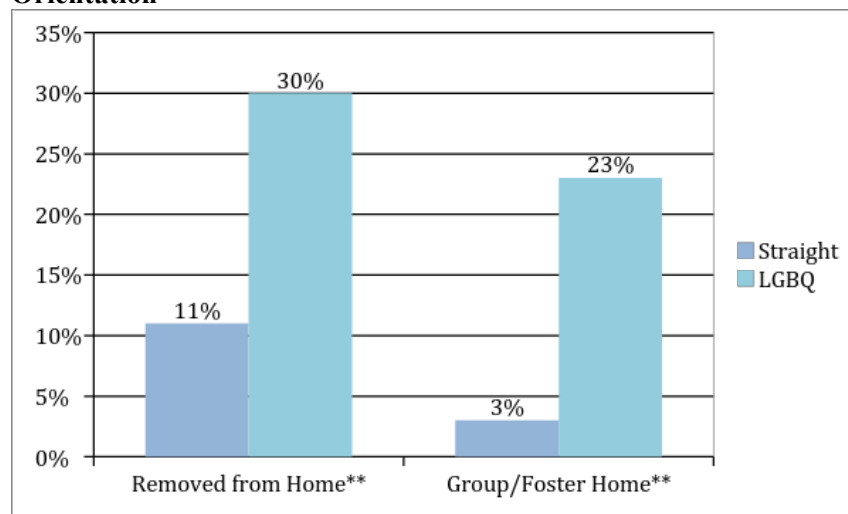
4. For the purpose of this chapter, "lesbian" is defined as a girl or a woman who is emotionally, romantically, or sexually attracted to girls or women. "Gay" is defined as person who is emotionally, romantically, and sexually attracted to individuals of the same sex, typically in reference to boys and men, but is also used to described women. "Bisexual" is defined as a person who is emotionally, romantically, and sexually attracted to both males and females. "Questioning" is defined as someone who is exploring their sexual orientation and/or gender identity. "Transgender" is defined as a person whose gender identity (their understanding of themselves as male or female) does not correspond with their birth sex. "Sexual orientation" is a term for whom someone is romantically or sexually attracted to. "Gender identity" is defined as a person's internal sense of being a man, boy, woman, or girl. "Gender expression" describes how someone chooses to perform their gender identity, usually through clothing, hair, and chosen name. The term "gender nonconforming" refers to people who express their genders in a way that is not consistent with the societal expectations of their birth sex.

Aside from sexual orientation, the authors were interested to see whether different aspects of gender expression and identity shaped child welfare histories. Gender conformity or nonconformity refers to how someone expresses their gender while being transgender refers to someone's internal gender identity. Gender nonconformity is different, then, from transgender. Youth are considered gender nonconforming when they choose hairstyles, clothing, and/or a name that outwardly express their gender differently than the societal/social expectation for the sex they were assigned at birth. Whether or not someone is considered transgender is based on gender identity, and youth who are transgender identify with a gender that is different than the sex they were assigned at birth. Separate from their sexual orientation, or perceived sexual orientation, GNCT youth are at heightened risk of maltreatment in both the juvenile justice and child welfare systems because they do not meet social expectations about how to perform their gender.

Table 2 shows that GNCT youth in the juvenile justice system are three times more likely to be removed from their home than gender conforming youth. While just 10% percent of gender conforming youth had histories of being removed from their homes by social workers, 35% of GNCT youth had been removed.

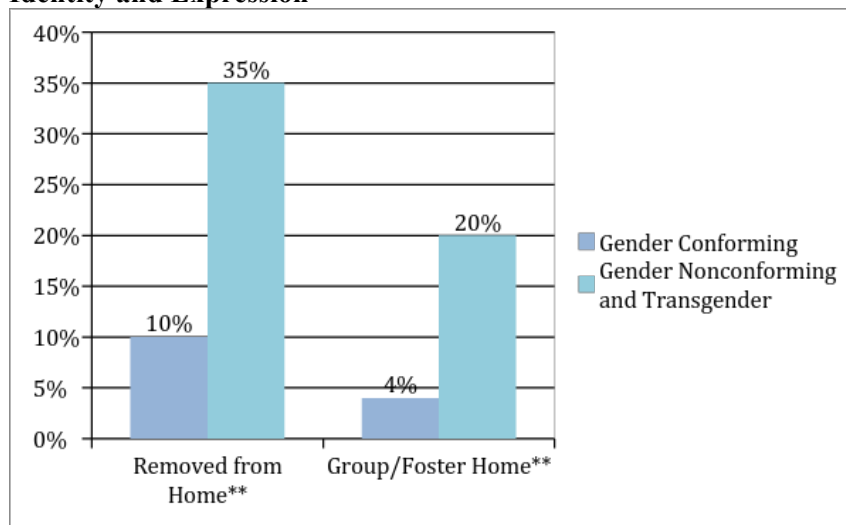
Table 2 also illustrates that GNCT youth in the juvenile justice system are five times more likely to be placed in a group or foster home than straight youth: only 4% of gender conforming youth had been previously placed in a group or foster home compared to 20% of GNCT youth.

Table 1: Differences in Child Welfare Involvement by Sexual Orientation



**Difference is statistically significant to $p < .000$

Table 2: Differences in Child Welfare Involvement by Gender Identity and Expression



** Difference is statistically significant to $p < .000$

III. WHY ARE LGBQ/GNCT YOUTH REMOVED FROM THEIR HOMES AND PLACED IN GROUP OR FOSTER HOMES?

In addition to surveys, the authors conducted interviews with young people involved in the juvenile justice system. Interview data with straight and LGBQ/GNCT youth provide more insight into why there may be differences across these groups. The data showed that the two most common reasons for LGBQ and GNCT youth to come in contact with child welfare are high rates of physical abuse and conflict with parents. Statistical analysis of these interview findings show that LGBQ youth are twice as likely as straight youth to have experienced physical abuse prior to being removed from their home by a social worker (18% of LGBQ youth compared with 8% of straight youth). GNCT youth are at an even higher risk of physical abuse. GNCT youth are almost four times more likely to have experienced physical abuse prior to home removal than conforming youth (19% of GNCT youth compared with 5% of conforming youth). GNCT youth are also more likely to self-report running away or being kicked out of their home due to conflict with their parents prior to juvenile justice involvement (66% of GNCT youth compared with 42% of gender conforming youth).

IV. PLACING THE PROPORTION OF CROSSOVER YOUTH IN CONTEXT OF GENERAL OVERREPRESENTATION FOR DETAINED LGBQ/GNCT YOUTH OF COLOR

This information on crossover youth links to additional findings on the general overrepresentation of LGBQ/GNCT youth in the juvenile justice system.

Previous research found that while 4-6% of youth in the general population identify as LGBT, yet 15% of youth in the juvenile justice system across the country disclosed being LGBQ/GNCT.⁵ The proportion of LGBQ/GNCT youth in our current sample is even larger, and reinforces findings in the previous research—namely, LGBQ/GNCT youth are overrepresented in the juvenile justice system. Our analysis of 1400 surveys from seven different research sites indicates that 20% of youth in detention halls are lesbian, gay, bisexual, questioning, gender nonconforming, or transgender.⁶

Notably, 85% of those who identified as LGBQ/GNCT are youth of color. This is the *same proportion* of straight youth in detention who are of color, meaning that youth of color are just as likely to be LGBQ/GNCT as their white peers. However, because of the additional fact that individuals of color are overrepresented in the juvenile justice and mass incarceration system, there is a much larger *number* of LGBQ/GNCT youth of color in the juvenile justice system than white LGBQ/GNCT youth. The proportion of overrepresentation varies depending on their current gender identity and it is particularly pronounced for LBQ girls—who are also mostly of color.

When describing the LGBQ/GNCT population, it is important to distinguish between sexual orientation and gender conformity. Gender conformity or nonconformity does not indicate one's sexual orientation.

Chart 1, below, splits boys into four groups: heterosexual and gender conforming (straight boys who act and/or dress as society expects them to); heterosexual and gender nonconforming (straight boys who act and/or dress in ways that are more feminine than society expects them to); gay, bisexual, or questioning boys who are gender conforming (GBQ boys who act and/or dress the way society expects them to); and gay, bisexual, or questioning boys who are gender nonconforming (GBQ boys who act and/or dress in a way that is more feminine than society expects them to).

The study found that 86.4% of boys are heterosexual and gender conforming; 7.3% are heterosexual and gender nonconforming; 3.5% are gay, bisexual, or questioning and gender conforming; and 2.8% are gay,

5. Angela Irvine, "We've Had Three of Them": Addressing the Invisibility of Lesbian, Gay, Bisexual and Gender Non-Conforming Youths in the Juvenile Justice System, 19:3 COLUM. J. GENDER & L. 675, 686 (2010).

6. See Appendix A for more details on the study methodology.

bisexual, or questioning and gender nonconforming. Therefore, a combined 13.6% of boys are GBQ/GNC.

Chart 1: GBQ/GNC Boys

	Heterosexual	GBQ
Gender Conforming	86.4%	3.5%
Gender Nonconforming	7.3%	2.8%

Using the same methodology, we found that 60.1% of girls are heterosexual and gender conforming; 7.8% are heterosexual and gender nonconforming (more masculine presenting or behaving); 22.9% of girls are lesbian, bisexual, or questioning and gender conforming; and 9.2% of girls are lesbian, bisexual, or questioning and gender nonconforming. This means that 39.9%—a remarkably high percentage of girls in the juvenile justice system—are LBQ/GNC.

Chart 2: LBQ/GNC Girls in the Juvenile Justice System

	Heterosexual	LBQ
Gender Conforming	60.1%	22.9%
Gender Nonconforming	7.8%	9.2%

V. HOW THE NEW FINDINGS FIT IN WITH EXISTING RESEARCH

These findings reinforce the conclusions of prior research. Over the past fifteen years, researchers have uncovered important trends that highlight the links between a family’s rejection of a LGBQ/GNCT youth and the subsequent child welfare involvement, homelessness, survival crimes, and juvenile justice involvement.

Researchers have found that parents are often upset when their child discloses that they are lesbian, gay, or bisexual or they behave in a manner that is gender nonconforming.⁷ Moreover, research suggests that it is often

7. See generally GREG OWEN ET AL., OVERVIEW OF HOMELESSNESS IN MINNESOTA 2006 at 1 (2007), http://www.wilder.org/download.0.html?report_1963; NICHOLAS RAY, NAT’L GAY AND LESBIAN TASK FORCE, LESBIAN, GAY, BISEXUAL, AND TRANSGENDER YOUTH: AN EPIDEMIC OF HOMELESSNESS 1, 2 (2006),

the family's response to the child's nonheterosexual and/or nonconforming gender identity and expression that drive them into the child welfare system.⁸ Negative responses vary widely, from disapproval to abuse.⁹

Rejection and abuse increase the chances that a LGBTQ/GNCT youth will enter the child welfare system. One study showed that approximately 30% of LGBT youth in foster care have been physically abused by family members as a result of their sexual orientation or gender identity.¹⁰ Bianca Wilson at the Williams Institute recently conducted a rigorous study of LGBT/GNCT representation in the child welfare system.¹¹ A phone survey of 786 randomly selected youth in the Los Angeles' Department of Children and Family Services (DCFS) system found that 19% of youth (1,400 of 7,400 youth in any given month) identify as LGBTQ.¹² This indicates that youth in foster care are as much as three times as likely to be LGBTQ than those in the general population.¹³

<http://www.thetaskforce.org/downloads/reports/reports/HomelessYouth.pdf>; Michael C. Clatts et al., *Correlates and Distribution of HIV Risk Behaviors Among Homeless Youths in New York City: Implications for Prevention and Policy*, 77 CHILD WELFARE 195 (1998); Justeen Hyde, *From Home to Street: Understanding Young People's Transitions into Homelessness*, 28 J. ADOLESC. 171, 172, 175 (2005); Ruthann Robson, *Our Children: Kids of Queer Parents and Kids Who are Queer: Looking at Sexual Minority Rights from a Different Perspective*, 64 ALB. L. REV. 915, 932-34 (2001).

8. See ROB WORONOFF ET AL., *OUT OF THE MARGINS: A REPORT ON REGIONAL LISTENING FORUMS HIGHLIGHTING THE EXPERIENCES OF LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND QUESTIONING YOUTH IN CARE*, 34-35 (2006), <http://www.lambdalegal.org/sites/default/files/publications/downloads/out-of-the-margins.pdf>.

9. See generally Brian N. Cochran et al., *Challenges Faced by Homeless Sexual Minorities: Comparison of Gay, Lesbian, Bisexual, and Transgender Homeless Adolescents With Their Heterosexual Counterparts*, 92 AM. J. PUB. HEALTH 773 (2004); Elizabeth M. Saewyc et al., *Hazards of Stigma: The Sexual and Physical Abuse of Gay, Lesbian, and Bisexual Adolescents in the United States and Canada*, 85 CHILD WELFARE 195, 197, 198, 200, 205 (2006); Sarah E. Valentine, *Traditional Advocacy for Non-Traditional Youth: Rethinking Best Interest for the Queer Child*, 2008 MICH. ST. L. REV. 1053, 1076-78, 1083 (2008); Les B. Whitbeck et al., *Mental Disorder, Subsistence Strategies, and Victimization Among Gay, Lesbian, and Bisexual Homeless and Runaway Adolescents*, 41 J. SEX RES. 329, 333-34, 340 (2004).

10. See Colleen Sullivan et al., *Youth in the Margins: A Report on the Unmet Needs of Lesbian, Gay, Bisexual and Transgender Adolescents in Foster Care*, LAMBDA LEGAL DEFENSE & EDUCATION FUND 1, 11 (2001).

11. See Bianca D.M. Wilson et al., *Sexual and Gender Minority Youth in Foster Care: Assessing Disproportionality and Disparities in Los Angeles*, 5, 7 (Aug. 2014), http://williamsinstitute.law.ucla.edu/wp-content/uploads/LAFYS_report_final-aug-2014.pdf.

12. *Id.* at 5-6.

13. Cf. GARY J. GATES, THE WILLIAMS INST., *LGBT DEMOGRAPHICS: COMPARISONS AMONG POPULATION-BASED SURVEYS* 1, 4 (2014),

In the course of our interviews, gender nonconforming and transgender youth shared stories of being prohibited from wearing clothing that comported with their gender identity or expression. Similarly, lesbian and gay youth who disclosed their sexual orientations prior to out-of-home placement reported feeling social isolation, exclusion, and a lack of friends of the same sex/gender at their placements because of assumed sexual relationships. LGBQ/GNCT youth often run away from home or out-of-home placement to escape negative treatment such as physical, sexual, and emotional abuse.¹⁴

In turn, these youth may seek refuge, friendship, and “family” outside of the home or the placement, often on the streets. Thus, LGBQ/GNCT youth are also overrepresented in the homeless population.¹⁵ The National Network of Runaway and Youth Services estimates that between 20% and 40% of homeless youth are LGBT.¹⁶ While on the street, homeless LGBQ/GNCT youth face an increased risk of becoming victims of assault, robbery, and rape.¹⁷

Well-resourced support networks are often difficult for LGBQ/GNCT youth to access due to ongoing familial rejection and social isolation, and services for homeless youth are often gendered or religious-based. As a result, homeless LGBQ/GNCT youth may be driven to commit “survival crimes” such as sex work, theft, or drug sales in order to pay for housing and food.¹⁸ It takes no stretch of the imagination to see how rejection and

<http://escholarship.org/uc/item/0kr784fx> (finding that data from four national surveys shows that 1.7% to 5.6% of adults identify as LGBT).

14. See WORONOFF ET AL., *supra* note 8, at 33-34.

15. See Cochran et al., *supra* note 9, at 774 (finding that LGBT youth left home at nearly twice the rate of heterosexual youth). Compare James M. Van Leeuwen et al., *Lesbian, Gay, and Bisexual Homeless Youth: An Eight-City Public Health Perspective*, 85 CHILD WELFARE 151, 159 (2006) (reporting 22.4% of 670 youth participating in the study identified as LGB); M. Rosa Solorio et al., *Emotional Distress and Mental Health Service Use Among Urban Homeless Adolescents*, 33 J. BEHAV. HEALTH SERV. & RES. 381, 386 (2006) (reporting research finding that out of 688 homeless youth interviewed 169 identified as LGB (24.5%) and 519 identified as heterosexual (75.5%)); Norweeta G. Milburn et al., *Cross-National Variations in Behavioral Profiles Among Homeless Youth*, 37 (1-2) AM. J. COMM. PSYCHOL. 67, 70 (2006) (finding 23.8% of the homeless youth surveyed in the United States to have a non-heterosexual orientation); with Ray, *supra* note 7, at 1; with Sullivan et al., *supra* note 10, at 11 (referencing a 1991 source’s approximation that “5-10% of the general population is estimated to be gay or lesbian”).

16. Sullivan et al., *supra* note 10, at 11; WORONOFF ET AL., *supra* note 11, at 33-34.

17. See Cochran et al., *supra* note 9, at 774.

18. See generally KATAYOON MAJD ET AL., THE EQUITY PROJECT, HIDDEN INJUSTICE: LESBIAN GAY, BISEXUAL, AND TRANSGENDER YOUTH IN JUVENILE COURTS 71-72 (2009), <http://www.equityproject.org/wp->

abuse by parents/guardians can set off a chain reaction that leads to child welfare involvement, homelessness, and survival crimes, which ultimately place LGBTQ/GNCT youth at an increased risk of juvenile justice involvement.¹⁹

VI. THIS STUDY PROVIDES A MISSING PIECE OF INFORMATION

By combining the prior research above, we can see a clear narrative about the pathway for LGBTQ/GNCT from family rejection to child welfare involvement to homelessness to survival crimes and, finally, to juvenile justice involvement. However, there has not yet been one piece of research that fits all of the pieces together. This lack of cross-system data sharing and Sexual Orientation, Gender Identification, and Expression (“SOGIE”) data collection has made it difficult to *confirm* the links exist.

That said, some excellent cross-system research has emerged to estimate the number of youth overall that crossover from child welfare to the juvenile justice system. The computation of such estimates requires special research projects that match cohorts of youth from both systems.²⁰ Only a handful of such studies exist.²¹ Of those, results show tremendous

content/uploads/2014/08/hidden_injustice.pdf; Ray, *supra* note 7, at 59; John E. Anderson et al., *Sexual Risk Behavior and Condom Use Among Street Youth in Hollywood*, 26 FAM. PLAN. PERSP. 22 (1994); Stephen Gaetz, *Safe Streets for Whom? Homeless Youth, Social Exclusion, and Criminal Victimization*, 46 CANADIAN J. CRIMINOLOGY & CRIM. JUST. 423, 436-38 (2004); NAT’L ALL. TO END HOMELESSNESS, INCIDENCE AND VULNERABILITY TO LGBTQ HOMELESS YOUTH 1, 4-5 (2009), http://www.endhomelessness.org/page/-/files/2141_file_LGBTQ_Brief_2007.pdf; Van Leeuwen et al., *supra* note 24, at 153.

19. See Carolyn Smith & Terence P. Thornberry, *The Relationship Between Childhood Maltreatment and Adolescent Involvement in Delinquency*, 33 CRIMINOLOGY 451, 463 (1995) (reporting findings that 45% of maltreated adolescent participants had an arrest record while only 31.7% of non-maltreated adolescent participants had an arrest record).

20. Herz & Joseph P. Ryan, JUDICIAL COUNCIL OF CAL., EXPLORING THE CHARACTERISTICS AND OUTCOMES OF 241.1 YOUTH CROSSING OVER FROM DEPENDENCY TO DELINQUENCY IN LOS ANGELES COUNTY, 2 (2008), <http://www.courts.ca.gov/documents/AB129-ExploringResearchUpdate.pdf>.

21. See generally Gregory J. Halemba & Gene Siegel, NAT’L CTR. FOR JUVENILE JUSTICE, DOORWAYS TO DELINQUENCY: MULTI-SYSTEM INVOLVEMENT OF DELINQUENT YOUTH IN KING COUNTY (SEATTLE, WA) (2011), http://ncjj.org/pdf/MFC/Doorways_to_Delinquency_2011.pdf; Herz, *supra* note 20; Gregory J. Halemba et al., CTR. FOR JUVENILE JUSTICE, ARIZONA DUAL JURISDICTION STUDY: FINAL REPORT (2004); Barbara T. Kelly et al., U.S. DEP’T OF JUSTICE, IN THE WAKE OF CHILDHOOD MALTREATMENT 1, 11-13 (1997), <https://www.ncjrs.gov/pdffiles1/165257.pdf>; Smith & Thornberry, *supra* note 19, at 452, 462-65; Michelle L. Saetern & Janay R. Swain, *Exploring Characteristics and Outcomes of 241.1 Youth in Alameda County*, 13, 26, (Aug. 6, 2009) (unpublished M.S.W. thesis, California State University, Sacramento) (on file with author).

variation in the percentage of youth in the juvenile justice system that came from child welfare. For example, Gregory Halemba and Gene Siegel argue that 67% of youth in the King County, Washington juvenile justice system have a history of child welfare involvement.²² In contrast, Anne Dannerbeck and Jiahui Yan found that 17% of youth in the Missouri juvenile justice system had a child maltreatment history recorded by the Division of Family Service or the juvenile court records.²³ There are even fewer studies that identify differences across specific populations of youth. However, one study shows that involvement of child welfare is more prevalent for, finding child welfare involvement for 33-50% of girls compared with 20-25% of boys in the juvenile justice system.²⁴

There have not been any studies on the child welfare experiences of LGBQ or GNCT youth in the juvenile justice system compared with straight youth. The reason for this is simple: data on sexual orientation, gender identity, and gender expression is rarely collected by child welfare and juvenile justice systems.²⁵

Our anonymous survey offered a rare opportunity to estimate how many youth in the juvenile justice system have previous child welfare involvement and to compare child welfare histories across sexual orientation, gender identity, and gender expression. By asking all youth detained within our seven research sites about previous child welfare involvement, their SOGIE, and the reasons for their current juvenile justice involvement, the authors confirmed these connections.

However, research based on our anonymous survey data has limitations. Future research that links child welfare system data to juvenile justice system data would provide broader, more detailed information about the links between the two systems for LGBQ/GNCT youth. Once child welfare or juvenile justice system collect SOGIE data with their other demographic variables, researchers would be able to link a wider range of child welfare outcomes (e.g. unsustained charges, sustained charges, number of placements, kin placement, reunification) to juvenile justice involvement.

22. Halemba, *supra* note 21, at 4.

23. Anne Dannerbeck & Jiahui Yan, *Missouri's Crossover Youth: Examining the Relationship Between Their Maltreatment History and Their Risk of Violence*, 1 J. JUV. JUST. 78, 85 (2011).

24. Herz, *supra* note 20, at 2.

25. There are exceptions to this statement. Juvenile justice jurisdictions like the consortium of Central Valley Probation Departments in California have begun collecting sexual orientation, gender identity, and gender expression data as required under the Prison Rape Elimination Act Standards. Child welfare agencies such as Alameda County in California and Allegheny County in Pennsylvania are developing methods for incorporating SOGIE questions into their case management systems.

The experience of crossing from the child welfare system to the juvenile justice system is important to think about because it is a measure of the heightened vulnerability and marginalization of LGBQ/GNCT youth—largely youth of color—in the child welfare and juvenile justice system. Since a much higher proportion of girls in the juvenile justice system are LBQ/GNCT, it seems these risks are even more pronounced for girls. As policy advocates build stronger initiatives to address the needs of crossover youth in general, it is imperative that they consider the needs and experiences of LGBQ/GNCT youth as they move forward.

However, successful integration of the needs of LGBQ/GNCT youth into crossover youth system reforms should not proceed in a way that thinks of this group as a special subpopulation. All youth have a race/ethnic identity. All youth have a sexual orientation—whether it is asexual, straight, lesbian, gay, bisexual, or questioning. And all youth have a gender identity and expression. Future reforms should incorporate the multiple dimensions of youths' identity into consideration at one time.

VII. SIDEBAR

PREVENTING LESBIAN, GAY, BISEXUAL, QUESTIONING,
GENDER NONCONFORMING, AND TRANSGENDER (LGBQ/GNCT)
YOUTH IN THE CHILD WELFARE SYSTEM FROM CROSSING-OVER
TO THE JUVENILE JUSTICE SYSTEM

AMY CIPOLLA-STICKLES, M.A.

Keeping LGBQ/GNCT foster youth in their current placements when there is conflict with guardians can be challenging. I recently spent over a year training social workers at the Alameda County child welfare agency on how to work with LGB/GNCT youth of color who currently are (or potentially) at risk of family rejection. One of the most important parts of my training was using a case study like the following to have social workers question their assumptions about families of color being more homophobic than other racial/ethnic families and offering new family engagement skills that considers the complexities of the intersection of race and SOGIE.

Malik is a dark skinned, six foot one, fifteen-year-old, black boy who is effeminate and gay. When his mother died, no one else in his family was able to take him except his 81yr old great grandmother, Ethel. Six months into the placement, Ethel called the social worker yelling, "Come get this child. I can't do this. This child has gone too far with this now. Malik wants me to call him Amber, wanna run in the streets all late into the night, talking about getting some surgery and now running around wearing some stripper type clothing."

Many social workers often assume that the correct response to this scenario is to honor Ethel's request, remove Malik from her home under the assumptions that Ethel was too old to manage this, too old and rigid in her gender-binary thinking to understand transgender issues, and worried that her trans-phobic language that would prevent her from being able to continue to successfully child-rear Malik. However, the lesson for social workers to learn is to become less judgmental and more curious about what's driving the great grandmother's newly rejecting behaviors. When asked questions like: Why has it been ok for Malik to wear effeminate clothing and date boys but not be referred to with female pronouns up to now?

Ethel's answer was, "He's dark skinned, he's black, he's 6' 1." He's gay and now you want me to start calling him her? I want

my baby to come home. What’s wrong with you?” In other words, the great grandmother is worried about her great grandchild being murdered. She had adjusted to the extra risk that Malik was subjected to as a gay black boy. But she wasn’t ready to adjust to the extra risk Malik would face as a black transgender woman.

Ethel lives near a mural painted in honor of eight transgender women murdered in the last few years. She understands the grim reality. The social worker’s initial assessment of Ethel wasn’t totally accurate. Ethel wasn’t fixated on the grandchild’s gender expression because she is transphobic. Ethel didn’t want Malik to be the next black woman killed.

My training helped social workers to develop the skills to coach guardians like this grandmother into strengthening her relationship with Malik and keeping an intact family. One of the best strategies is building bridges between adults and youth. Ethel was honest. “Look, I can’t say ‘she’ yet and I might be able to get there with some help soon but what I really can’t see is these clothes that she wants to wear.” Social workers can work with guardians like Ethel to find points of compromise. Malik agreed to get dressed into her feminine clothes at school and to change back into masculine clothing right when he got home. In response, Ethel would use female pronouns. The place to start—not end—is the compromise. Through ongoing coaching, Malik and Ethel and families like them can build on these initial successes, create safe homes, continue to strengthen the fabric of the families and communities and keep youth off the street and out of the juvenile justice system.

APPENDIX A: STUDY METHODOLOGY

The authors conducted a survey in seven juvenile detention centers across the country,²⁶ with the purpose of determining whether or not race, gender identity, gender expression, and sexual orientation influence juvenile justice involvement.

Probation departments administered surveys within their own halls,

26. Juvenile detention facilities hold youth charged with a crime while they wait to go to court. Youth also may be held in juvenile detention facilities if their parents refuse to pick them up or cannot afford bail, or if a jurisdiction is having a difficult time finding a post-court placement. Depending on the reason for detention, stays can vary from one to two hours to several years.

ranches, and camps. Probation chiefs were tasked with identifying staff members to serve as research liaisons for their departments. Each liaison participated in training that provided context for the need to conduct this research, the history of LGBQ/GNCT youth, the intersection of identities—particularly race—and LGBQ/GNCT youths' experiences in the juvenile justice system.

Following the trainings, each site determined when to survey each youth in its facility according to its size, programming, and staff availability. Incoming youth were surveyed four to eight hours after intake and the other youth were surveyed on one day either during school or mealtime.

The one-page survey instrument and a one-page informed consent sheet were written at a fifth-grade reading level and were offered in both English and Spanish. The consent forms were read aloud by the research liaisons and only required youth to mark an "X" in a box in lieu of their signatures to maintain anonymity and ensure protection. Youth were not required to complete the survey at all or in its entirety, and were not required to disclose their decision to participate to the research liaisons. Once the youth completed the surveys, they folded them up and sealed them in envelopes, which were mailed back to the authors.

Research sites were in Alameda and Santa Clara counties, California; Cook County, Illinois; Jefferson County, Alabama; Jefferson and New Orleans parishes, Louisiana; and Maricopa County, Arizona. Each site collected surveys from two to four months until they collected 200 youth surveys.

Respondents varied across gender, race/ethnicity, and sexual orientation:

- The majority of respondents are boys. Seventy-seven percent of respondents have a male gender identity, 22.4% of respondents have a female gender identity, and 0.6% of respondents have a different gender identity.
- Eighty-five percent of respondents are youth of color. Broken down, 37.9% of respondents are African American or Black, 1.7% of respondents are Asian, 32.6% of respondents are Latino or Hispanic, 2.3% of respondents are Native American, 13.1% of respondents are white, 11.8% of respondents are mixed race or ethnic identity, and 0.6% of respondents are of another race or ethnic identity.
- Twenty percent of respondents are either lesbian, gay, bisexual, questioning, gender nonconforming or transgender. Broken down, 7.5% of respondents are straight and gender nonconforming or transgender, 4.8% of respondents are lesbian, gay, or bisexual and gender nonconforming or transgender, and 7.7% of respondents are lesbian, gay, or bisexual and gender conforming.

- Forty percent of girls are lesbian, bisexual, or gender nonconforming and transgender.
- Youth of color disclosed being LGBTQ/GNCT at the same rate as white youth.
- Youth of color are overrepresented within the incarcerated LGBTQ/GNCT population: 85% of LGB and GNC youth in juvenile justice system are of color.

Data was analyzed using analysis of variance tests. We used these tests to determine if the identified subgroups have statistically different responses to survey questions. All of the findings reported in this paper were significant to $p < .000$.

REFERENCES

John E. Anderson et al., *Sexual Risk Behavior and Condom Use Among Street Youth in Hollywood*, 26 FAM. PLAN. PERSP. 22, 22-25 (1994).

Michael C. Clatts et al., *Correlates and Distribution of HIV Risk Behaviors Among Homeless Youths in New York City: Implications for Prevention and Policy*, 77 CHILD WELFARE 95, 95-107 (1998).

Brian N. Cochran et al., *Challenges Faced by Homeless Sexual Minorities: Comparison of Gay, Lesbian, Bisexual, and Transgender Homeless Adolescents With Their Heterosexual Counterparts*, 92 AM. J. PUB. HEALTH 773, 773-77 (2002).

Anne Dannerbeck & Jiahui Yan, *Missouri's Crossover Youth: Examining the Relationship between their Maltreatment History and their Risk of Violence*, 1 J. JUV. JUST. 78, 78-92(2011).

Stephen Gaetz, *Safe Streets for Whom? Homeless Youth, Social Exclusion, and Criminal Victimization*, 46 CANADIAN J. CRIMINOLOGY & CRIM. JUST. 423, 234-455 (2004).

GARY J. GATES, THE WILLIAMS INST., LGBT DEMOGRAPHICS: COMPARISONS AMONG POPULATION-BASED SURVEYS (2014), <http://escholarship.org/uc/item/0kr784fx>.

GREGORY J. HALEMBA & GENE SIEGEL, NAT'L CTR. FOR JUVENILE JUSTICE, DOORWAYS TO DELINQUENCY: MULTI-SYSTEM INVOLVEMENT OF DELINQUENT YOUTH IN KING COUNTY (SEATTLE, WA) (2011), http://www.ncjj.org/pdf/MFC/Doorways_to_Delinquency_2011.pdf.

2016] LGBQ/GNCT YOUTH IN CHILD WELFARE POPULATION 259

GREGORY J. HALEMBA ET AL., NAT'L CTR. FOR JUVENILE JUSTICE, ARIZONA DUAL JURISDICTION STUDY: FINAL REPORT (2004), http://www.ncjj.org/pdf/azdual_juri.pdf.

DENISE C. HERZ ET AL., CTR. FOR JUVENILE JUSTICE REFORM, ADDRESSING THE NEEDS OF MULTI-SYSTEM YOUTH: STRENGTHENING THE CONNECTION BETWEEN CHILD WELFARE AND JUVENILE JUSTICE (2012), http://cjjr.georgetown.edu/wp-content/uploads/2015/03/MultiSystemYouth_March2012.pdf.

DENISE C. HERZ & JOSEPH P. RYAN, JUDICIAL COUNCIL OF CAL., EXPLORING THE CHARACTERISTICS AND OUTCOMES OF 241.1 YOUTH CROSSING OVER FROM DEPENDENCY TO DELINQUENCY IN LOS ANGELES COUNTY (2008), <http://www.courts.ca.gov/documents/AB129-ExploringResearchUpdate.pdf>.

Denise C. Herz et al., *Challenges Facing Crossover Youth: An Examination of Juvenile-Justice Decision Making and Recidivism*, 48 FAM. CT. REV. 305, 305-321 (2010).

Justeen Hyde, *From Home to Street: Understanding Young People's Transitions into Homelessness*, 28 J. ADOLESC. 171, 171-183 (2005).

Angela Irvine, *"We've Had Three of Them": Addressing the Invisibility of Lesbian, Gay, Bisexual and Gender Non-Conforming Youths in the Juvenile Justice System*, 19:3 COLUM. J. GENDER & L. 675, 686 (2010).

Kelley, B. T., Thornberry, T., and Smith, C. (1997). In *The Wake Of Child Maltreatment*. OJJDP Juvenile Justice Bulletin. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

John M. Lemmon, *How Child Maltreatment Affects Dimensions of Juvenile Delinquency in a Cohort of Low-Income Urban Youths*, 16 JUST. Q. 357, 357-76 (1999).

KATAYOON MAJD ET AL., THE EQUITY PROJECT, HIDDEN INJUSTICE: LESBIAN, GAY, BISEXUAL, AND TRANSGENDER YOUTH IN JUVENILE COURTS 71-72 (2009), http://www.equityproject.org/wp-content/uploads/2014/08/hidden_injustice.pdf.

Norweeta G. Milburn et al., *Cross-National Variations in Behavioral Profiles Among Homeless Youth*, 37(1-2) AM. J. COMM. PSYCHOL. 63-77 (2006).

Sara Munson & Madelyn Freundlich, *Double Jeopardy: Youth in Foster Care Who Commit Delinquent Acts*, 25 CHILD. LEGAL RTS. J. 9-20 (2005).

NAT'L ALL. TO END HOMELESSNESS, INCIDENCE AND VULNERABILITY TO LGBTQ HOMELESS YOUTH 1 (2009), http://www.endhomelessness.org/page/-/files/2141_file_LGBTQ_Brief_2007.pdf.

GREG OWEN ET AL., OVERVIEW OF HOMELESSNESS IN MINNESOTA 2006 1 (2007), http://www.wilder.org/download.0.html?report_1963.

NICHOLAS RAY, NAT'L GAY AND LESBIAN TASK FORCE, LESBIAN, GAY, BISEXUAL, AND TRANSGENDER YOUTH: AN EPIDEMIC OF HOMELESSNESS 1 (2006), <http://www.thetaskforce.org/downloads/reports/reports/HomelessYouth.pdf>.

Ruthann Robson, *Our Children: Kids of Queer Parents and Kids Who are Queer: Looking at Sexual Minority Rights from a Different Perspective*, 64 ALB. L. REV. 915, 915-24 (2001).

Michelle L. Saeteurn & Janay R. Swain, *Exploring Characteristics and Outcomes of 241.1 Youth in Alameda County*, (Aug. 6, 2009) (unpublished M.S.W. thesis, California State University, Sacramento) (on file with author).

Elizabeth M. Saewyc et al., *Hazards of Stigma: The Sexual and Physical Abuse of Gay, Lesbian, and Bisexual Adolescents in the United States and Canada*, 85 CHILD WELFARE 195, 197-205 (2006).

Carolyn Smith & Terence P. Thornberry, *The Relationship Between Childhood Maltreatment and Adolescent Involvement in Delinquency*, 33 CRIMINOLOGY 451, 451-477 (1995).

M. Rosa Solorio et al., *Emotional Distress and Mental Health Service Use Among Urban Homeless Adolescents*, 33 J. BEHAV. HEALTH SERV. & RES. 381, 381-93 (2006).

COLLEEN SULLIVAN ET AL., YOUTH IN THE MARGINS: A REPORT ON THE UNMET NEEDS OF LESBIAN, GAY, BISEXUAL AND TRANSGENDER ADOLESCENTS IN FOSTER CARE, 11 (2001).

Sarah E. Valentine, *Traditional Advocacy for Non-Traditional Youth: Rethinking Best Interest for the Queer Child*, 2008 MICH. ST. L. REV. 1053, 1054-1113 (2008).

2016] LGBQ/GNCT YOUTH IN CHILD WELFARE POPULATION 261

James M. Van Leeuwen et al., *Lesbian, Gay, and Bisexual Homeless Youth: An Eight-City Public Health Perspective*, 85 CHILD WELFARE 151, 151-70 (2006).

BIANCA D.M. WILSON ET AL., SEXUAL AND GENDER MINORITY YOUTH IN FOSTER CARE: ASSESSING DISPROPORTIONALITY AND DISPARITIES IN LOS ANGELES, 5-7 (Aug. 2014), http://williamsinstitute.law.ucla.edu/wp-content/uploads/LAFYS_report_final-aug-2014.pdf.

Les B. Whitbeck et al., *Mental Disorder, Subsistence Strategies, and Victimization among Gay, Lesbian, and Bisexual Homeless and Runaway Adolescents*, 41 J. SEX RES. 329, 329-342 (2004).

ROB WORONOFF ET AL., OUT OF THE MARGINS: A REPORT ON REGIONAL LISTENING FORUMS HIGHLIGHTING THE EXPERIENCES OF LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND QUESTIONING YOUTH IN CARE, 33-35 (2006), <http://www.lambdalegal.org/sites/default/files/publications/downloads/out-of-the-margins.pdf>.