

LGBTQ Youth and Status Offenses: *Improving System Responses and Reducing Disproportionality*



HUMAN
RIGHTS
CAMPAIGN®



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Status Offenses

- Status offenses are acts by juveniles that violate the law, but **would not be an offense if committed by an adult**.
- Common examples include **truancy, running away**, curfew and liquor law violations and **being “unruly,” “incorrigible,”** or “ungovernable” (e.g., beyond the control of the youth’s parents).
- An estimated **137,000 status offense cases** were petitioned in juvenile courts in 2010.
- Over **8,000 youth** were placed in secure detention in 2010 through use of the Valid Court Order Exception.

Youth who commit status offenses often deal with significant challenges in their lives, such as abuse or neglect, undiagnosed disabilities, or effects of past trauma.



Defining Terms

- **LGBTQ- Lesbian, Gay, Bisexual, Transgender, Queer/Questioning**
- **SOGI- Sexual Orientation and Gender Identity.**
- **Lesbian, gay, and bisexual are sexual orientations. These are classifications based on the gender or genders of the people someone is physically, romantically and/or emotionally attracted.**
- **Remember – you cannot determine a person's sexual orientation by looking at them. Lesbian, gay, and bisexual people look, dress, and behave all different ways.**

Defining Terms

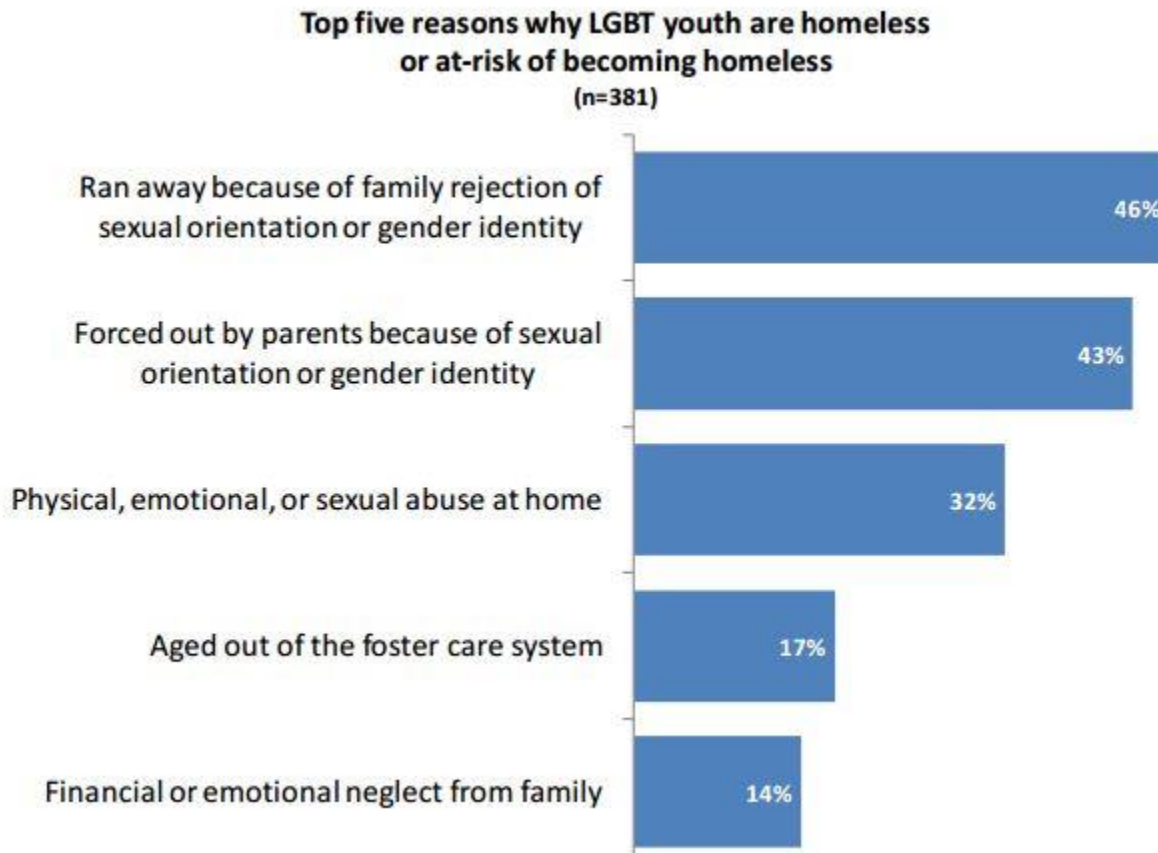
- **Transgender is often used as an umbrella term to describe a wide range of identities and experiences related to gender. It is used to refer to many different people, including transsexual people; cross dressers; androgynous people; and other people whose appearance or characteristics are perceived to be gender atypical.**
- **Gender identity is one's internal feeling of being male or female (or sometimes in between).**

Why are LGBT Youth Particularly Vulnerable?

- **LGBT Youth Face Increased Risk of Family Rejection**
 - Average age of coming out has dropped over the last decade. Some LGBT youth are coming out before they reach their teens.
 - The way a family responds to a young person's LGBT identity has a significant impact on his or her future.
- **Family rejection interferes with educational and health outcomes and can lead to high risk behavior.**
 - It has been linked to increased suicide attempts, depression, illegal drug use, greater STD risk, and lesser academic achievement.
- **Family rejection is also a major factor contributing to increasing epidemic of homeless LGBT youth as rejected youth are thrown out of their homes or are forced to leave to escape violence.**

Why are LGBT Youth Particularly Vulnerable?

- **Up to 40% of youth currently living on the streets identify as LGBT.**



Why are LGBT Youth Particularly Vulnerable?

- **LGBT youth are more twice as likely as non-LGBT youth to say they have been verbally harassed and called names at school.**
- **Ninety-two percent of LGBT youth hear negative messages about being LGBT through school by peers school administrators.**
- **LGBT youth report significant distrust of school administrators and do not believe that school officials do enough to foster safe and welcoming school climates.**

Zero Tolerance Policies and LGBT Youth

- **LGBT youth receive harsher discipline than their straight peers.**
- **LGBT youth are up to three times more likely to experience harsh disciplinary treatment by school administrators than their non-LGBT counterparts.**
- **Punishment for non-violent behavior like truancy, absenteeism and dress code violations disproportionately impact LGBT students.**
- **Suspension and Expulsion leave many LGBT youth on the street and more likely to engage in criminal behavior.**

When Safety Nets and Support Systems Fail

- **LGBT youth, especially those who are transgender are at an increased risk of arrest once on the street**
 - **Sexual exploitation**
 - **Drug use**
 - **loitering**

Why this Training

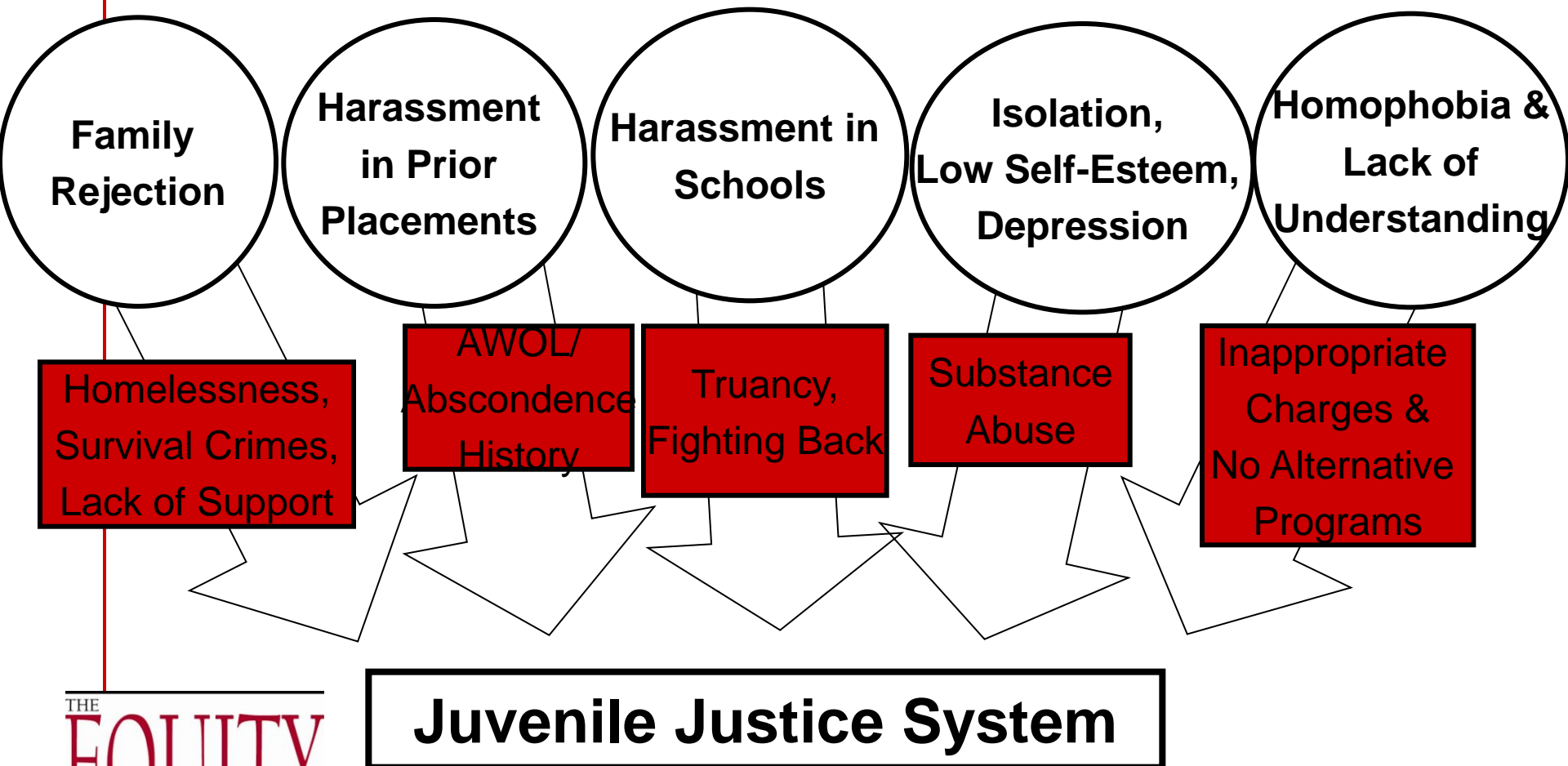
- LGBT youth are over-represented in the juvenile justice system
- LGBT Youth are twice as likely to be detained for status offenses
- To become familiar/understand terminology relating to and experiences of LGBT youth
- Understanding the experiences of youth is essential in making sound decisions.
- There are specific issues that LGBT youth face in the juvenile justice system and the youth's LGBT identity can impact the case
- There are barriers preventing incarcerated LGBT youth from receiving appropriate treatment & socialization, from being released, gaining access to alternatives to detention and probation

LGBT Youth in the JJ System

Youth in Detention Who Identified as Lesbian, Gay, Bisexual, or Gender Non-Conforming

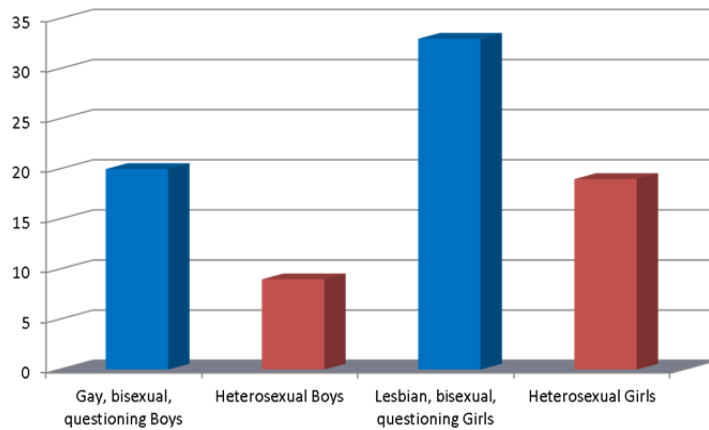
- 11% of boys identified as gay, bisexual or “gender non-conforming”
- 23 % of girls identified as lesbian, bisexual or “gender non-conforming”

Factors Leading to JJ Involvement

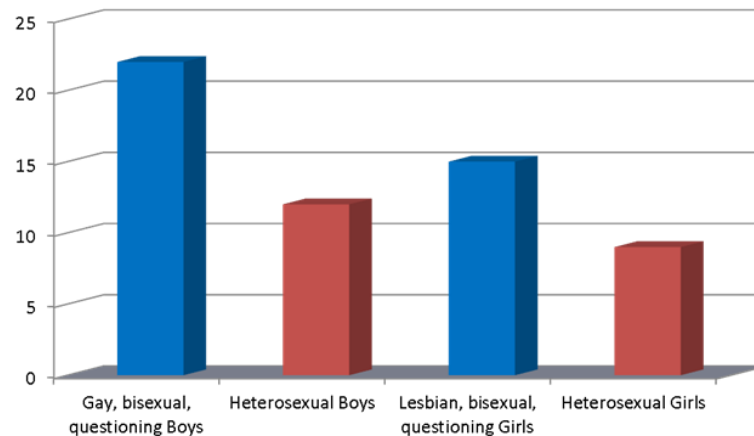
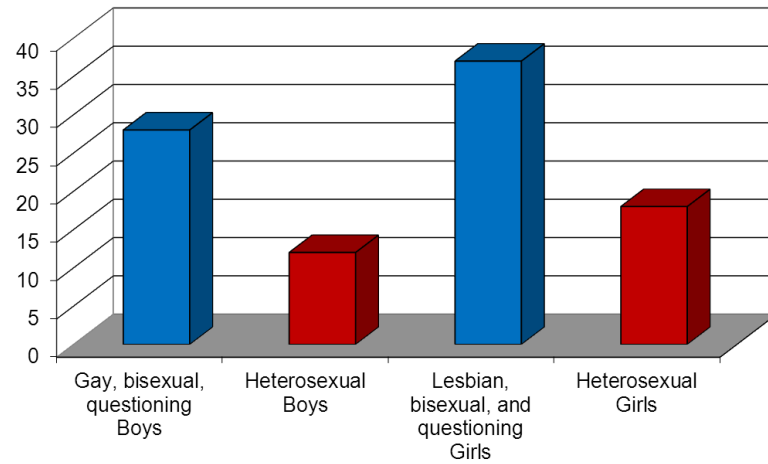


Data

% Respondents removed from home

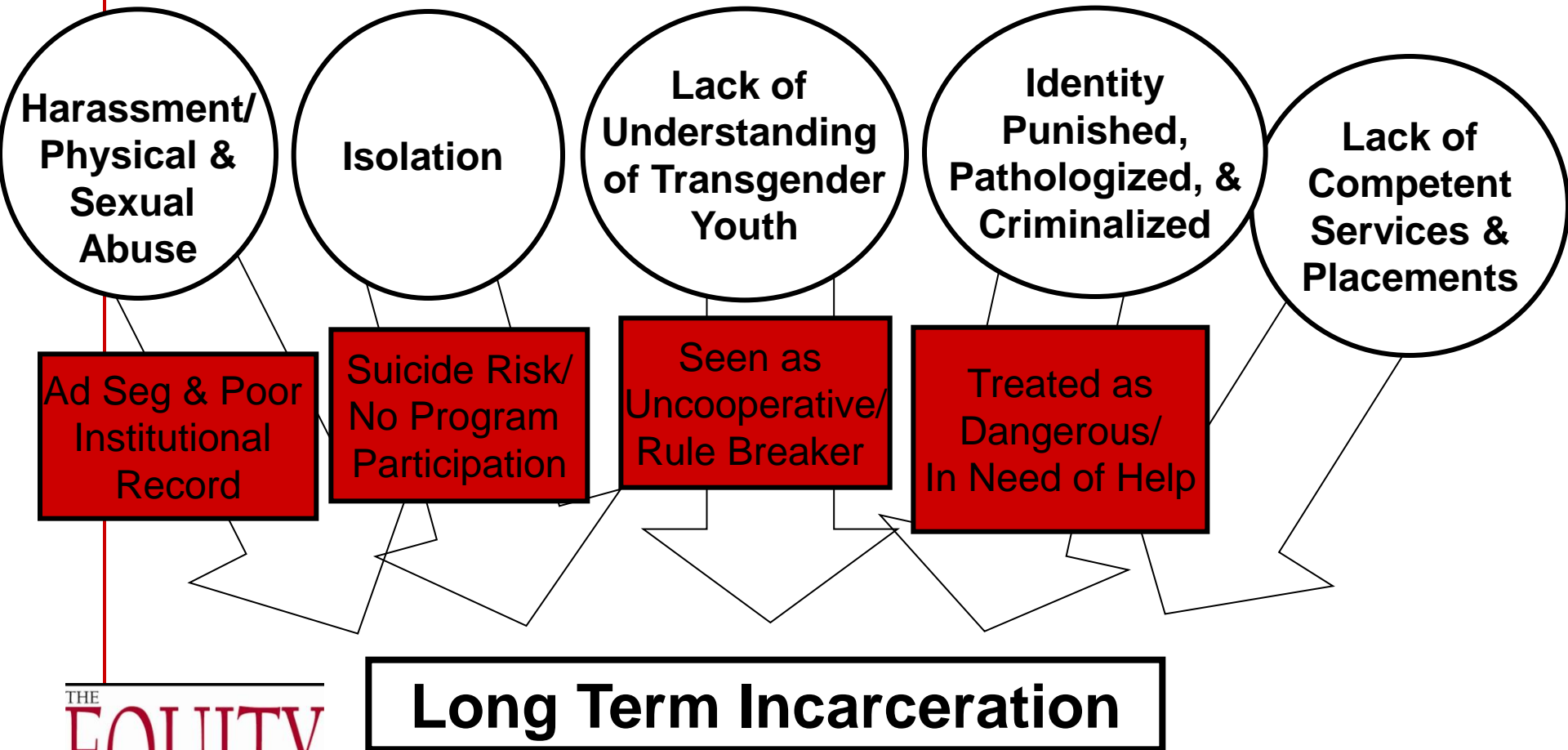


% Detained for running



% Detained for truancy, warrants, or probation violations

Common Experiences in Locked Facilities



Sexual Victimization

- 10.3 % of LGB youth reported victimization by another youth (compared to 1.5% of heterosexual youth)
- Similar rates of abuse by staff were reported (7.5% and 7.8%) by LGB youth and heterosexual youth.

Isolation

- LGBT Youth sometimes put in isolation “for their protection”
- Increased suicide risk and mental health issues
- Unable to participate in programming and inadequate education

Classification

Improperly Classified as Sex Offenders
only because of LGBT identity, even when
no charges.

Lack of Understanding

- Transgender Youth seen as “uncooperative” and punished
- Actually punishing identity rather than behavior

LGBTQ Youth and Status Offenses

Recommendations from the *National Standards*



Coalition for Juvenile Justice | **SOS Project**

Safety, Opportunity & Success (SOS): Standards of Care for Non-Delinquent Youth

About the *National Standards*

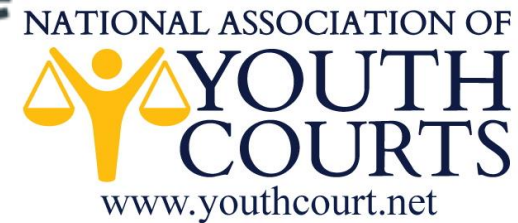
- *National Standards for the Care of Youth Charged with Status Offenses* released in December 2013
- Developed by Coalition for Juvenile Justice in partnership with National Council of Juvenile and Family Court Judges and Vera Institute of Justice, with support from Public Welfare Foundation
- Advisory group of juvenile justice professionals, advocates, researchers and judicial leaders
- Endorsed by state and national groups
- Policies and practices to achieve positive outcomes for youth who are or may become justice system-involved for status offenses

National Standards Endorsements



The National
Crittenton
Foundation

BELIEVE IN THE POWER OF POTENTIAL



GLSEN



PTA

everychild.one voice.



ACLU

AMERICAN CIVIL LIBERTIES UNION



THE
EQUITY
PROJECT



NCLR

Division of Juvenile Services
**Juvenile Justice
Advisory Group**
Maine Department of Corrections



NJDC



Juvenile Justice Advisory
Group
Ensures delinquency
prevention programs



THE
**SENTENCING
PROJECT**

Principles for Responding to Status Offenses

- “Safety, permanence and well-being” framework
- Understand and apply knowledge about **adolescent brain development, positive youth development, gender-based differences**, and impact of past **trauma** and exposure to violence
- Ensure **coordination among the different agencies** and systems working with each child and family
- Ensure fair and equal treatment of youth with **learning, mental health, sensory, or communication disabilities** and prevent youth from becoming or remaining involved with the system due to disabilities

Principles for Responding to Status Offenses

- Engage and empower **families** through Family Group Decision Making and other strategies
- Ensure **LGBTQ youth** receive fair, equal, and respectful treatment and access to services
- Combat **disproportionate minority contact** by providing culturally and linguistically competent services and treatment and other strategies
- Use **mediation** and other **alternative dispute resolution** methods

Avoiding or Limiting Court Involvement

- Identify and respond to underlying causes of court involvement (such as unmet needs of the family) early
- Limit court involvement through diversion programs when possible
- Ensure professional who first respond to alleged status offenses are educated about the family and community dynamics that often underlie or contribute to these behaviors
- Ensure youth are present and represented by counsel at any hearing on their status offense cases
- Never securely confine youth for status offenses and avoid out of home placements whenever possible

Recommendations for LGBTQ Youth

Standard 1.10

“Judicial, Legal, Law Enforcement, Justice, Social Service and School Professionals Should Ensure that Lesbian, Gay, Bisexual, Transgender, or Questioning (LGBTQ) Youth Who are Charged with Status Offenses Receive Fair Treatment, Equal Access to Services, and Respect and Sensitivity from all Professionals and Other Youth in Court, Agency, Service, School and Placement”

Helping LGBTQ Youth Avoid Court Involvement for Status Offenses

- Offer **family-focused** support and interventions
- Support relationships with **mentors and role models**
- Offer appropriate services (e.g., affirming social, recreational and spiritual opportunities) and **respect confidentiality**



Responding to LGBTQ Youth Who May Have Committed Status Offenses

What issues are prompting the behavior?

- Is the young person entering the system due to **alienation, exclusion, or persecution** at home, in foster care or group homes, in the community or at school, due to **sexual orientation or gender identity**?
- Does the youth need support, intervention, or treatment for **trauma**?

Does your organization have a written **nondiscrimination** and **anti-harassment policy** and follow national best practice standards?

Responding to LGBTQ Youth Who May Have Committed Status Offenses

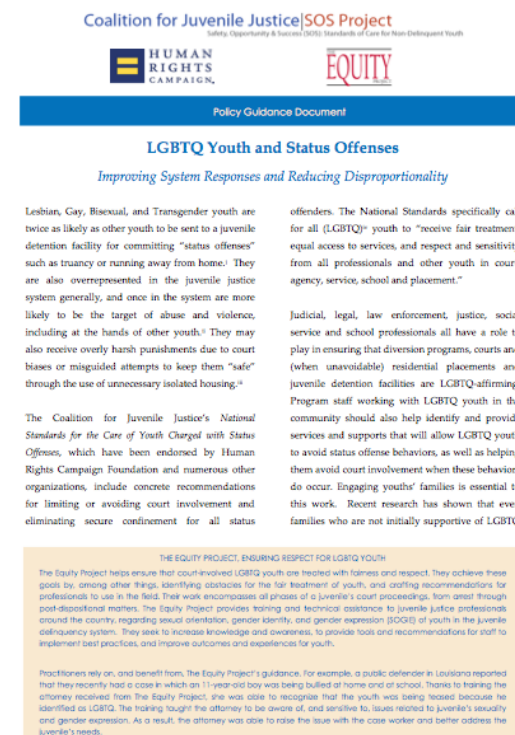
- Treating youth with **respect and fairness** includes allowing them to **express their identity** through choice of clothing, hairstyle and nicknames
- Homes, schools, communities, service providers, residential placements and detention facilities should be **safe and affirming** settings for youth, no matter what their sexual orientation or gender identity and isolation should never be used for punishment or protection
- Judicial, legal, law enforcement, justice, social service and school professionals all have a role to play

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Resources

- Angela Irvine, Ph.D., “We’ve had Three of Them”
 - <http://www.nccdglobel.org/sites/default/files/content/weve-had-three-of-them.pdf>
- Human Rights Campaign
 - <http://www.HRC.org/Youth>
- Equity Project, “Hidden Injustice”
 - http://www.equityproject.org/pdfs/hidden_injustice.pdf
- Coalition for Juvenile Justice, “National Standards for Care of Youth Charged with Status Offenses”
 - <http://www.juvjustice.org/our-work/safety-opportunity-and-success-project/national-standards-care-youth-charged-status>
- Coalition for Juvenile Justice, SOS Project, LGBTQ Fact Sheet
 - http://www.juvjustice.org/sites/default/files/resource-files/LGBTQ_Youth_Guidance.pdf



Questions?