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Lesbian, Bisexual, Questioning, Gender-Nonconforming, and Transgender (LBQ/GNCT) Girls in the Juvenile Justice System

Using an Intersectional Lens to Develop Gender-Responsive Programming

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Over the past twenty-five years, feminist criminologists have done an exceptional job documenting the way girls were entering the juvenile justice system at growing rates, and explaining why services originally designed for boys could not serve this new female population (Chesney-Lind 2002; Sherman 2005; Acoca 1998). Advocates have argued that drug and alcohol use, past histories of sexual and physical abuse, family chaos, domestic assault, persistent running away from home, and commercial sexual exploitation were all driving girls into the juvenile justice system. Empirical review of case files shows that these factors hold for many girls. However, when researchers and advocates take the intersections of race, sexual orientation, and gender identity into consideration, different patterns emerge (Crenshaw 2014; Jones 2009; Morris 2013, 2012).

New research reinforces the need for an updated paradigm on girls in the juvenile justice system. Data from a recently completed survey of seven detention halls around the country shows that 86 percent of detained girls are of color, 32 percent are lesbian, bisexual, or questioning, and 17 percent are gender-nonconforming or transgender (Irvine and Canfield 2014).¹ This chapter argues that, in order to be effective, mental and behavioral health services must begin to affirm the many dimensions of girls' identities as well as the multiple layers of oppression that girls have experienced on the pathway to the juvenile justice system.

Programming for all youth must be developed with an intersectional lens that takes race and sexual orientation, gender identity and gender expression (SOGIE) into consideration. Our arguments are based on a review of existing literature as well as an analysis of original survey and interview data collected from seven counties and parishes across the country.²

This chapter provides three case studies of girls in the juvenile justice system and illustrates why mental and behavioral health services must develop an intersectional lens. We then provide literature reviews and empirical data on how birth sex, sexual orientation, gender identity, gender expression, and race drive girls into the juvenile justice system, as well as a literature review on the mental and behavioral health needs of LBQ/GNCT girls. We end with recommendations for how mental and behavioral health services working with justice-involved girls can better serve the LBQ/GNCT population.

The Lived Experiences of Girls Illustrate the Need for an Expanded Paradigm

Over the last three years, the authors completed 145 interviews with youth nationally who were justice-involved. The following three stories illustrate the need for expanded programming for girls in the juvenile justice system that considers the intersection of race and ethnicity, sexual orientation, gender identity, and gender expression.

Diana

Diana is a fifteen-year-old Latina living in Chicago. She was arrested and charged with assault. She and her friends got into a fight that they did not initiate with some other girls outside a pizza parlor in the neighborhood of Humboldt Park. She and her friends are gender nonconforming, while the other girls involved in the fight are not. Diana and her friends wear hoodies, loose pants, and large t-shirts and typically wear their hair cut short or pulled behind hats and beanies. The prosecutor argued that Diana and her friends belong to a gang despite being unaffiliated—a stereotype not atypical for gender-nonconforming Latinas and Latinas with tattoos who come from certain neighborhoods. As a foster child,

Diana was already living in a group home. Convicted of assault, she was placed for a year in a residential facility designed for juvenile justice-involved youth. She successfully completed her probation and has just recently returned to the group home she was living in before the fight.

Erica

Erica is a sixteen-year-old Black girl living in Oakland, California, who ran away from home and was arrested for solicitation with intent to perform a lewd act. Her case was reviewed by the Alameda County girls' court, and Erica was sent to a camp for girls who are commercially sexually exploited (CSE) in Arizona. She stayed in the camp for twelve months and has just returned to Oakland but cannot move back in with her mother and her mother's boyfriend. She is serving three years of formal probation, which requires her to receive services for CSE girls, counseling, drug and alcohol treatment, and job development. She is living with an aunt who is very involved with her church. Everyone who has worked with Erica—probation officers, community-based services, as well as her family—has assumed that she is straight. In actuality, she is a lesbian, but is only out to her mother, with whom she is no longer in contact, and her friends at the school she attended prior to her conviction.

Bebe

Bebe is a seventeen-year-old Black transgender girl living in Birmingham, Alabama. She was recently arrested and charged for shoplifting a dress from a local department store. She was not required to stay in detention or an out-of-home placement, but was placed on formal probation. One evening when Bebe was walking home from an after-school program, a White police officer in a marked police car approached her. He requested she stay put and proceeded to get out of his vehicle and question her. He wanted to know what she was out doing "walking the streets" alone. This was not Bebe's first experience with a police officer assuming she was engaging in prostitution. After she told him she was walking home, the officer asked if he could take her out one night. He then began to describe what a night out with him would consist of,

including the sexual acts he would like her to perform on him. Once she told him she was not interested, the officer demanded that she provide him with identification and sit on the curb. Upon looking at her identification and running her record, the officer discovered that she was a minor and on probation for the shoplifting incident. The officer warned her that she would be violating probation if she did not get home by curfew and that he would take her down to the station should he see her out again that night. The officer left, leaving Bebe terrified and angry.

How Do Girls Like Diana, Erica, and Bebe End Up in the Juvenile Justice System?

The empirical framework explaining girls' involvement in the juvenile justice system has grown over the past ten years, though more research is needed to fully explain how intersecting identities and forms of oppression place different girls at risk for juvenile justice system involvement.

Understanding How Birth Sex Drives Girls into Juvenile Justice

Concerns about girls in the juvenile justice system began to rise as the use of secure detention for girls increased.³ The percentage of girls in detention increased from 12 percent to 18 percent from 1991 to 2003 (Sherman 2005). Also, between 1995 and 2005, the number of girls involved in the juvenile justice system grew by 49 percent compared with a 7 percent increase for boys (Berkeley Center for Criminal Justice 2010).

To understand this increase, researchers have studied the effects of policy changes and youths' risk factors for juvenile justice system involvement. Several policy changes have expanded the number of girls getting disciplined or arrested for behaviors that were not previously formally punished (Steffensmeier et al. 2005). For example, increased punishments for school-based fights and family conflicts pulled girls into the juvenile justice system in greater numbers (Steffensmeier et al. 2005). Girls in the juvenile justice system experience high levels of conflict within their home. For example, while girls' arrests for simple assault increased 36 percent between 1994 and 2003, case analysis shows that many of these assaults occur when there is conflict with family

members or guardians about curfew or truancy (Sherman, Mendel, and Irvine 2013). As a result of family conflict, nearly one-third of girls in the California juvenile justice system reported being kicked out of their homes at least once, and 25 percent reported being shot or stabbed at least once (Acoca 1998).

The correlation between trauma and system involvement for girls is increasingly being studied. While there is a lack of consensus on whether girls experience trauma at higher rates than boys, studies show that girls experience very high levels of abuse and neglect. One study found that 75 percent of girls in the California Youth Authority (now called the Division of Juvenile Justice) reported histories of physical abuse; another 46 percent reported histories of sexual abuse (Berkeley Center for Criminal Justice 2010). Acoca (1998) reported that 92 percent of girls in the California juvenile justice system reported histories of physical, sexual, or emotional abuse.

Abuse and family conflict increase girls' risk of engaging in behaviors that may land them in the juvenile justice system. Girls who have been abused often run away from home or out of home placement (Chesney-Lind 2002; Chesney-Lind and Sheldon 1992; Luke 2008). When girls run away from home or are kicked out, they often have to resort to crimes such as theft or prostitution to survive (Majd, Marksamer, and Reyes 2009; Sherman 2005). Girls on the streets are also more likely to get involved in fights as a survival strategy (Luke 2008). These particular survival strategies often lead to arrest and involvement in the juvenile justice system as well as placement outside the home (Chesney-Lind 2002; Luke 2008). Once girls are arrested, they are more likely to be detained while awaiting adjudication because juvenile justice professionals want to protect them from returning to the street (Gilfus 1992; Sherman 2005). Moreover, girls are more likely to be placed outside their home after running away (American Bar Association and the National Bar Association 2001; Chesney-Lind and Sheldon 1992). Parent-child conflict explains why parents are more likely not to take custody of their daughters after arrest and booking. As a consequence, girls are sent to out-of-home placement, and serve longer detention times compared to boys with similar offenses (Sherman 2005).

The concept of trauma has helped to link delinquent behaviors to abuse. It also has helped to redefine the very behaviors that lead to girls'

involvement in the criminal justice system. Running away and conflict are no longer perceived as symptoms of conduct or personality disorders; they are framed as coping mechanisms for extreme levels of disruption and violence within the home. However, this paradigm shift has almost exclusively been used in support of the needs of White, cisgender, and straight girls. Given the alarming rate at which Black, Latina, and LBQ/GNCT girls are becoming involved in the justice system, it is urgent that research move beyond birth sex and consider gender identity, gender expression, race, and ethnicity.

How Sexual Orientation, Gender Identity, and Gender Expression Drive Girls' Involvement in the Juvenile Justice System

Lesbian, bisexual, and transgender or gender-nonconforming (LBT/GNC) girls constitute a significant proportion of girls in the juvenile justice system. Irvine (2010) found that 15 percent of the justice-involved youth who participated in an anonymous survey indicated that they identified as lesbian, gay, or bisexual (LGB), were questioning their sexual orientation (Q), had nonconforming gender identities (GNC), or were transgender (T). The response rates varied by gender: While 11 percent of boys indicated they were GBQ/GNCT, 28 percent of girls indicated they were LBQ/GNCT (Irvine 2010).⁴ In a more recent survey, 20 percent of all youth and 40 percent of all girls reported being LGBQ/GNCT (Irvine and Canfield 2014). Of those girls, 32 percent disclosed their LBQ orientation and 17 percent their transgender or GNC identity. In both studies, the rates were the same for White, African American, and Latino youth (Irvine 2010; Irvine and Canfield 2014). It is likely these percentages underestimate the actual number of LGBQ/GNCT youth behind bars; those are often aware of the risks of harm associated with disclosing a nonheterosexual identity while in detention, and they may choose to not come out to protect themselves. However, these rates reveal the disproportionate representation of LGBQ/GNCT youth in the justice system; it is estimated that 7 to 8 percent of all adolescents in the general population identify as LGBQ/GNCT. With regard to LBQ/GNCT girls in particular, the numbers for justice-involved teens are four to five times higher than those for the general population.

LBQ/GNCT girls are overrepresented in the youth justice system because they are more likely than straight and cisgender girls to have been suspended or expelled from school, to have been removed from their home for abuse and neglect, or to have been homeless (Garnette et al. 2011; Irvine and Canfield 2014; Irvine 2010; Majd et al. 2009). LBQ/GNCT girls are also discriminated against by law enforcement officials and youth justice stakeholders. For example, youth who experience same-sex attraction and youth who self-identify as lesbian, gay, or bisexual are more likely to be stopped by the police, arrested, and convicted of crimes when engaging in the same behaviors as straight youth (Himmelstein and Brückner 2011).

Juvenile justice staff are ill equipped to serve LBQ/GNCT girls who enter the system. In most jurisdictions across the country, when adolescents are booked into detention, probation officers assess the youths' risks and needs and evaluate the youths' likelihood of committing a new offense. They use actuarial instruments to collect data about romantic relationships, linkages to school, and family conflict. This information is designed to guide the selection of treatment programs that can help address the difficulties youth are facing. However, the risks and needs assessment usually fails to consider that youth may have same-sex relationships, that truancy may be linked to homophobic bullying, or that family conflict may be connected to relatives' disapproval of a young person's sexual orientation or gender expression (Garnette et al. 2011).

During detention in jail and other secure facilities, LGBQ/GNCT youth are vulnerable to verbal harassment and other forms of discrimination by institutional staff (Valentine 2008). Beck, Harrison, and Guerino (2010) found that 10 percent were sexually assaulted by other peers in secure facilities, compared to 1.5 percent of straight youth. LGBT youth are more likely to languish in detention for longer lengths of time (Garnette et al. 2011). This places them at a heightened risk of abuse, injury, and suicide (Majd et al. 2009). LBQ and GNCT girls are also subject to inappropriate use of solitary confinement or alternative housing based on their SOGIE.

Once released from detention or secure confinement, LGBT youth experience the adverse effects of formal and informal probation terms, which generally require that youth obey all laws, follow their parents'/guardians' directions, participate in counseling and other community-

based programs, and attend school (Garnette et al. 2011). Given that LGBT youth are subject to school bullying and family conflict and rejection based on their SOGIE, they are more likely to skip school, run away, and break curfew, and thus accumulate probation violations and new offenses that will delay successful exit from the juvenile justice system (Clatts et al. 1999; Cochran et al. 2002; Garnette et al. 2011; Hyde 2005; Kosciw 2004; Kosciw, Diaz, and Greytak 2007; Massachusetts Department of Elementary and Secondary Education 2006; Owen, Heineman, and Gerrard 2007; Ray 2007; Robson 2001; Saewyc, Pettingell, and Skay 2006; Valentine 2008; Witbeck et al. 2004).

Taking Race into Consideration

The proportion of youth of color in the juvenile justice system has been growing at an alarming rate, while the total number of youth held in secure detention has decreased since 1995 (Davis, Irvine, and Ziedenberg 2014a; Mariscal and Bell 2011). In 1985, youth of color represented 43 percent of detained youth. By 1995, they represented 56 percent of the juvenile population behind bars. Their number has continued to grow in proportions that suggest youth of color have become victims of mass incarceration. In 2002, 66.8 percent of all youth receiving dispositions in juvenile court were youth of color being sentenced to probation, out-of-home placement, and secure facilities. This proportion grew to 80.4 percent in 2012 (Davis et al. 2014a).

These growing disparities are linked to unfair treatment at many points of contact in the juvenile justice system. Criminologists have documented differences in arrests for Black and Brown people (Alexander 2010; Mauer 2010). While African Americans are subject to traffic stops at the same rate as White people, they are three times more likely to be searched once they are stopped (Alexander 2010; Mauer 2010). Additionally, the New York Civil Liberties Union has tracked police stops and interrogations in New York City since 2002. The most recent data show that the New York Police Department stopped people 191,558 times in 2013 (New York Civil Liberties Union 2014). Fifty-six percent of these stops involved Black individuals, 29 percent Latino, and 11 percent White (New York Civil Liberties Union 2014). In most cases (88 percent), people who were stopped were innocent. This information sug-

gests police officers are disproportionately targeting African Americans and Latinos, and police stops are not a necessary intervention to maintain public safety (New York Civil Liberties Union 2014).

The court system reinforces disparities in arrests. Data reveal that White youth are more likely to be diverted from formal processing into detention and less likely to receive probation violations compared with youth of color who are charged with the same crimes (Mariscal and Bell 2011). Once a case makes it to court, Blacks and Latinos receive harsher sentences than White people (Johnson and Johnson 2012; Nelson 2008; Schlesinger 2005; Demuth 2003; Steffensmeier and Demuth 2001). Moreover, the majority of these sentences are for nonviolent offenses. In 2006, only 31 percent of all youth, including youth of color, were detained for violent crimes (Mendel 2009). This means that 69 percent of youth were detained for property crimes, drug offenses, probation violations, or status offenses such as curfew violations and truancy (Mendel 2009).

Gang enhancements place Black and Latino defendants at risk of longer court sentences than their White peers. Gang enhancements require that judges declare longer sentences, if a defendant commits a felony for the benefit of a street gang or to assist a gang member. The rules around enhancements vary across cities. In Los Angeles, a crime is considered gang related if either the victim or the perpetrator is associated with a gang. In Chicago, a crime is considered gang related only if gang membership drives the motive for the crime. Either way, these gang enhancements have been disproportionately applied to Black and Latino people (Van Hofwegen 2009).

There are few studies specifically focusing on how both gender and race are linked to involvement in the juvenile justice system. The research that exists shows that girls of color are overrepresented in the juvenile justice system (Morris 2013). Black girls experience some of the highest rates of juvenile detention and are the fastest-growing segment of the juvenile justice population (Morris 2013). This is largely due to the fact that Black girls are viewed as more masculine and therefore more aggressive and violent than White girls (Morris 2013). Discrimination against Black girls becomes even more extreme when Black girls are gender nonconforming.

The research that compares the experiences of White and Black girls shows some important differences and highlights the need to consider

race and culture when providing services. For example, two studies show that physical abuse is linked to violent behavior for White girls, while witnessing violence is related to violent and delinquent behaviors for African American girls (Chauhan and Repucci 2009; Chauhan, Repucci, and Turkheier 2009). Another study suggests that African American girls are less likely than White girls to become suicidal after witnessing domestic violence, and therefore may have different mental health needs (Holsinger and Holsinger 2005).

Addressing Multiple Forms of Identity and Oppression within Mental and Behavioral Health Services for Youth in the Juvenile Justice System

LGBQ/GNCT youth have a sullied relationship with the mental and behavioral health professions. Historically, same-sex attraction, non-conforming gender expression, and the pursuit of gender transition were classified as psychopathology in multiple editions of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM) (Dresher 2009; Fox 1988). “Homosexuality” was included in early editions of the DSM under the category of “sexual disorders.” It was removed in 1973 and later replaced, in 1980, with a new diagnosis called “ego-dystonic homosexuality.” The criteria for “ego-dystonic homosexuality” included a persistent lack of “heterosexual arousal” and persistent distress about “homosexual arousal.” “Ego-dystonic homosexuality” was removed from the DSM in 1986. Yet, in 1994 and 2000, two gender disorders—“transvestic fetishism” and “gender identity disorder”—were added to the list of mental conditions and used to diagnose and treat transgender men and women. In 2012, the American Psychiatric Association combined these two terms into a new label: “gender dysphoria.” In order to minimize the pathologizing effect of addressing gender expression in the DSM, gender-related disorders are no longer grouped with other sexual dysfunctions. Transgender advocates and other members of the LGBTQ community see these changes as a move in the right direction, but remain concerned about the unintended consequences of having a gender-identity diagnosis in the DSM-5, with good reason (Toscano and Maynard 2014; Dresher 2009). The definition and classification of nonheterosexual orientation and non-gender-conforming identity

as mental pathology resulted in the development of programs aimed at reversing or curing same-sex attraction and gender nonconformity. These programs, which include reparative and aversion techniques, have been rejected as harmful and unethical by the medical and psychological professions (Israel and Tarver 1997; Mallon 1999).

Changes in the classification and treatment of non-gender-conforming identity and nonheterosexual orientation reflect the now-dominant view of sexuality and gender as normal developmental processes whereby individuals form multilayered identities. Gender identity, for both cisgender and transgender children, is established before kindergarten (Brill and Pepper 2008; Mallon and DeCrescenzo 2006; Wilber, Ryan, and Marksamer 2006). Sexual orientation develops around the same age for lesbian, gay, bisexual, questioning, and straight youth. The first experience of same- or cross-sex attraction occurs, on average, around the age of ten. Youth can identify as lesbian and gay as early as the age of thirteen (Ryan and Diaz 2005). Further, having same-sex attraction or being gender nonconforming do not cause mental disorders or emotional or social problems; nor are they linked to prior sexual abuse or other trauma (American Psychological Association 2004; Herek and Garnets 2007). However, the marginalized social positions of LBQ/GNCT youth create debilitating chronic stress that puts them at higher risk for depression, suicidality, self-harm, and substance abuse (Bostwick et al. 2014; Marmot 2004; Ryan and Diaz 2005).

LBQ/GNCT girls are stigmatized and maltreated because of their sexual orientation and/or gender identity and expression. For example, LBQ/GNCT girls experience high rates of family neglect, rejection, and abuse (up to 30 percent, according to Sullivan and colleagues) (Cochran et al. 2002; Earls 2002; Saewyc et al. 2006; Savin-Williams 1994; Sullivan et al. 2001; Valentine 2008; Witbeck et al. 2004). Kosciw (2004) found that 90 percent of LGBT youth were frequently the target of homophobic comments from peers at school; 20 percent reported homophobic comments from teachers. Of greater concern, 86 percent of LGBT youth were subjected to harassment at school, and 60 percent felt unsafe (Kosciw, Diaz, and Greytak 2007). LBQ/GNCT girls, in particular girls of color, encounter multiple forms of discrimination and violence outside of the home—homophobia, transphobia, and/or racism (Hill and Willoughby 2005; Martin 1995). The ways in which their social identities intersect

determine their unique experience of maltreatment and influence their biopsychosocial outcomes (Hill Collins 1998; Hurtado 1996; Hurtado and Gurin 2004). For most LBQ/GNCT girls, contact with the juvenile justice system, in particular detention in secure facilities, perpetuates trauma and intensifies their experience of oppression (Schaefer 2008).

LBQ/GNCT girls' responses to adversity are varied and complex and depend on the social contexts in which they are embedded. In schools, foster homes, juvenile detention halls, and behavioral health programs, girls engage in both assimilative and resistant behaviors: There are times when they follow rules and exhibit emotional attachment to facilitators of support groups. There are also times when they fail to show up to appointments or scheduled groups, disagree with group facilitators, or have conflicts with their peers (Irvine and Roa 2010).

Gender, race, and class shape the ways girls behave in these diverse social contexts (Jones 2009). African American girls in poor, violent communities often perform "unapologetic expression of female strength which contrasts with traditional White, middle class conceptions of femininity and the gendered expectations embedded in Black respectability" (Jones 2009, 19). These forms of self-expression can easily be misinterpreted as acts of aggression and result in harsh punishment from the juvenile justice system.

How Do Programs Need to Change to Serve Diana, Erica, and Bebe?

LBQ/GNCT girls of color like Diana, Erica, and Bebe face multiple oppressions, disproportionate punishment, and physical, verbal, and mental abuse inside and outside of the juvenile justice system (Garnette et al. 2011; Majd et al. 2009; Valentine 2008). Accordingly, it is essential that justice and mental health programming be sensitive to LBQ/GNCT girls' unique experiences (Greene et. al. 1998). Research is needed to define what culturally competent or responsive programming might be for these girls (Holsinger and Holsinger 2005). An important first step is to collect SOGIE data during the implementation of behavioral health services in juvenile justice settings.

It is equally important that justice and mental health professionals participate in training that fosters awareness of racial, gender, class,

and sexual biases, increases multicultural competence for working with diverse LBQ/GNCT girls, and supports the implementation of antidiscrimination policies. Carefully trained staff should understand the multiple sources of oppression that impact the lives of LBQ/GNCT girls. This is critical to the development of therapeutic relationships that will keep girls from being pulled deeper into the juvenile justice system.

Recommendation #1: Collect SOGIE data.

Data collection is a critical component of better serving LBQ/GNCT girls in the juvenile justice system. This is particularly important given that 22.9 percent of LGB girls in the juvenile justice system are gender conforming (Irvine and Canfield 2014)—meaning, they do not give visual cues indicating that they *may* identify as LGBT. Essentially, these girls are invisible unless they decide to “out” themselves to adults in the justice system. As a consequence, they may slip through the cracks and not receive gender- and culturally responsive mental health and social services. To meet the unique needs of these vulnerable youth, mental and behavioral health service organizations must collect data from juvenile clients each time they enter their facility or program. While this may seem redundant, it is important to remember that SOGIE is part of adolescent development, and needs are subject to change as their identities do.

Collecting SOGIE data increases the visibility of gender-conforming LBT girls, and thus makes it possible to conduct assessment that is appropriate to their needs and to provide treatment that is affirmative of their LGBTQ identity and housing that is safe. Because probation departments often believe they only serve a handful of LGBTQ or GNC youth (Irvine 2010), little intentionality is given to lining up services for them or ensuring that organizations provide unique programming that addresses SOGIE-related needs. Collecting SOGIE data will not only benefit gender-conforming LBT girls but also help justice and mental health organizations recognize that some girls of color are LBT too, which is crucial to making referrals that are appropriate and affirming of both SOGIE and race/ethnicity.

Several community-based organizations and probation departments in central and northern California have begun collecting SOGIE data from their youth using a simple, anonymous survey instrument admin-

istered by intake, medical, or program staff. Youth are given the opportunity to complete the survey, and can opt out without repercussions. The survey asks similar questions, with slight differences across juvenile justice agencies, and this makes it possible to compare the data across settings. The youth are prompted to describe their gender, gender expression, sex assigned at birth, and sexual orientation. Questions about gender and sexuality are interwoven with other basic demographic items so as to normalize the topics. Notably, they are not placed in the section of the survey that inquires about abuse so that sexual orientation may not be confused with and linked to abusive or predatory behavior. The data will be used to yield understanding of the populations and create an appropriate continuum of care.

Recommendation #2: Develop antidiscrimination policies.

The American Psychological Association's Guidelines for Psychological Practice with Lesbian, Gay, and Bisexual Clients (American Psychological Association 2011) emphasize the importance of recognizing personal attitudes and beliefs about sexual orientation and gender identity, to reduce the risk that these attitudes and beliefs will interfere with the assessment and treatment of LGB/GNCT clients. The guidelines recommend that practitioners "seek consultation or make appropriate referrals when indicated" (American Psychological Association 2011). Additionally, the authors of this chapter promote the creation and adoption of LGB/GNCT antidiscrimination policies in order to ensure the safety of LGB/GNCT youth in the juvenile justice system. These policies are intended to promote the fair treatment of LGBT and GNC youth as well as to prevent unnecessary harsh punishment and other forms of discrimination due to actual or perceived SOGIE status. For example, it is important that these policies protect LBQ/GNCT girls from unnecessary arrests. Whether a justice department decides to create or adopt antidiscrimination policies from another organization, it is important that a collaborative process be put in place. In particular, staff from each part of the department should contribute to decision making. This is essential to achieve staff buy-in and to foster the successful implementation of antidiscrimination policies.

Antidiscrimination policies also require the expertise and support of community-based service providers who work with LBQ/GNCT girls

in the juvenile justice system. These providers are able to build deeper relationships with LBQ/GNCT girls outside of confinement. They understand the girls' experiences in the context of their home and community, and therefore offer valuable insight into the unique needs of these youth. For these reasons, they should contribute to the development and implementation of gender- and culturally responsive policies for working with LBQ/GNCT girls in the justice system. Increasing interprofessional collaboration and communication will ensure better outcomes for LBQ/GNCT girls.

Agencies and organizations may consider looking to state and federal laws and regulations for guidance when creating an antidiscrimination policy. For example, the Prison Rape Elimination Act (PREA) highlights LGBTI adult inmates and juvenile residents in confinement as priority populations for protection from sexual victimization. It provides guidance on properly housing LGB and GNCT youth, the use of showers and restrooms, transportation, searches, clothing, medical treatment, and access to and participation in programs and activities. Whether or not institutions decide to adopt PREA or draft their own policy, Garnette and colleagues (2011) stress the importance of giving *all* youth, and not just those perceived to be LGB or GNCT, "a copy of the policy in a form they can understand" (169). Additionally, any policy, created or adopted, must include a confidentiality clause that gives youth the power to decide if, when, and how their SOGIE information is disclosed.

Recommendation #3: Provide training.

Juvenile justice reform that prioritizes culturally affirming programming cannot be implemented without proper education. Juvenile justice stakeholders need training that will increase their general knowledge of research on risk factors associated with diverse LBQ and GNCT girls' involvement in the justice system.

Training should also improve staff's knowledge of identity development, introduce them to the terms that describe LGB/GNCT youth, and include recommendations for effective, individualized interventions. As staff become familiar with concepts and theories relevant to LGBTQ communities, they should also explore myths and stereotypes, learn about the coming-out process, and become informed about "how stigma

related to sexual orientation and gender identity can be related to the reason youth are involved in the juvenile justice system” (Garnette et al. 2011, 169). It is important that staff first learn the vocabulary that is most appropriate to describe the experiences of LGB/GNCT youth. This recommendation is in line with the Guidelines for Psychological Practice with Lesbian, Gay, and Bisexual Clients, in particular the call for clinicians to “increase their knowledge and understanding of homosexuality⁵ and bisexuality through continuing education, training, supervision, and consultation” (American Psychological Association 2011).

Training that emphasizes the use of respectful language regarding LGB/GNCT youth promotes staff’s cultural sensitivity and understanding of intersectionality. In addition, LGBTQI language empowers staff to confidently and competently engage with LGB/GNCT youth and build rapport and relationships that are critical in LB/GNCT girls’ successful and permanent exit from the system. When stakeholders are equipped to not only hear, but also use, language that is affirming of LB/GNCT girls, they will be better prepared to effectively manage their responses to girls’ self-disclosure. This is particularly important because LGB/GNCT youth evaluate their level of safety and determine whether or not an adult is an ally by listening for supportive language and reading nonverbal responses.

A number of programs provide education on LGBT youth and the obstacles they face, including juvenile justice involvement (Irvine, Canfield, and Bradford 2015). However, few integrate issues of race/ethnicity with SOGIE-specific concerns (Irvine et al. 2015). Unintentionally, yet harmfully, they only train professionals to serve a small segment of the LGBTQ youth population—i.e., White and gender conforming—that experiences lower risks of being swept up in the juvenile justice system (Irvine et al. 2015). Likewise, diversion programs are biased in favor of low-risk, White, cisgender, and straight youth who are less likely to recidivate due to cultural/societal assumptions that they do not break the law, despite engaging in the same transgressive behaviors as other youth (Cochran and Mears 2015). It is particularly essential to address racial issues in the training of juvenile justice agents who work with diverse girls so that they can avoid potentially harmful decisions, for example, sending a system-involved Black lesbian to an LGBT youth center in a predominantly White neighborhood with no culturally competent staff or program participants of color.

Conclusion

Diana, Erica, and Bebe and other girls like them struggle to exit the juvenile justice system. In the absence of intersectional mental and behavioral health programming, they are at risk of being rearrested for running away, of engaging in survival crimes, or of being stopped and searched by police.

Despite her lack of gang affiliation, Diana's gender expression and ethnicity will continue to be considered a threat to public safety by police officers, judges, and community-based organizations that do not have the capacity to serve juvenile justice-involved GNC girls of color. She is likely to be referred to a local care provider that has not been trained to collect SOGIE data or intentionally address SOGIE in their programming. She may be required to attend anger management; but without a culturally competent and SOGIE-trained facilitator, she will not be able to discuss that she and her friends were profiled for their gender expression, and she will not explore the consequences of the way law enforcement perceived them.

Erica will not come out to her probation officer, social worker, or aunt, because she is afraid this will upset them and disrupt another placement, which happened when she told her mother. The program she attends for commercially sexually exploited girls and their counselors is heavily focused on teaching women how to have healthy relationships with men, which is irrelevant to Erica, who is firm in her identity as a lesbian. She considers skipping the program because she does not like the pressure of talking about her plans to avoid abusive (heterosexual) relationships, which is a program requisite. Concurrently, rumors of her sexual orientation have been spread at her new school, making it difficult for her to make new, supportive friends. This has resulted in her avoiding school and hanging out with other Black lesbians in her community, who are also no longer attending school.

Bebe is fortunate to have a family that is supportive of her transition as a Black transwoman. They are aware of her shoplifting incident and have been consistent in making sure she observes the terms of her probation, which include attending school regularly. However, they have had a difficult time finding a counselor with experience serving transgender youth. Bebe's brother knows about the recent incident with the

officer, in addition to other, similar incidents she has had with male, White police officers. Bebe's brother has vowed to walk with her more, especially at night, but she fears that as a Black male, he may bring more negative attention to them, exacerbating her stress. Further, she fears that his reaction to a future incident may escalate the situation. Bebe has heard that there is an LGBT center in a nearby city that works against the criminalization of transgender women and serves as a support network, but it is inaccessible by public transportation, and her family resources are already strained. Bebe would like to get a job through a youth center that is close to her house—she wants to save up for a car to begin attending the LGBT center—but she knows that other transwomen have been ridiculed when they seek assistance.

System-involved lesbian, bisexual, transgender, and gender-nonconforming girls will continue to remain marginalized as long as the adults who are serving them continue to assume that only White youth are gay, to link gender nonconformity with gang affiliation and hyperaggressivity, and to view youth of color as hypersexual and predatory. Mental and behavioral health professionals must undergo training to better understand how to identify and dismantle these negative and harmful associations in their institutions, facilities, and programs. Adopting an antidiscrimination policy formalizes fair and equitable treatment of LGBQ and GNCT youth, and provides more support for staff already doing the work to provide gender-responsive, culturally appropriate interventions and case plans for their youth. Data collection further highlights the need for a continuum of services and heightens the urgency to get system-involved LGBQ and GNCT girls of color the services and resources they need to successfully and permanently leave the juvenile justice system.

NOTES

- 1 For the purpose of this chapter, "lesbian" is defined as a girl or woman who is emotionally, romantically, or sexually attracted to girls or women. "Gay" is defined as a person who is emotionally, romantically, and sexually attracted to individuals of the same sex, typically in reference to boys and men but also used to describe women. "Bisexual" is defined as a person who is emotionally, romantically, and sexually attracted to both males and females. "Transgender" is defined as a person whose gender identity (understanding of himself or herself as male or female) does not correspond with the person's birth sex. "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 his or her gender identity, usually through clothing, hair, and chosen name. The term “gender nonconforming” refers to people who express their gender in a way that is not consistent with their birth sex.

- 2 Fourteen hundred surveys were collected from straight and LGBTQ/GNCT youth in Alameda County, CA; Cook County, IL; Jefferson County, AL; Jefferson Parish, LA; Maricopa County, AZ; Orleans Parish, LA; and Santa Clara County, CA. All surveys were analyzed using descriptive statistics, analysis of variance, and binary logistic regression tests. One hundred and thirty interviews were collected from straight and LGBTQ/GNCT youth in Chicago, IL; Oakland, CA; New Orleans, LA, and the surrounding metropolitan area; New York, NY; and Santa Clara, CA. All interviews were transcribed and coded for common themes.
- 3 The authors intentionally use the term “birth sex” for this section. The construction of girls and boys on a binary is based on the assignment of sex at birth. In contrast, the authors see “gender identity” on a spectrum between female and male. Individual youth may choose one end of the spectrum or another. Youth may also choose to identify as both or as “gender queer,” an identity that does not fall into either “female” or “male.” Similarly, “gender expression” also falls on a spectrum from feminine to masculine.
- 4 The authors do not know why these differences across gender were captured by our research. These differences could occur because LBQ/GNCT girls are incarcerated at higher rates or because they are more likely to respond truthfully to the survey. Further research is required to enable us to understand the differences.
- 5 The authors do not use the term “homosexuality” and recognize that it may be offensive to members of the LGBT community.

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