

Juvenile Justice Fact Sheet Series: LGBTI Youth

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Counsel

Girls

Crossover
Youth

African-
American
Youth

Latino Youth

LGBTI
Youth

Mental
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Pipeline

Overview:

Most of what we know about the experiences of LGBTI youth in the juvenile justice system comes from collaborative advocacy groups like The Equity Project and from researchers. Overwhelmingly, these groups and scholars find that LGBTI youth suffer from disproportionate risk of victimization and offending, policing and school sanctions, and adjudication and detention. Because juvenile justice professionals, including judges, probation officers, detention staff, and administrators, lack training and knowledge about the specific needs of LGBTI youth, they are likely to misunderstand the struggles that youth face with family, peers, and schools.

Terminology: LGBTI stands for lesbian, gay, bisexual, trans*, and intersex. Trans* encapsulates identities like transgender, transsexual, transvestite, or cross-dresser. Trans* activists and advocates place an asterisk (*) after “trans” to denote the multiple ways that people identify when they have a gender identity that does not match the sex they were assigned at birth. Intersex refers to people who are born with reproductive or sexual anatomy that is not easily identifiable or that may not be distinctly male or female. In contrast, cisgender is the term that refers to people whose gender assigned at birth matches the sex assigned. *Note:* Variations of this acronym presented throughout the fact reflect available data (e.g. LGBT when data on intersex youth is unavailable).

LGBTI is therefore often used to refer to a range of people who do not identify as heterosexual or cisgendered, or whose bodies do not neatly conform to gender-sex assignments. It is important to note that there are many other terms that people use to identify their sexuality and gender. People of color might find that “lesbian” and “gay,” for instance, refer to white people and do not adequately represent their identities. In this fact sheet we use LGBTI because it is what the state of Ohio uses, even though these initials may not refer to the full diversity of people who are not heterosexual or cisgendered, and even though people may prefer other identities. The best way to find the appropriate term or pronoun for a youth is to ask youth themselves what they prefer.

National Statistics:

The Equity Project reports that approximately 13% of youth in detention facilities nationally are LGBT; intersex youth information is not included. LGBTI youth experience uniquely harmful conditions while in detention, including increased risk of sexual victimization, administrative segregation, and emotional abuse. Generally, youth identifying as LGBT are more likely to face family rejection, homelessness, and abuse, which contributes to juvenile justice system involvement. The Equity Project also reports that LGBT youth are more likely to be charged for violating age-of-consent laws than heterosexual or cisgender youth, which can lead to adjudication for a sex offense in a majority of states. Data for specifically intersex justice-involved youth are nonexistent, although the Intersex Society of North America reports that 1 in 1500 of all babies born in the U.S. have a type of sex development disorder. Often intersex youth are grouped together with other sexual nonconforming youth in the juvenile justice system, and their specific needs go unrecognized and unaddressed.

It is extremely rare to find government reports or statistics for LGBTI justice-involved youth, unless it is a report on sex offenses. For example, searches of the U.S. Department of Justice’s Office of Juvenile Justice and Delinquency Prevention (OJJDP) publications for terms like lesbian, gay, transgender, or intersex do not yield any results. However, statistics are reported for sex offenses by same-sex offenders, which problematically implies that LGBTI youth are only involved in the juvenile justice system as sex offenders. In reality, LGBTI justice-involved youth have a variety of adjudications. Their experiences and identities require unique policy attention and sexuality- and gender-specific programming.

Research and Programming:

The Equity Project states that professionals in the juvenile justice system often attempt to change, control, or punish LGBTI youth and equate their identities with mental illness or sexual deviance and criminality. A particular hostility is applied to trans* youth, who are often marked as “rebellious” rather than struggling to express the gender identity that feels natural to them. LGBTI youth are also likely to be placed in administrative segregation or solitary confinement for “their own safety,” which not only violates the youth’s constitutional rights, but also causes further emotional and mental stress. The health and medical needs of trans* youth, including their access to medically prescribed hormonal treatment, is often ignored, and the placement of trans* youth in sex-segregated facilities by their birth sex-assignment is not only stressful but may lead to harassment and even sexual abuse. The Equity Project found that transgender girls (female identified youth who were assigned male at birth) have a greater risk of sexual abuse by staff and other residents than cisgendered youth.

Ohio Data:

Ohio has very few statistics on juvenile justice-involved LGBTI youth. At the state level, the Prison Rape Elimination Act (PREA) requires states to screen youth for “gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex.” The Department of Youth Services (DYS) asks youth about sexual orientation during intake to a DHS facility; however these data are not compiled or tracked.

In 2013, the U.S. Bureau of Justice Statistics issued a report placing Ohio as one of the states with the highest rate of youth’s self-reported sexual victimization in juvenile correctional facilities. The report notes that nationally, youth with a non-heterosexual sexual orientation reported a substantially higher rate of youth-on-youth victimization (10.3%) than heterosexual youth (1.5%). In response, DHS implemented enhanced training for staff, improved security rounds, unannounced administrative visits, improved youth education, enhanced pre-employment screening, a Tip Line, a Youth Ombuds who responds to questions and concerns, and hiring a full-time Prison Rape Elimination Act (PREA) Coordinator. However, it is unclear how these changes are tailored to help improve LGBTI youths’ experiences in DHS facilities, or their effects given the lack of ongoing data collection about LGBTI youth in DHS facilities and CCFs.

Ohio’s Approach:

Ohio lacks a coordinated approach to LGBTI youth. An informal review of court programs throughout the state yields no programs targeting this population. At the state level, DHS does not offer any specific programming for LGBTI youth, including in its cognitive behavioral therapy program. In 2013, in order to comply with PREA guidelines, DHS developed a LGBTI Youth Standard Operating Procedure (SOP) and offers LGBTI training for staff. The SOP describes the commitment of DHS to LGBTI youth’s safety from sexual abuse/assault, verbal harassment, and stereotyping and states that LGBTI youth be isolated as a last resort, when less restrictive measures are inadequate for youth safety, and only until alternative arrangements can be made.

Conclusion:

LGBTI youth face a wide array of challenges, including at home, school, and in the juvenile justice system due to their sexual orientations and gender expressions. They are more likely than heterosexual and cisgendered youth to experience victimization, court-involvement, and sexual and physical abuse in detention. There are also few programs and placement options that cater to their specific needs. Trans* youth are especially vulnerable to societal ridicule, rejection, and harassment, including in the juvenile justice system.

Resources:

Beck, A. et al. (2013). *Sexual Victimization in Juvenile Facilities Reported by Youth, 2012*. Bureau of Justice Statistics. Available: <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=4656>

Himmelstein, K. and H. Brückner (2010). Criminal-justice and school sanctions against nonheterosexual youth: a national longitudinal study. *Pediatrics: Official Journal of the American Academy of Pediatrics* 127: 49-57. Available at http://www.equityproject.org/pdfs/Criminalization_of_non-heterosexual_youth.pdf.

Majd, K., J. Marksamer, and C. Reyes (2009). *Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts*. Available online: http://www.equityproject.org/pdfs/hidden_injustice.pdf.

This fact sheet is one of a fact sheet series about Ohio’s juvenile justice system by the Ohio Juvenile Justice Association.

If you have any questions, please visit OJJA’s website or contact Erin Davies with the Juvenile Justice Coalition at edavies@jjohio.org or 614-400-5548.