

LGBTQ YOUTH IN THE JUVENILE JUSTICE SYSTEM



NCLRIGHTS.ORG

NCLR

NATIONAL CENTER FOR LESBIAN RIGHTS

LGBTQ YOUTH IN THE JUVENILE JUSTICE SYSTEM

According to the Office of Juvenile Justice and Delinquency Prevention, there are more than 96,000 youth detained in the juvenile justice system.¹ While it is impossible to precisely determine the number of lesbian, gay, bisexual, transgender, or questioning (LGBTQ) youth in this system at any one moment, recent studies suggest that these youth make up between 4 and 10 percent of the total detained youth population.² The actual percentage may be higher since LGBTQ youth are over-represented in populations that are more likely to be involved with the juvenile justice system.³

Many of these youth have entered the system as a direct result of the discrimination and lack of support they have encountered because of their sexual orientation or gender identity.⁴ Once in the system, LGBTQ youth are too often subject to further discrimination or harassment at the hands of juvenile justice staff.⁵

How LGBTQ Youth Enter the Juvenile Justice System

In general, because of homophobia and transphobia in their homes, schools, and social settings, LGBTQ youth enter the juvenile justice system at a disproportionate rate.

- One study estimates 26% of LGBT youth were forced to leave their families of origin as a result of conflicts with their parents regarding their sexual orientation or gender identity.⁶ In a separate study, over 30% of LGBT youth reported suffering physical violence at the hands of a family member after coming out.⁷
- Because of lack of acceptance and abuse, many LGBTQ youth are removed from their homes or found to be “throwaways” by child protection agencies and placed in out-of-home care.
- In a terrible irony, once in out-of-home placement, more than 75% of these youth will be subjected to additional anti-LGBT abuse and discrimination.⁸
- As a result, many LGBTQ youth drop out of the system altogether, preferring to live on the street rather than in homophobic and transphobic settings where they are in danger of harassment or violence.
- The National Network of Runaway and Youth Services estimates that up to 40% of youth who become homeless each year are LGBTQ.⁹

- As a result of these conditions, LGBTQ youth are at higher risk of substance abuse and suicide.¹⁰
- Many of the LGBTQ youth in the juvenile justice system were arrested for committing non-violent survival crimes like prostitution and shoplifting and were likely living on the streets at the time of the offense.¹¹
- Some LGBTQ youth enter the system after having been inappropriately detained as “sex offenders” merely for engaging in consensual, age-appropriate same-sex conduct.

LGBTQ YOUTH EXPERIENCES IN THE JUVENILE JUSTICE SYSTEM

Once in the juvenile justice system, LGBTQ youth are often neglected and/or discriminated against by facility staff and peers, facilitated by inadequate policies, protections, support services and staff sensitivity.

Few juvenile justice facilities have policies prohibiting discrimination on the basis of sexual orientation or gender identity or provide training for staff on how to create safe and welcoming environments for LGBTQ youth.

Many LGBTQ youth in the juvenile justice system experience verbal harassment and physical or sexual abuse because of their sexual orientation or gender identity. This abuse is perpetrated not only by youth peers, but also by facility staff and social workers. When the abuse is between peers, it either is condoned by facility staff or goes unchallenged.

“Most people [in here] are stupid. They treat me like I am not human. They call me ‘faggot’ and tell me that I do not have a life.”¹²

When LGBTQ youth are harassed or discriminated against, juvenile justice facilities frequently respond by moving the LGBTQ youth to another — often more restrictive — facility or isolating them rather than addressing the underlying homophobia.¹³

LGBTQ youth have also been segregated or put in isolation based on a myth that LGBTQ youth will “prey” on other youth.¹⁴

“Then staff asked me, ‘Are you a lesbian? Because if you are, we are going to put you in a room by yourself.’ It was so I wouldn’t try to get with anyone else. Just because I like girls, I ain’t going to try to get at every single one of them!”¹⁵

This separation not only reinforces the notion that the LGBTQ youth is bad or to blame for harassment directed at them, but can also result in further denial of access to resources and support.

Facilities often discipline LGBTQ youth for engaging in age-appropriate conduct that would not be punishable if between two youth of different sexes.

*“In one case, a counselor in a juvenile justice facility petitioned to extend a lesbian’s placement for allegedly holding hands with another girl under a bathroom stall and subsequently mouthing ‘I love you’ to the girl across the room.”*¹⁶

LGBTQ youth have been arbitrarily labeled as or placed with sex offenders, even though they are detained in a juvenile justice facility for an unrelated offense.

*“[A] young transgender girl sentenced to a juvenile justice facility on robbery charges was arbitrarily labeled a sex offender by facility staff, made to wear clothes designating sex offenders in the facility, and told to participate in sex offender therapy.”*¹⁷

LGBTQ youth are sometimes subjected to reparative or conversion therapy (overt attempts to change one’s sexual orientation) by juvenile justice officers and/or social workers.

*“Two of the staff members wanted to ‘help’ me...I was told that two thousand years ago, I would have been stoned to death....they quoted the Bible to me, told me I would never have true sexual satisfaction, and asked me if I didn’t want a man’s strong arms around me...”*¹⁸

Lack of awareness of the needs of LGBTQ youth among judges and attorneys representing these youth also leads to more frequent sentencing of LGBTQ youth to lock down programs rather than to other social reformative programs.¹⁹

LGBTQ YOUTH IN THE JUVENILE JUSTICE SYSTEM

ENDNOTES

¹ The Office of Juvenile Justice and Delinquency Prevention reports that on census day in 2003 there were 96,655 juvenile offenders in residential placements in the United States. See Office of Juvenile Justice and Delinquency Prevention, *Census on Juveniles in Residential Placement Databook*, available http://ojjdp.ncjrs.org/ojstatbb/cjrp/asp/Age_Sex.asp (last visited May 31, 2006).

² See, e.g., Urban Justice Center, *Justice for All? A Report on Lesbian, Gay, Bisexual and Transgendered Youth in the New York Juvenile Justice System* 26 (2001) [hereinafter *Justice for All*].

³ See *id.* at 6-7.

⁴ See *id.*

⁵ Mary Curtin, *Lesbian and Bisexual Girls in the Juvenile Justice System*, 19 *Child and Adolescent Social Work Journal* 285 (2002); *Justice for All*.

⁶ See Lambda Legal Defense and Education Fund, *Youth in the Margins: A Report on the Unmet Needs of Lesbian, Gay, Bisexual, and Transgender Adolescents in Foster Care* 11 (2001) (hereinafter *Youth in the Margins*); National Gay and Lesbian Task Force, *Anti-Gay/Lesbian Victimization* (1984).

⁷ *Youth in the Margins*, at 11.

⁸ See *Justice for All*, at 16 (citing Joint Task Force of New York City’s Child Welfare Administration and the Council of Family and Child Caring Agencies, *Improving Services for Gay and Lesbian Youth in NYC’s Child Welfare System: A Task Force Report*, (1994).

⁹ See *Youth in the Margins*, at 11; *Justice for All*, at 1 (citing Laurie Schaffner, *Violence and Female Delinquency: Gender Transgressions and Gender Invisibility*, 14 Berkeley Women's L. J. 40 (1999)).

¹⁰ Gary Remafedi, *Adolescent Homosexuality: Psychological and Medical Implications*, 79 *Pediatrics* 331 (1987).

¹¹ See *Justice for All*, at 18-20.

¹² See *id.* at 33 (citing anonymous youth, personal interview, January 2001).

¹³ See *id.* at 30.

¹⁴ See *id.* at 29.

¹⁵ Curtin, *supra* n. 5.

¹⁶ *Justice for All*, at 7 (citing an anonymous attorney, Legal Aid Society Juvenile Rights Division, personal interview, December 2001).

¹⁷ *Id.* (citing an anonymous youth, personal interview, Jan. 2001).

¹⁸ Colleen Sullivan, *Kids, Courts and Queers: Lesbian and Gay Youth in the Juvenile Justice and Foster Care Systems*, 6 *Law & Sexuality* 31, 35 (1996).

¹⁹ See *Justice for All*, at 31.

© June 2006 NCLR



NCLRIGHTS.ORG

THE NATIONAL CENTER FOR LESBIAN RIGHTS—

YOUTH PROJECT has been advocating for LGBTQ youth in schools, foster care, juvenile justice settings, and the mental health system since 1993. The Project provides direct, free legal information to youth, legal advocates, and activists through a toll-free line; advocates for policies that protect and support LGBTQ youth in these different arenas; and litigates cases that are creating new legal protections for youth in schools, foster care, juvenile justice, and other settings.

FOR MORE INFORMATION, CONTACT:

Jody Marksamer, Staff Attorney

415.392.6257 x308

jmarksamer@nclrights.org

Toll-free Legal Helpline: 1.800.528.6257

National Center for Lesbian Rights

870 Market Street, Suite 370

San Francisco, CA 94102

info@nclrights.org

A solid blue horizontal bar at the bottom of the page, with a small white square at the right end.