



**The Whole Youth Model:  
How Collecting Data About Sexual Orientation, Gender Identity,  
and Gender Expression (SOGIE) Helps Probation and Youth Courts Build  
More Authentic Relationships Focused on Improved Well-Being**

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**December 19, 2019**

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## Introduction

Over the last 20 years, advocates and policymakers have successfully decreased the number of youth in the juvenile justice system by at least half through a series of concerted efforts at the local, state and federal levels. The largest drop occurred in Connecticut, which saw an 83% drop. Since 1997, the national rate has dropped 61% (Horowitz and Carlock, 2017). These efforts have yielded changes to the juvenile justice system, such as increasing the rights of detained youth and reducing detention; in some parts of the country, juvenile detention facilities are operating at approximately half capacity (Tucker and Palomino, 2019).

The decrease has been so dramatic in California that there are jurisdictions and agencies closing secure facilities and moving agency functions under health departments. San Francisco is closing their youth detention center (Ho, 2019). The California Department of Juvenile Justice is being moved from the Department of Corrections and Rehabilitation to a new department under the Health and Human Services Agency (Loudenback, 2019, January 11). And Los Angeles County is considering the possibility of moving their youth probation department under a health department (Loudenback, 2019, August 14).

Despite these huge gains, history shows that reform efforts have not benefited youth equitably. Youth of color and lesbian, gay, bisexual, questioning, and gender nonconforming and transgender (LGBQ/GNCT) youth are significantly overrepresented in the juvenile justice system, and those detained face increased risks of assault, abuse and harassment while detained (Davis, et. al., 2014; Beck and Cantor, 2013). LGBT youth in particular were named a “priority population” in the federal Prison Rape Elimination Act (PREA) Standards to mitigate this group’s documented heightened risk of abuse in facilities of confinement. Other studies find that youth of color and LGBQ/GNCT youth are overrepresented in the juvenile justice system, despite the dramatic declines in overall numbers of detained youth (Davis, et. al., 2014; The Burns Institute, 2014).

To better understand trends and changes over time in their specific jurisdictions and ultimately improve outcomes for LGBQ/GNCT youth, facilities have started collecting sexual orientation, gender identity and expression (SOGIE) data so that they can have information about all aspects of youths’ identities.

Even more importantly, as the field moves residential and supervision functions from law enforcement agencies to health and human services agencies, any professional working with youth should be thinking about building authentic relationships that aim to improve well-being.

This guide presents both a guide for collecting SOGIE data as well as a perspective on how this practice should fit within reforms to treat all youth respectfully with the ultimate aim of improving well-being.

### **The Whole Youth Model**

This guide recommends that justice stakeholders adopt practices that help them understand and support the young people in their care and custody. Its recommendations reflect reforms that transition from a focus on surveillance and punishment to a focus on health and well-being. Critical to this transition is a more accurate and nuanced understanding of the lives, experiences and identities of the young people who are among the least likely to benefit from efforts to decrease the use of incarceration: LGBTQ/GNCT youth of color.

The whole youth model begins with authentic conversations between staff and youth. Data collection is achieved through a series of questions aimed at gaining a deeper understanding of young people, the circumstances of their lives that contribute to disparate suffering and punishment, and how justice professionals might best ensure their well-being and meet their needs. The model is grounded in a set of guiding principles that inform every aspect of the work (See our guiding principles on the next page).

Although the model is conceptually simple, implementation requires intentional sequenced changes in practice. Justice stakeholders must first adopt a new mindset about their jobs. They must absorb the existing research documenting disparities based on race and SOGIE, as well as rapidly evolving terms and concepts related to these aspects of human identity. Perhaps most challenging, they must overcome their discomfort and reticence to ask young people about their intersectional identities. The recommendations in this guide provide an implementation roadmap.

*“I was just speaking to one of the probation officers that we trained. She stopped me in the hall and said that she had the most amazing conversation that morning. When she asked a young person about their sexual orientation, they said that they were Two-Spirit. When she asked what that meant, the young person really opened up. My probation officer feels like the conversation totally changed her relationship with this young person.”*

*-Probation Officer, Suffolk County, NY*

## SOGIE Data Collection Guiding Principles

1. Variations in sexual orientation, gender identity and gender expression are part of the normal spectrum of human diversity.
2. The increased risks faced by LGBTQ and gender nonconforming youth—particularly those of color—are not inherent to their identities, but stem from the stresses of prejudice, discrimination, rejection, and mistreatment.
3. Like all young people, LGBTQ and gender nonconforming youth thrive and succeed when their families, schools and communities support and nurture their evolving identities.
4. Efforts to change a young person’s sexual orientation or gender identity are ineffective, unnecessary and harmful.
5. LGBTQ and gender nonconforming young people are not a homogenous population but embody multiple identities that confer unique and intersecting stressors and strengths.
6. Regardless of personal beliefs, employees and contractors of public systems of care are legally and ethically required to treat LGBTQ and gender nonconforming young people equitably and respectfully.
7. Treating youth as whole people will improve the relationship that you have and the services you provide.
8. Asking questions about their multiple identities such as SOGIE and race/ethnicity will help you understand and treat youth as whole people.
9. Permitting youth to decide when and to whom to disclose their SOGIE protects their safety and promotes their healthy development.

### **Three Pillars of Change**

Collection of individual SOGIE and race data is the practice around which the whole youth model is centered. Prior to implementing data collection, it is imperative that agencies prepare personnel to implement this practice professionally, consistently, and effectively. Properly sequenced, the model requires agencies to adopt written nondiscrimination and data sharing policies, deliver training to all relevant personnel, and finally, implement protocols to collect and analyze SOGIE data. Policies, training, and data collection are the three pillars upon which the model rests.

#### **Written Policies as a Pillar of Change**

Adoption of written policies prior to collecting and recording SOGIE data is essential to clarifying the purposes for the data collection, promoting consistent and professional practices, obtaining accurate data, ensuring the safety and privacy of youth, and clarifying the agency's expectations of its employees and contractors.

A "Model Policy to Support Safe Collection and Beneficial Use of SOGIE Data" is included in Appendix A. This policy is specific to data collection, and addresses keeping data confidential and working with youth in a non-judgmental manner. There are other operational issues relevant to serving LGBTQ/GNCT youth, such as housing, programming, medical care, etc. that can be addressed with a more comprehensive anti-discrimination policy. We provide some general guidelines around policies below.

#### ***Recommendations for Policies***

We recommend that policies include the following sections:

##### ***Background and Purpose***

The policy should provide the context and reasons for requiring intake staff to collect SOGIE data from each youth. Although the process may vary from one agency to another, the core purpose is to use the information to develop individualized case plans that promote the health and well-being of each youth. Additional purposes include measuring and addressing disparities and informing agency planning. The purposes for the policy should be clear and consistently communicated at all levels of the agency.

##### ***Scope of Policy***

The policy should clarify that its provisions apply to all employees and contractors, and protect all youth served by the agency. The agency should formally adopt and approve the policy prior to the collection of individual SOGIE data.

*Nondiscrimination* The policy should explicitly prohibit discrimination against any youth based on the youth's actual or perceived SOGIE and require that all personnel provide each youth with fair and equal treatment and access to services, irrespective of the youth's actual or perceived SOGIE. This policy, formally adopted and approved by the relevant agency, provides essential protection to youth and personnel by clarifying the agency's commitment to equality and inclusion.

*Equal and Respectful Treatment*

In addition to straightforward language prohibiting discrimination, the policy should identify specific behaviors that create a safe and inclusive environment. Examples include:

- Requiring staff to interact respectfully with all youth
- Prohibiting staff from using language that demeans or condemns LGBTQ/GNCT individuals
- Prohibiting staff from implying LGBTQ/GNCT youth that they can or should change their SOGIE
- Requiring staff to use the chosen name and pronoun of every youth, regardless of the name on the youth's identity documents or arrest or court records
- Requiring personnel to apply consistent behavioral standards to all youth
- Prohibiting personnel from punishing behavior they perceive to defy gender norms
- Requiring personnel to intervene promptly and effectively when anyone harasses or mistreats a youth based on the youth's actual or perceived SOGIE



### *Policy Dissemination*

The policy should require staff to provide a written and verbal explanation to youth of their rights and obligations under the policy, as well as the procedures for reporting violations, in a manner that the youth can understand.

### *Grievance Procedure*

The policy should describe a process by which youth can submit grievances alleging violations of the policy. The process should be accessible to all youth, including those with limited literacy, limited English proficiency, or intellectual, learning or developmental disabilities. The process should be confidential and provide for fair and prompt consideration and resolution of grievances. It must also expressly prohibit retaliation.

### *Confidentiality*

The policy should give youth as much control as possible over any disclosure of their SOGIE to third parties. Ideally, the policy should prohibit personnel from disclosing the youth's SOGIE to anyone outside the agency, including the youth's parents, without obtaining the youth's consent, unless the disclosure is required by law or court order. Any required disclosure related to a youth's SOGIE should be limited to the information necessary to achieve a specific beneficial purpose and must be documented.

### *Training*

The policy should require that all personnel receive training on the policy prior to collecting SOGIE data.

### *Intake and Assessment*

The policy should require intake staff to ask each youth about their SOGIE and not make assumptions based on appearance or stereotypes. Staff should not compel youth to disclose the information nor threaten a youth with discipline for declining to disclose this information. The policy should provide that when a youth discloses that they are LGBTQ/GNCT, the person conducting the interview will talk with the youth in an open and non-judgmental fashion and ask if the youth has any concerns or needs related to their SOGIE.

### *Definitions*

The policy should include definitions of any terms related to SOGIE that are used in the policy. Sample definitions are included in the Model Policy in Appendix B.

## Training as a Pillar of Change

Providing training prior to incorporating the SOGIE data questions into existing case management systems is essential to the quality of the data and the safety and wellbeing of the young people responding to the questions. Below are recommendations for structuring the training gathered over years of training dozens of juvenile systems of various sizes across the country.

### *Recommendations for Training*

We recommend that any training consider the following:

#### *Models of Training*

Training needs and capacity vary across sites and often depend on resources, i.e., staff time, partnerships with outside experts to provide training, existing training commitments and long-term goals. Jurisdictions should consider the long-term capacity and sustainability of building internal expertise. The training for trainers (T4T) model is cost-effective and fosters internal, department expertise on LGBTQ/GNCT youth while reducing reliance on outside experts who are potentially unfamiliar with the department-specific culture. Additionally, a T4T develops an infrastructure that allows jurisdictions – particularly larger ones - to roll out trainings on an ongoing basis that ensure staffing is not disrupted and both current and prospective staff get trained.

#### *Designing a T4T*

A T4T should give the prospective trainers the opportunity to experience the training in two ways: first, solely as participants, and second as the trainer.

Dedicate day one to introducing the material and working through the activities and reserve day two for the prospective trainers to practice delivering the

*“So one of our biggest accomplishments was training the staff who are asking these questions on the front line and educating ALL of our staff about the terms, what is asked, and why we are collecting the data. ..We have trained over 200 of our staff. It was very time consuming, but WELL worth it to get all of our staff on board, even if they weren’t the ones collecting it. In Lucas County, we always say that at the end of every decision, there is a child which then has a family. If we can help even one (LGBTQ youth) that we know are coming in but we didn’t (previously) know what to do...if we can direct them to some better services, we need to do that. It’s our job.”*

*Training Manager, Lucas County, OH*



material. It is important that the day two feel as realistic as possible – have the participants in the audience incorporate difficult questions they anticipate receiving from their peers so that trainers can plan their responses and refer to the material.

### *Selecting Trainers*

Many jurisdictions have training units that are responsible for identifying training needs, developing and delivering the training, or finding outside experts to close knowledge gaps. In such cases, the training unit may be the most appropriate staff to serve as the SOGIE data collection trainers. Departments that do not have this infrastructure, leadership should consider who might be best to serve as trainers by who is already collecting other data (at intake and or booking) or whose positions already require potentially private discussions (medical staff). Ideally, staff at all levels should be prepared to affirm and support youth who disclose an LGBTQ/GNCT identity.

### *Choosing Training Topics and Approach*

Training topics will vary depending on the needs of the youth, department goals and whether the training is being offered for the first time or as a refresher. At a minimum, first time trainings should include the following:

- *Guiding Principles.* Trainers should use the guiding principles to establish a framework from which the training will be delivered. They establish a transparent set of values and justification for why the department is centering this population in changes to policies and practices.

- *Language and concepts.* Language is a powerful tool in relationship-building; it is also a source of anxiety for individuals concerned about mislabeling and offending the LGBTQ/GNCT community. It is important that trainees be exposed to the variety of identities and understand how sexual orientation, gender identity, and expression are separate aspects of

identity that everyone embodies. Exposure and practice incorporate SOGIE language into their vocabulary prepares staff to confidently and affirmingly listen to and engage with youth. Staff should not be expected or expect themselves to always use the correct terminology, but rather feel comfortable to respectfully ask youth for clarification when needed and be prepared to use the language youth requests.

- *Background research on the lived experiences LGBTQ/GNCT youth in the justice system.* LGBTQ/GNCT youth, particularly those of color and justice-system involved, face unique challenges because of their race/ethnicity and SOGIE that put them at risk to become justice system involved. Trainings should educate on the prevalence of homelessness, bullying and harassment at school, and child welfare within LGBTQ/GNCT youth communities. While trainers may initially need to rely on state or national statistics, as their department's own SOGIE data collection continues, these statistics can be replaced to tell a more relevant and personalized story of the population it serves.
- *Introducing the SOGIE questions.* Once the trainees have been familiarized with the aforementioned topics, introduce the SOGIE questions and set of suggested "drop down" responses that the IT department will incorporate into the case management system. Typically, this portion of the training yields little discussion, particularly if done after the terminology and the justification for incorporating the questions has been covered.
- *Incorporating activities.* Incorporating activities that encourage trainees to practice new language and engage in new thought will support skill development and encourage the shifting of hearts and minds around this topic.

*“Our biggest success is (having) a common language that we can use not only with youth, but with our staff. Staff were really uncomfortable with the terms and saying, “How on earth can we be asking youth these questions? It might be intrusive.” And as we started talking with youth in our community we found out that they are not having issues with these questions. This is common, everyday language with them. It’s the adults who are having issues with the questions. So after nine months of using the questionnaire and gathering data, (this work) has really opened up the world of conversations. We have...conversations not only (within the department) but also with community stakeholders to make sure that we are meeting the needs of youth in our community.”*

**Probation Officer, Lucas County, OH**

### **SOGIE Data Collection as a Pillar of Change**

To date, most juvenile justice systems have had to rely on national survey data to understand trends for system-involved

LGBQ/GNCT youth. More recently, juvenile facilities have cited PREA as the rationale to collect individual-level SOGIE data.

While the PREA requirements help sites screen for potential risks for victimization, collecting these data points improve treatment of youth in other ways such as:

- increasing the safety and wellbeing of LGBQ/GNCT youth under community supervision and within programs;
- cultivating opportunities to build relationships with and affirm youth across their multiple identities;
- improving agency planning;
- developing case plans to consider youths’ multiple identities and individual needs; and
- tracking and measuring bias, disparities and outcomes.

## ***Recommendations for SOGIE Data Collection***

There are a number of considerations and decisions to make before a jurisdiction should collect SOGIE data.

### *Preparation*

As described above, sites should have anti-discrimination and data sharing policies to protect youth in the system. Sites should also properly train line staff so that they know what questions to ask and how to ask them. Finally, sites should identify community-based partners that are affirming of LGBT youth for referrals (See Garza, 2019.)

### *Case Management Systems*

Sites should set up a system for collecting data. Ideally, case management systems will be revised to capture information about at least the following six categories: sex assigned at birth, gender identity, gender expression, sexual orientation, attraction, and a questions that indicates whether line staff are worried that a young person will be bullied based on their appearance. A full list of questions and recommended drop-down options is included in Appendix C.

### *Creating Safe Spaces*

Once an agency has implemented policies and trainings, they should also create a safe place to ask SOGIE questions. As with all intake questions and assessments, youth should be interviewed in the most private settings possible. When staff introduce the questions, they should explain that all youth are asked the same questions. Finally, the SOGIE questions should be woven into all of the other demographic questions that a site asks. Creating a separate section or weaving SOGIE questions into medical or sexual history questions can send the message that sexual orientation and gender identity are not a normal part of adolescent development.

### *Supporting Youth*

As staff ask SOGIE questions, they should use respectful and supportive language. They should avoid making any assumptions about sexual orientation or gender identity or gender expression based on how a young person presents themselves. They should be aware of cultural or generational differences that may exist between themselves and the young person. And by remaining curious and asking follow-up questions about what new terms mean, staff can signal a comfort and an openness to any answers that youth choose to provide.

### *Asking SOGIE Questions*

Once sites have a safe space, a revised case management system, and a method for collecting SOGIE data, line staff can start asking the questions. Most jurisdictions have learned that asking youth questions in rote format is ineffective. Instead, staff that have been trained in motivational interviewing know that assessment and intake procedures can be conversational and, therefore, more comfortable for young people. We therefore recommend that staff take the time to ask SOGIE questions in an open and curious way (see Appendix C for a recommended script). Probation officers and court staff are encouraged to expand on this script even further by asking follow-up questions if a young person uses a term they are unfamiliar with. At all times, adults are most affirming when they are genuinely interested in the multiple layers of youths' lives.

### ***Using Data to Improve Outcomes for LGBQ/GNCT Youth***

As discussed above, asking youth SOGIE questions helps develop a stronger relationship with them. In addition, the aggregate data helps jurisdictions understand where they could improve practices and policies in order to ultimately improve outcomes for LGBQ/GNCT youth.

### ***Findings from the First Sites***

Ceres and our partners pulled together three counties in Ohio, three counties in New York, and the state of Connecticut for our first cohort of Whole Youth Model sites. After passing policies, training staff, revising case



management systems, and collecting data, most of these sites were ready to download what they have for data analysis. We compiled information from Lucas County, OH; Montgomery County, OH; Schenectady County, NY; and the state of Connecticut into one large dataset.

This data was analyzed using a combination of descriptive and advanced statistics tests. We ran descriptive statistics tests in order to understand the population of youth we had collected data from. These youth varied across race and SOGIE:

- There were a total of 2249 youth in the dataset
- 608 of these youth came from Lucas County, 889 from Montgomery County, 110 from Schenectady County, and 640 from Connecticut.
- The majority of youth--62%--were of color. The largest proportion of youth of color were Black: 52.4% of respondents were Black, 38% were white, 5.5% were multiracial, 3.6% were Latinx, .3% were Asian, and .2% were indigenous.
- The proportion of LGBTQ/GNCT youth in the sites came approached national estimates. While 20% of youth nationally report being LGBTQ/GNCT on anonymous surveys, 15.7% of youth reported being LGBTQ/GNCT on face-to-face intake questions.
- And while 40% of girls report being LGBTQ/GNCT on anonymous surveys, 34.6% of girls in our sample reported being LGBTQ/GNCT.

We ran analyses of variance and binary logistic regression tests to determine if LGBTQ/GNCT youth were experiencing disparities in outcomes. We had four major findings. LGBTQ/GNCT youth were:

- 40% more likely to receive a high risk score.
- 40% more likely to be detained prior to adjudication; and
- 50% more likely to be charged with a violent felony.

In addition, LGBTQ/GNCT Black girls (or, more accurately, youth assigned female at birth) were:

- 4.8 times (380%) more likely to have a sustained weapon charge.

### *Recommendations for Putting Data into Practice*

Analysis of SOGIE data reveals areas for system reform. For the first group of Whole Youth Model sites, we recommend the following:

#### *High Risk Scores*

In order to address the problem of more LGBTQ/GNCT youth receiving high risk scores, we recommend that sites ask the vendors that provide their risk instruments to revalidate their instruments to ensure equity across SOGIE.

#### *High Rates of Detention*

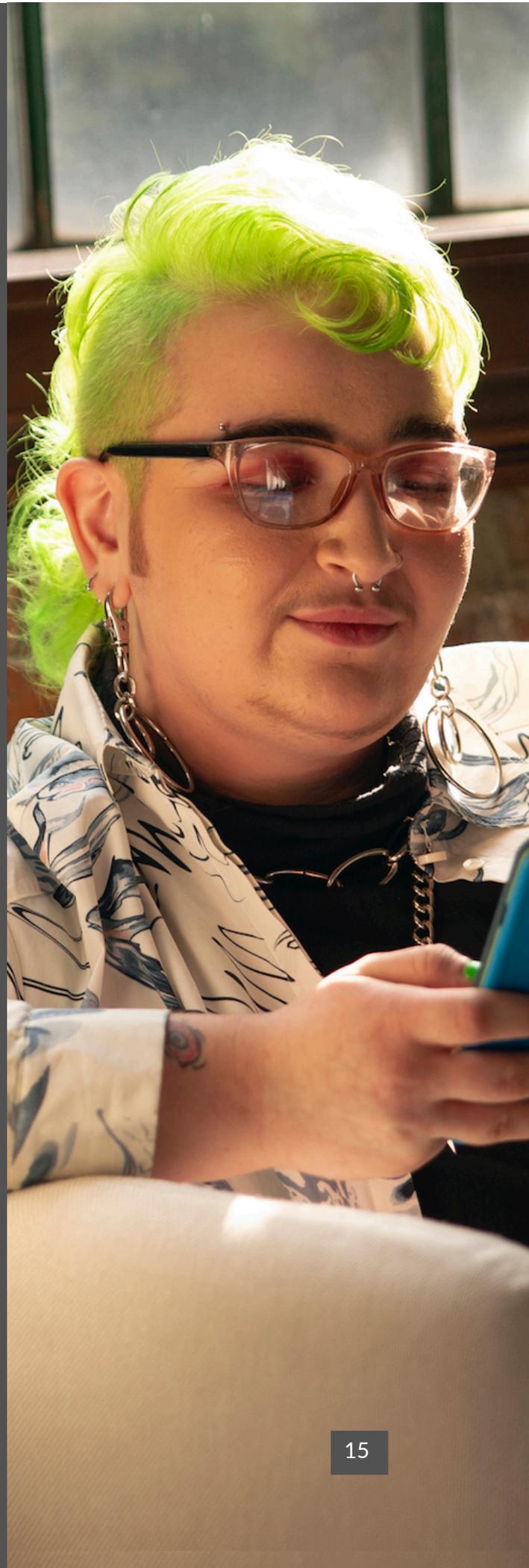
In order to address the problem of having more LGBTQ/GNCT youth in detention, sites should similarly review their detention risk instruments and risk overrides to ensure equity.

#### *Higher Rates of Sustained Violent Charges*

In order to address higher rates of sustained violent charges, sites should first review case files to see if violent charges are justified. Research in California suggests that only 13% of robberies and assaults result in serious bodily injury. This necessitates that the field critically consider when a violent charge is warranted. Secondly, for those youth who have caused serious harm, sites should pursue restorative community programs that can address underlying conflict and violence while simultaneously affirming youth culture, race, and SOGIE.

#### *Higher Rates of Weapons Charges*

As with violent charges, sites should develop a continuum of care that can serve LGBTQ/GNCT youth of color in an affirming way. Systems should then refer youth with weapons charges to identified programs that can address the underlying reasons for carrying weapons while affirming youth culture, race, and SOGIE.



As other sites compile and analyze their data, they will inevitably yield different results. As counties pursue reforms to improve outcomes for LGBQ/GNCT youth, they may want to initiate the following reforms:

- Examine opportunities to improve internal practices inside facilities. One specific example might be a decision grid for out-of-home practices. If your data suggests that LGBQ/GNCT youth are being placed in group homes at higher rates than other youth, consider creating a multi-disciplinary team that reviews placements. Then have this group develop a structured decision making grid that will make decisions more equitable.
- Develop intersectional and affirming terms of probation and release plans to promote successful and permanent exits from the system. One example of this would be to review whether your system automatically refers youth to mental health programming. Affirming mental health services are difficult to find for LGBQ/GNCT youth. They should not be punished for failing to attend services that are not supportive or where they are not comfortable.
- Share data with other youth-serving agencies and community-based organizations to identify affirming interventions and opportunities. Sharing aggregated findings from analyses that review differences across SOGIE and race should be shared with all system partners so that each community can develop a coordinated and consistent response to LGBQ/GNCT youth.
- Begin developing a continuum of care for LGBQ/GNCT youth. Since most probation and youth court systems serve the majority of youth in the community, each site should intentionally work with system partners and community-based organizations to train line staff around the entire county and to develop referral systems that affirm all layers of youth identity. It should be noted that some LGBQ/GNCT youth prefer to not attend specialized programs for LGBQ/GNCT communities. For this reason, careful and thoughtful referral assessments are required so that youth can help identify the services they feel most comfortable attending.

## Appendix A



## Model Policy to Support Safe Collection and Beneficial Use of SOGIE Data

### I. Background and Purpose

[Agency] recognizes the unique risks faced by lesbian, gay, bisexual, transgender, questioning, intersex (LGBTQI) and gender nonconforming (GNC) youth involved in the juvenile justice system, and the importance of accurate data to inform policy and practice. Among the data collected at intake, [agency] will ask each youth about their sexual orientation, gender identity, and gender expression (SOGIE) to:

- Promote the safety and well-being of all youth
- Affirm the SOGIE of all youth
- Develop individualized case plans
- Inform agency planning
- Measure bias, disparities, and outcomes
- Generate aggregate data

The purpose of this policy is to promote a professional environment in which [agency] employees and contractors treat all youth, irrespective of SOGIE, fairly and respectfully, maintain the confidentiality of their SOGIE, and utilize SOGIE data to promote their safety and well-being.

### II. Scope

This policy applies to all employees and contractors of [agency], and protects all youth served by [agency]. The policy will be disseminated and implemented prior to collection of SOGIE data from youth served by [agency].

### III. Policy

#### A. Nondiscrimination

- Employees and contractors will provide each youth with fair and equal treatment and access to services, irrespective of the youth's actual or perceived SOGIE.
- Employees and contractors will not discriminate against any youth based on the youth's actual or perceived SOGIE.

#### B. Equal and Respectful Treatment

- Employees and contractors will interact respectfully with all youth, irrespective of SOGIE.
- Employees and contractors will not use language that demeans, ridicules, or condemns lesbian, gay, bisexual, transgender, queer/questioning, intersex or gender nonconforming (LGBTQI or GNC) individuals. They will not imply to or tell LGBTQI or GNC youth they can or should change their SOGIE. Nor will they attempt to change a youth's SOGIE.
- Employees and contractors will use the chosen name and pronoun of transgender or GNC youth, regardless of the name on the youth's identity documents or arrest or court records.
- Employees and contractors will apply consistent behavioral standards to all youth, irrespective of SOGIE.
- Employees and contractors will not punish nor prohibit behavior that they perceive to defy gender norms.
- Employees and contractors will intervene promptly and appropriately when anyone harasses or mistreats a youth based on the youth's actual or perceived SOGIE.

**C. Policy Dissemination**

- At the time of intake, staff will provide both a written and verbal explanation of this policy to all youth in a manner that they can understand, paying attention to language and literacy needs.
- Staff will provide all youth with a copy of this policy and verbally inform them of their rights under this policy and the procedures for reporting violations.

**D. Grievance Procedure**

- [Agency] personnel will create a process by which youth can submit grievances related to this policy.
- The process must be accessible to all youth, including those with limited literacy, limited English proficiency, or intellectual or developmental disabilities.
- The process must be confidential and provide for fair and prompt consideration and resolution of grievances and must prohibit retaliation.

#### **E. Confidentiality**

- Staff will not disclose information about a youth's SOGIE to anyone, including the youth's parents, without obtaining the youth's consent, unless disclosure is required by law or court order.
- Any disclosure of confidential information related to a youth's SOGIE will be limited to information necessary to achieve a specific beneficial purpose, which must be documented.

#### **F. Training of Employees, Contractors, and Volunteers**

- [Agency] will ensure that all employees and contractors receive training on this policy.

#### **G. Intake and Assessment**

- Intake staff will ask youth about their SOGIE and will not make assumptions based on appearance or stereotypes. Staff will not compel youth to disclose this information, nor threaten a youth with discipline or other punishment for refusing to disclose this information.
- If a youth discloses that they are LGBTQI, the person conducting the intake will talk with the youth about it in an open and non-judgmental fashion and determine if the youth has concerns or needs related to their SOGIE.

### **IV. Definitions**

For purposes of the Policy, the following definitions apply:

#### **Bisexual**

Describes a person who is attracted to both men/boys and women/girls.

#### **Contractor**

Any person who provides services to youth pursuant to a contract or Memorandum of Understanding with the [agency].

#### **Discrimination**

Any act, policy, or practice that, regardless of intent, has the effect of subjecting any youth to differential treatment based on that youth's actual or perceived SOGIE.

#### **Employee**

Any person who is employed directly by [agency].

**Gay**

Describes a person who primarily is attracted to individuals of the same gender. While historically used to refer specifically to men/boys, the term may be used to refer to women/girls attracted to other women/girls as well.

**Gender Expression**

Describes how individuals communicate their gender to others through hairstyles, clothing, mannerisms, alterations of their body or by choosing a name that reflects their gender identity.

**Gender Identity**

A person's innate, hardwired, internal sense of being male, female, both, or neither.

**Gender Non-Conforming (GNC)**

Describes a person whose expression of gender departs from prevailing cultural and social expectations about what is appropriate for their gender.

**Harassment**

Includes, but is not limited to, name-calling, disrespectful gestures, jokes, or comments, inappropriate touching, threats of physical or emotional acts or negative consequences (including religious condemnation), and physical, sexual or emotional abuse.

**Intersex**

Describes people born with sex chromosomes, external genitalia or internal reproductive systems that are not considered "typical" for either males or females.

**Lesbian**

Describes a woman/girl who is attracted to other women/girls.

**Sexual Orientation**

An attraction to others that is shaped at an early age (usually by about the age of 10). Sexual orientation falls on a spectrum that ranges from attraction to only men/boys or only women/girls, to varying degrees of attraction to both men/boys and women/girls, to attraction to neither men/boys nor women/girls.

**Transgender**

Describes a person whose gender identity and sex assigned at birth do not match. A transgender man is a person who was assigned female at birth but identifies as and is living as a man. A transgender woman is a person who was assigned male at birth but identifies as and is living as a woman.

## Appendix B: Recommended SOGIE Data Questions for Case Management Systems

These recommendations for SOGIE questions to be added to case management systems were developed based on recommendations from four youth focus groups that were conducted between January and March 2018. Two of the focus groups were facilitated in California and two were facilitated on Connecticut.

A proposed script for asking the questions follows in Appendix C.

### *Proposed Case Management Questions and Responses*

1) What is your gender?

(Check **all** that apply.)

\_\_\_\_\_ **Girl/woman**

\_\_\_\_\_ **Boy/man**

\_\_\_\_\_ **Transgender** (*if your gender is different now than it was at birth*)

\_\_\_\_\_ **Genderqueer** (*if you don't identify with being either a boy/man or girl/woman*)

\_\_\_\_\_ **Two-spirit** (*indigenous term that describes individuals with both male and female energy*)

\_\_\_\_\_ Write in your own response\_\_\_\_\_

2) What sex were you assigned when you were born?

\_\_\_\_\_ **Male**

\_\_\_\_\_ **Female**

\_\_\_\_\_ **Intersex** (*if you were born with a mix or variation of male and female anatomy*)

3) What is your gender expression?

(*Gender expression describes how you dress, behave and carry yourself*)

(Check **all** that apply.)

\_\_\_\_\_ **Masculine** (*if your appearance and behavior match the appearance and behavior of boys/men*)

\_\_\_\_\_ **Feminine** (*if your appearance and behavior match the appearance and behavior of girls/women*)

\_\_\_\_\_ **Two-spirit** (*indigenous term that describes individuals with both male and female energy*)

\_\_\_\_\_ Write in your own response\_\_\_\_\_

4) What is your sexual orientation?  
(Sexual orientation means who you are romantically and physically attracted to).

(Check all that apply.)

- \_\_\_\_\_ **Heterosexual/straight**
- \_\_\_\_\_ **Lesbian**
- \_\_\_\_\_ **Gay**
- \_\_\_\_\_ **Bisexual** (if you are attracted to both boys/men and girls/women)
- \_\_\_\_\_ **Questioning** (if you aren't quite sure if you are attracted to boys/men, girls/women, both, neither, or another gender)
- \_\_\_\_\_ **Queer** (if you are attracted to many genders or do not consider gender when dating someone)
- \_\_\_\_\_ **Asexual** (if you are not attracted to any sex or gender)
- \_\_\_\_\_ **Two-spirit** (indigenous term that describes individuals with both male and female energy)
- \_\_\_\_\_ **Pansexual** (if you are attracted to all sexes and genders)
- \_\_\_\_\_ Write in your own response\_\_\_\_\_

5) Who are you attracted to?

(Check all that apply.)

- \_\_\_\_\_ **Girls/women**
- \_\_\_\_\_ **Boys/men**
- \_\_\_\_\_ Write in your own response\_\_\_\_\_

6) For staff. Do you think this young person may be bullied or harassed because of the way they express their gender? (Check one.)

- \_\_\_\_\_ yes
- \_\_\_\_\_ no

## Appendix C: SOGIE Interview Guide

As with the questions for the case management system, we have developed recommendations for HOW SOGIE questions should be asked based on recommendations from youth focus groups. The script for the questions was developed by Montgomery County, Ohio based on motivational interviewing techniques.

### ***Best Practices for Consideration by Participating Agencies***

- 1) Weave the SOGIE questions into your other demographic questions.
- 2) Set up a system ensuring that youth are asked SOGIE questions multiple times.
- 3) Ensure that the environment in which all questions, including SOGIE questions, is private. Doors should be closed and no more than one staff member should be in the room with the young person.
- 4) Give youth the choice to answer these questions privately on a piece of paper that is later transferred into the electronic system (the piece of paper would include all demographic questions).
  - a. Should the youth decide that they'd prefer to answer the questions without a staff member present, staff should inform the youth that they will review the responses in private once youth has completed them to ensure that appropriate housing and clothing decisions are made.
- 5) Allow youth to choose the gender of the interviewer.
- 6) Should youth decide that they would prefer to be interviewed for the demographic/SOGIE questions, staff will read questions from a paper, not computer, and make questions conversational. Training and scripts will be provided.
- 7) Ask only sex at birth and current gender identity questions during intake and reserve sexual orientation and gender expression for the second round of data collection once youth is more comfortable.
- 8) Allow guidance counselor or medical staff to ask the questions during the second round of data collection once youth is more comfortable.
- 9) Ensure that placements and clothing can be changed should a young person reveal that they are transgender.

### ***For Further Consideration***

- 1) Can questions/responses be updated as appropriate language evolves?
- 2) How do we capture potential changes in responses – particularly if we are asking youth twice during one detention setting – without overriding previous response?
- 3) How do we capture changes in responses between multiple bookings?
- 4) Can we avoid auto-fill/auto-populate between bookings?
- 5) Do staff sit at computers when asking these questions or ask them more casually and enter the answers later?
- 6) Are parents present?

### **Script**

#### 1) Preferred Name

Thank you for agreeing to speak with me. If it's okay, I'd like to ask you several questions about who you are and how you identify. First, what's the name that you'd prefer to be called?

#### 2) Race

What race or ethnicity do you identify with? (If there is confusion, "Some people identify as African American, Asian, or White.")

#### 3) Gender Pronoun

When people are referring to you, do you prefer to be referred to and she/her/hers, he/him/his, they/them, or something else?

#### 4) Gender

Next, I want to ask you about your gender identity. When you think of gender, how do you identify yourself? IF needed, follow-up with Do you identify as a girl/woman, boy/man, transgender, genderqueer, two-spirit, or something else?

#### 5) Sex

Next, I'd like to ask you about when you were born. At the time of your birth, did the doctor identify you as a boy, girl, intersex, or something else?

#### 6) Expression

Tell me about how you express your gender, like the way you dress, the way you talk, etc. IF needed, follow up with For example, would you say your expression is more masculine, feminine, two-spirit, or something else?

#### 7) Orientation

Tell me about your sexual orientation. If needed, follow up with Do you identify as Heterosexual, Lesbian, Gay, Bisexual, Questioning, Queer, Asexual, Pansexual, or something else?

#### 8) Attraction

Tell me about who you're attracted to (Boys/men, girls/women, or something else)

#### 9) Disclosure

I want to make sure you and the information you've shared is protected. Who else knows the information that you've shared with me today? Would it be OK with you if I shared that information with others, or would you prefer that I did not?

## Appendix D: FAQs for SOGIE Data Collection Training

### Rationale for collecting SOGIE and race/ethnicity data

#### **Why are we doing this? Why do we need to know this information?**

The reasons for collecting SOGIE data are:

- To ensure safety and promote well-being
- To provide an opportunity to affirm youth
- To inform agency planning
- To develop individualized case plans
- To measure bias, disparities and outcomes
- To generate aggregate numbers
- To comply with PREA

Many of the same reasons apply to collecting data on race/ethnicity. The idea is to encourage staff to learn about the layered identities of the young people in their care – to better understand how to support their health and well-being and create case plans that are responsive to their needs. Collecting these data also provides important information to the facility or agency regarding disparities and outcomes.

#### **How do we make this compelling to staff? Explain why it matters ?**

- This requires reaching their hearts and minds and helping them understand and empathize with the experiences of LGBTQ/GNC youth. If possible, it is ideal for staff to hear from the youth themselves, if not in person, then at least via videos.
- Connect the work to goals that everyone can relate to: safety, fairness, respect.

### Staff resistance

#### **What if staff refuse to collect SOGIE data based on their personal or religious beliefs?**

- Regardless of personal beliefs, employees and contractors of public systems of care are legally and ethically required to treat LGBTQ/GNC youth equitably and respectfully. (See Guiding Principle #6)
- Juvenile justice agencies can require employees to treat all youth equally and are not required to accommodate requests that would discriminate against[A12] or treat differently specific groups of youth.

### **How do we respond to staff who believe that a boy will pretend to be transgender to manipulate staff into housing him in the girls' unit?**

- While this is a common concern, it is not a common scenario. Transgender women/girls are extremely stigmatized and vulnerable to high levels of abuse and violence. Boys are not likely to falsely claim transgender status, voluntarily adopting a stigmatized identity and subjecting themselves to ridicule and abuse. Even if a boy tried to impersonate a transgender girl, the deception would be immediately obvious. A few questions about the boy's gender history would quickly reveal the pretense.

### **What if staff think that this results in "special rights" for LGBTQ youth?**

- Emphasize the "whole youth" approach and that everyone has a sexual orientation, gender identity, and gender expression. Asking about a youth's SOGIE and race/ethnicity, along with the other information you gather about the youth will give you a fuller picture of the youth and help you make decisions that promote their health and safety. The information does not confer special rights or privileges; it simply helps you make individualized decisions. This is a universal approach, applied with every youth.

### **How do we manage our own anxiety/trauma when dealing with resistant staff?**

- Ideally, trainings provide a safe space for participants to explore and unpack their biases. Some of the exercises specifically encourage participants to ask questions, express opinions or even push back on the ideas presented in the training. As a result, trainers may be exposed to a range of triggering comments or gestures. It is critical to be aware of the impact on trainers of repeated exposure to bias -- whether it is intended or aimed at the trainer. Training teams should discuss how to support one another and provide resources for self-care.

### **How do we support staff who are uncomfortable or awkward talking about SOGIE?**

- Remind staff that talking about sensitive topics is part of their job and something they already do. Juvenile justice personnel regularly talk with youth about sexual abuse, substance use, sexually transmitted infections, and mental illness, for example.
- Learning to talk about SOGIE takes practice. Give staff the opportunity to conduct practice interviews with one another.
- Comfort with the topic requires familiarity with the topic. Create opportunities for staff to become more familiar with terms and concepts. Reassure them that they will become more comfortable with practice.

### **How do we respond to staff who believe that youth are too young to know their SOGIE?**

- Rely on credible research, rather than general impressions.
- Children first become aware of their gender identity between the ages of 2 and 4. This is especially true of children who exhibit cross-gender behaviors.
- Children first become aware of their sexual orientation at age 10. Children experience their first feelings of attraction (“crushes”), typically long before they are sexually active.
- The average age of awareness of both sexual orientation and gender identity has steadily decreased, probably because of greater public awareness and increased visibility of LGBTQ individuals.

### **How do we deal with staff who belittle or make fun of this work?**

- This is a performance issue that should be addressed by the person’s supervisor. The supervisor should clearly describe why this conduct is unprofessional and how the employee is expected to correct it. If the employee continues to undermine the work, the supervisor should impose the same sanctions as any other failure to meet employment expectations.

### **How do we respond to staff who believe that youth only identify as lesbian or gay when they are locked up (“gay for the stay”)?**

- This phenomenon is probably exaggerated, but more importantly, it doesn’t change how staff should respond. It is not unusual for young people to identify differently in different settings. These shifts in identity or expression may be related to many factors, including the youth’s perception of safety, their need for connection, or their growing awareness and development. Staff should not dismiss normative exploration and should affirm and respect every youth’s identity as it is experienced and described by the youth.

### Confidentiality

### **How do we ask these questions if the youth’s parents are present?**

- Staff should not ask these questions in the presence of the youth’s parents. If necessary, adjustments should be made in the intake process to provide privacy.

**How do we protect the confidentiality of youth who do not want to disclose their LGBTQ status to their parents?**

- It is critical to maximize young people's control over who has access to the information they disclose. This requires an understanding of how your case management system works, including where identifiable information is recorded, who has access to it, and any systems or strategies to protect the information. For example, if parents have access to case data, inform the young person and let them decide whether the information should be recorded. Consult with personnel in your agency or facility who understand your data or records system, as well as your IT personnel and your agency's attorney to strategize.

**For any other questions, or clarification on these answers, please contact Shannan Wilber at [swilber@nclrights.org](mailto:swilber@nclrights.org)**

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