

**Written Testimony of Lambda Legal for the President's Commission on
Law Enforcement and the Administration of Justice
June 8, 2020**

Lambda Legal Defense and Education Fund, Inc. (“Lambda Legal”) is the oldest and largest national legal organization whose mission is to achieve full recognition of the civil rights of lesbian, gay, bisexual, transgender and queer (“LGBTQ”) people, and everyone living with HIV through impact litigation, education, and public policy work. Lambda Legal has been involved for decades in challenges to the discriminatory enforcement of criminal laws against LGBTQ people, including as counsel for the petitioners in *Lawrence v. Texas*, 539 U.S. 558 (2003). Lambda Legal has also appeared as counsel or *amicus curiae* in numerous federal and state court cases involving the rights of incarcerated LGBTQ people¹ and has submitted comments or testimony on this subject to the National Prison Rape Elimination Act Commission, the Department of Justice, the Department of Homeland Security, and the United States Senate. Lambda Legal also provided testimony to the 2015 Presidential Task Force on 21st Century Policing² and comments to this Commission.³

The modern LGBTQ rights movement was born in response to police harassment, through riots in the 1960s, culminating in the response to police harassment and brutality at the Stonewall Inn on June 28, 1969. This history of state-sanctioned violence at the hands of law enforcement officers has inspired LGBTQ people’s long-standing struggle to be treated with dignity and without stigma or bias by officers who enforce laws. These officers have served as the enforcement arm of the state in enforcing unconstitutional laws,⁴ and also have a long history of discriminatorily enforcing facially neutral laws, against LGBTQ people.⁵ And recently, in a national survey by Lambda Legal of thousands of lesbian, gay, bisexual, transgender, and gender-nonconforming people and people living with HIV, entitled *Protected and Served?*, which focused on the communities’ experiences with the criminal legal system and policing, respondents who had interactions with police too often experienced various forms of misconduct and inadequate responses when they sought law enforcement assistance.⁶ In sum, people who are LGBTQ are too familiar with the experience of being stigmatized and criminalized in the United States solely because of who they are.⁷ And Black and Brown LGBTQ people are marginalized

¹ See, e.g., case descriptions available at <https://www.lambdalegal.org/in-court/cases/all?issue=11455>.

² Lambda Legal, *Written Testimony to the President's Task Force on 21st Century Policing* (Jan. 28, 2015), available at https://www.lambdalegal.org/sites/default/files/20150128_testimony-before-presidents-task-force-on-21st-century-policing.pdf.

³ Lambda Legal et al., *Comments to the Presidential Commission on Law Enforcement* (Mar. 31, 2020), available at https://www.lambdalegal.org/sites/default/files/legal-docs/downloads/law_enforcement_commission_written_comments.pdf.

⁴ In 2003, when the Supreme Court ruled that laws criminalizing sodomy were unconstitutional, in *Lawrence v. Texas*, 539 U.S. 558 (2003), many states were enforcing anti-sodomy laws. A decade later, more than a dozen states still had not repealed these laws, refusing to do so to express continued moral disapproval of same-sex relationships. See Lou Chibbaro Jr., *Legal group calls for repeal of state sodomy laws*, Washington Blade (Feb. 17, 2016), available at <https://www.washingtonblade.com/2016/02/17/legal-group-calls-for-repeal-of-state-sodomy-laws/>.

⁵ See, e.g., *Calhoun v. Pennington*, No. 09-3286 (N.D. Ga 2009) (alleging unlawful enforcement against patrons at gay bar). More information can be found at <https://www.lambdalegal.org/in-court/cases/calhoun-v-pennington>.

⁶ Lambda Legal, *Protected and Served?*, 7 (2012), available at https://www.lambdalegal.org/sites/default/files/publications/downloads/ps_executive-summary.pdf.

⁷ For example, historically, cross-dressing was a crime in many U.S. cities. See Bennett Capers, *Cross Dressing and the Criminal*, 20 Yale J.L. & Human. 1, 8-9 (2008) (“Many ordinances explicitly prohibited cross dressing. In Chicago, for

and subjected to law enforcement bias based on their race or ethnicity as well as their sexual orientation or gender identity.⁸

I. LGBTQ People are Disproportionately Vulnerable to Over-Policing Due to Systemic Discrimination.

There are roughly 13 million LGBTQ people across the United States.⁹ According to Gallup polling data, 4.5% of the adult U.S. population is LGBT, with a higher percentage of youth identifying as LGBTQ.¹⁰ Additionally, people of color in the United States are more likely to identify as LGBTQ than are white people and it is estimated that one-third of LGBTQ people nationally are people of color.¹¹ Of the total 13 million LGBTQ people across this nation, 3.9 million live in states without statutory protections against sexual orientation and gender identity discrimination in employment,¹² 6.5 million live in states that do not statutorily prohibit sexual orientation and gender identity discrimination in public accommodations,¹³ and over 5.4 million live in states without statutory protections against sexual orientation and gender identity discrimination in housing.¹⁴

LGBTQ people of color and particularly transgender women of color are often subjected to intersecting forms of discrimination that create barriers in education, employment, and housing, and increase their proximity to the criminal legal system. For example, in one study, 81.9% of LGBTQ youth of color were verbally harassed because of their sexual orientation, and 63.9% because of their gender expression, contributing to school push-out.¹⁵ LGBTQ youth of color “face persistent and frequent harassment and bias-based bullying from peers and school staff as well as increased surveillance and policing, relatively greater incidents of harsh school discipline, and consistent blame for their own victimization.”¹⁶ As a result of unsafe schools and family rejection at home, LGBTQ youth, particularly LGBTQ youth of color, are more likely to be homeless and stopped by law

example, it became a crime to ‘appear in a public place in a state of nudity, or in a dress not belonging to his or her sex.’ In Toledo, Ohio, it became a crime for any ‘perverted person’ to appear in clothing belonging to the opposite sex. Similar cross dressing prohibitions were adopted in Columbus, Houston, San Francisco, St. Louis, Kansas City, and dozens of other cities. Other jurisdictions passed ordinances that were less explicit in language in prohibiting cross dressing, but nonetheless explicit in effect. New York’s law prohibited individuals from assembling ‘disguised’ in public places; California passed a law that prohibited an individual from ‘masquerading’ in another person’s attire for unlawful purposes. Both laws were used to target cross dressers.”)

⁸ See generally, *supra* n.6

⁹ Kerith J. Conron & Shoshana K. Goldberg, *LGBT People in the United States Not Protected by State Nondiscrimination Statutes*, The Williams Institute, 1 (Apr. 2020), available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-ND-Protections-Update-Apr-2020.pdf>.

¹⁰ Movement Advancement Project, et al., *Understanding Issues Facing L.G.B.T. People in the U.S.*, 1 (2nd ed. June 2019), available at <https://www.lgbtmap.org/file/Understanding-LGBT-Issues-2019.pdf>.

¹¹ Movement Advancement Project & The Nat’l LGBTQ Workers Ctr., *LGBT People in the Workplace: Demographics, Experiences, and Pathways to Equity*, 1 (2018), available at <https://www.lgbtmap.org/file/LGBT-Workers-3-Page-FINAL.pdf>.

¹² *Supra* n. 9 (noting that an estimated 8.1 million LGBTQ workers age 16 and older live in the United States).

¹³ *Id.*

¹⁴ *Id.* (noting that out of the 11 million LGBTQ adults living in the United States, 7.7 million lack such SOGI protections in credit).

¹⁵ Hilary Burdge et al., *LGBTQ Youth of Color: Discipline Disparities, School Push-Out, and the School-to-Prison Pipeline*, GSA Network (2014), available at https://b.3cdn.net/advancement/4c2f66dee328593478_2zm6vswrx.pdf.

¹⁶ *Id.* at 4.

enforcement.¹⁷ When applying for jobs, LGBTQ people of color report two times more discrimination than white LGBTQ people.¹⁸ Additionally, harsh immigration policies coupled with the lack of nondiscrimination protections place undocumented LGBTQ workers at an increased risk for discrimination and exploitation.¹⁹ When attempting to find and secure housing, researchers have documented discrimination against same-sex couples and transgender people in their search for rentals such as refusals to disclose available units.²⁰

With only a patchwork of protections specific to sexual orientation and gender identity, and because of the discrimination they face in education, employment, and housing, LGBTQ people in the United States continually face an uphill battle to survive and thrive. At least 22% of LGBTQ adults are living in poverty and LGBTQ people in Midwest, Mountain and Southern states without effective legal protections typically report household incomes below \$24,000.²¹ Because employment protections are necessary for economic stability and general wellbeing, 27% of LGBTQ people are food insecure and LGBTQ people have a 2.2 times greater risk of homelessness than non-LGBTQ people.²²

Ultimately, because of the systemic discrimination they face, which results in disproportionate levels of poverty, LGBTQ people are more vulnerable to involvement with the criminal legal system.²³ Law enforcement strategies such as “quality-of-life” or “broken-window” policing, resulting in over-policing of low-income communities, also contribute to LGBTQ people’s disparate involvement with the criminal legal system.²⁴ City and state governments must invest in under-served communities (i) by ensuring people have access to adequate housing, free from discrimination in securing it, (ii) by ensuring all children have access to safe and supportive schools regardless of their identities, free from bias in disciplinary practices, and (iii) by improving access to health care services so that mental health experts can respond to people in crisis rather than law enforcement officers. Law enforcement officers should

¹⁷ Queens Youth Justice Center, *Bridging the Gap: Strengthening LGBTQ Youth and Police Relations*, 5 (2015), available at https://www.courtinnovation.org/sites/default/files/documents/QNYJC_final_report.pdf

¹⁸ *Supra* n.11 at 2.

¹⁹ *Id.* at 1.

²⁰ Diane K. Levy et al., *A Paired-Testing Pilot Study of Housing Discrimination against Same-Sex Couples and Transgender Individuals*, Urban Institute (2017), available at <https://www.urban.org/research/publication/paired-testing-pilot-study-housing-discrimination-against-same-sex-couples-and-transgender-individuals>; see also Ctr. for Am. Progress & Movement Advancement Project, *Paying an Unfair Price, The Financial Penalty for LGBT People of Color in America*, 15 (2015), available at <https://www.lgbtmap.org/file/paying-an-unfair-price-lgbt-people-of-color.pdf>.

²¹ See Amira Hasenbush et al., *The LGBT Divide: A Data Portrait of LGBT People in the Midwestern, Mountain & Southern States*, The Williams Institute (Dec. 2014), available at <https://williamsinstitute.law.ucla.edu/lgbtdivide/#/economic-insecurity>; see also The Williams Institute, *LGBT FAQs*, available at <https://williamsinstitute.law.ucla.edu/quick-facts/lgbt-faqs/>.

²² See The Williams Institute, *LGBT Data & Demographics*, available at <https://williamsinstitute.law.ucla.edu/visualization/lgbt-stats/?topic=LGBT#economic>; see also Adam P. Romero et al., *LGBT People and Housing Affordability, Discrimination and Homelessness*, The Williams Institute, 3 (Apr. 2020), available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Housing-Apr-2020.pdf>.

²³ “Individuals living in poverty have a substantially higher rate of involvement with the juvenile and criminal justice systems.” Brenda Smith et al., *Policy Review and Development Guide: Lesbian, Gay Bisexual, Transgender, and Intersex People in Custodial Settings*, Nat’l Inst. Of Corrs. (2nd ed. 2015), available at https://info.nicic.gov/sites/info.nicic.gov/lgbti/files/lgbti-policy-review-guide-2_0.pdf.

²⁴ Reed Collins, *Strolling While Poor: How Broken- Windows Policing Created a New Crime in Baltimore*, 14 *Geo. J. on Poverty L. and Pol’y* 419 (2007).

not be acting as first responders to mental health crises, nor be called upon to assist with school discipline or otherwise to fill gaps for local governments' failures to provide services for their residents.

II. LGBTQ People Face Bias from Law Enforcement Agencies

Historically, LGBTQ people have faced disparate levels of policing and over-criminalization because our laws made criminal offenses of their identities and lives.²⁵ Those laws sanctioned biased and abusive treatment of the LGBTQ community by law enforcement.²⁶ Unacceptably, however, while the laws against “cross-dressing” and same-sex relationships now are gone, racism, homophobia and anti-transgender bias remain rampant in law enforcement agencies.²⁷

LGBTQ people too often experience bias from law enforcement officers because of their sexual orientation and gender identity. Officers frequently misgender transgender and nonbinary people in interactions with them,²⁸ or make offensive comments. In the 2015 United States National Transgender (“USNT”) survey, for respondents who had interacted with police in the prior year and believed the officer thought or knew they were transgender, 58% reported some form of mistreatment; 49% involved officers consistently using the wrong gender pronouns, 20% involved other verbal harassment, and 19% involved officers asking often intimate and private questions about gender transition.²⁹ Even in cases in which transgender people are victims of crime, law enforcement agencies misgender victims in internal and news reports, alienating the victim’s friends and family, increasing distrust with the very community whose cooperation law enforcement needs.³⁰ Gay men are also too frequently targeted by law enforcement because of their sexual orientation in stings, perpetuating harmful stigma about them.³¹

LGBTQ people of color and particularly transgender women of color are at an increased risk of interacting with law enforcement due to persistent and discriminatory profiling, particularly in neighborhoods subject to quality-of-life policing.³² Not only does an individual’s sexual orientation or gender identity bring them under surveillance or at increased risk of interacting with law enforcement, being LGBTQ and Black, indigenous, or a person of color also heightens this risk.³³ For example, LGBTQ people, particularly transgender women of color and LGBTQ youth of color, are persistently

²⁵ See *supra* n.4, 7.

²⁶ See *supra* n.4, 5, 7.

²⁷ See generally Ctr. for Am. Progress et al, *Unjust: How the Broken Criminal Justice System Fails LGBT People of Color* (Aug. 2016), available at <https://www.lgbtmap.org/file/lgbt-criminal-justice-poc.pdf>.

²⁸ “Misgendering” is when a person uses pronouns that do not align with another person’s gender identity.

²⁹ Sandy E. James, et al., *The Report of the 2015 U.S. Transgender Survey*, Nat’l Ctr. for Transgender Equality, 186 (2016), available at <https://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF>.

³⁰ Colin Wolf & Monivette Cordeiro, *A Transgender Woman Died Today and How It Was Reported Was Awful*, Orlando Weekly (July 19, 2018), available at <https://www.orlandoweekly.com/Blogs/archives/2018/07/19/a-transgender-woman-died-in-orlando-today-and-how-it-was-reported-was-awful>; Lucas Waldron & Ken Schwencke, *Deadnamed*, ProPublica; (Aug. 10, 2018), available at <https://www.propublica.org/article/deadnamed-transgender-black-women-murders-jacksonville-police-investigation>; see also *Brandon v. Richardson County*, 261 Neb. 636 (2001) (approving parent’s damage theories for dehumanizing treatment and failure to protect adult child raped and then murdered due to transgender identity).

³¹ Connor Richards, *How California police departments targeted gay men in sting operations for a century*, Peninsula Press (Nov. 19, 2018), available at <http://peninsulapress.com/2018/12/19/how-california-police-departments-targeted-gay-men-in-sting-operations-for-a-century/>; Casey Quinlan, *Lawyers: Police posed as queer men during sting operation at Washington, D.C. park*, ThinkProgress (Aug. 16, 2019), available at <https://archive.thinkprogress.org/lawyers-police-posed-as-queer-men-during-sting-operation-at-washington-d-c-park-563f2413f3b4/>.

³² Naomi G. Goldberg et al., *Police and the Criminalization of LGBT People*, The Williams Institute, 376-77 (2019), <https://williamsinstitute.law.ucla.edu/publications/police-criminalization-lgbt/>.

³³ See generally n. 27 at 20-21

profiled by law enforcement as being engaged in sex work.³⁴ In the 2015 USNT survey, of respondents who said they believed law enforcement thought or knew they were transgender, 33% of Black transgender women and 30% of multiracial transgender women reported that an officer had assumed they were sex workers.³⁵ Additionally, increasing collaboration between local law enforcement and U.S. Immigration & Customs Enforcement officers raises risks of racial profiling and unlawful arrests for people law enforcement officers perceive to be foreign.³⁶ Ultimately, the experiences of LGBTQ people with law enforcement, which include discriminatory targeting and profiling, harassment, and violence, lead to further interactions with the criminal legal system.

Too many barriers exist to attaining accountability for the misconduct that LGBTQ people experience from law enforcement, including inadequate civilian oversight structures, whether they are absent, under-funded, lack independence, are authorized only to make recommendations, or are otherwise ineffective; retaliation against officers who report misconduct by their peers; inadequate administrative investigations of complaints by members of the public; laws preventing the disclosure to the public of complaints and outcomes of investigations against officers, or authorizing their erasure; and the qualified immunity doctrine. These barriers to accountability allow misconduct against LGBTQ people to continue unabated. Until law enforcement agencies improve their accountability systems, and doctrines such as qualified immunity are no longer barriers for plaintiffs in lawsuits against officers, misconduct against LGBTQ people will not end.

In addition to strengthening accountability systems, other strategies and practices that would mitigate these serious issues have been well-documented. The Department of Justice's Community Oriented Policing Services' 2017 report, "Gender, Sexuality, and 21st Century Policing, Protecting the Rights of the LGBTQ+ Community" identifies comprehensive strategies to address the problems facing law enforcement agencies' interactions with LGBTQ people. Law enforcement agencies should implement the strategies outlined in the report, including community partnerships, data collection, policy development, and audits.

III. LGBTQ People Face Bias in the Courtroom.

LGBTQ people also face bias in courtrooms. Survey respondents to *Protected and Served?* reported negative experiences such as hearing a judge, attorney or other court employee make negative comments about a person's sexual orientation, gender identity or expression (19%), and feeling their own sexual orientation and gender identity was raised by an attorney or judge when it was not relevant (16%), and being "outed" against their will in court (11%).³⁷ When compared to white LGBTQ people,

³⁴ Human Rights Watch, *Sex Workers at Risk: Condoms as Evidence of Prostitution in Four U.S. Cities*, (2012), available at <https://www.hivlawandpolicy.org/sites/default/files/Sex%20Workers%20at%20Risk%20-%20Condoms%20as%20Evidence%20of%20Prostitution%20in%20Four%20US%20Cities%20-%28Human%20Rights%20Watch%2C%202012%29.pdf>

³⁵ Transgender women frequently report that police assume they are participating in sex work, simply because condoms are found during a frisk, *supra* n.29, at 14.

³⁶ See generally, Nat'l Immigr. Law Ctr., *How ICE Uses Local Criminal Justice Systems to Funnel People Into the Detention and Deportation System* (Mar. 2014) available at <https://www.nilc.org/issues/immigration-enforcement/localjusticeandice/>; Dale Russakoff & Deborah Sontag, *For Cops Who Want to Help ICE Crack Down on Illegal Immigration, Pennsylvania Is a Free-for-All*, ProPublica (Apr. 12, 2018), available at <https://www.propublica.org/article/pennsylvania-immigration-ice-crackdown-cops-free-for-all>.

³⁷ Lambda Legal, *Protected and Served?* (2012), available at https://www.lambdalegal.org/sites/default/files/publications/downloads/ps_executive-summary.pdf.

LGBTQ respondents of color reported higher instances of experiencing bias while navigating court systems.³⁸ For example, while 33% of transgender and gender non-conforming (TGNC) respondents heard discriminatory comments about their gender identity or expression, 53% of TGNC respondents of color reported hearing such statements.³⁹ Moreover, when called upon for jury duty, LGBTQ people continue to face discrimination, which denies them equal access to jury service and denies litigants a jury truly comprised of peers drawn from the entire community.⁴⁰ Lawmakers and judicial governing bodies should adopt rules, policies and practices to increase safeguards for LGBTQ people involved in judicial proceedings to provide.

IV. LGBTQ People Are Disproportionately Incarcerated, Sexually Assaulted, and Denied Adequate Medical Care in Prisons and Jails.

Unsurprisingly, after being over-policed because of systemic discrimination and disproportionate poverty, and facing bias in courtrooms, LGBTQ people are disproportionately incarcerated.⁴¹ “According to the National Inmate Survey, in 2011- 2012, 7.9% of individuals in state and federal prisons identified as lesbian, gay, or bisexual, as did 7.1% of individuals in city and county jails[,] . . . approximately double the percentage of all American adults who identify as LGBT, according to Gallup (3.8%).”⁴² According to experts at UCLA School of Law, “The incarceration rate of self-identified lesbian, gay, or bisexual persons was . . . more than 3 times that of the US adult population.”⁴³

In addition, LGBTQ people unnecessarily face enormous abuse while incarcerated, including being sexually assaulted by other inmates at a disproportionate rate. According to DOJ’s National Institute of Corrections, “research on sexual abuse in correctional facilities [has] consistently documented that men and women with nonheterosexual orientations, transgender individuals, and people with intersex conditions were highly vulnerable to sexual abuse.”⁴⁴ While 4% of heterosexual men have reported being sexually victimized by another inmate, 34% of bisexual men and 39% of gay men reported being victimized by another inmate.⁴⁵ Similarly, of incarcerated women, 18% of bisexual women reported sexual victimization by other inmates, compared to 13% of lesbian women and 13% of heterosexual women.⁴⁶ The Bureau of Justice Statistics (“BJS”) estimated that incarcerated transgender people are almost ten times more likely to have been sexually abused than others in the general prison population.⁴⁷

Lambda Legal client Passion Star, a transgender woman, was incarcerated in multiple male facilities in the Texas Department of Criminal Justice (TDCJ) system, and raped, forced to submit to

³⁸ See generally Lambda Legal, *Protected and Served?* (2012), <https://www.lambdalegal.org/protected-and-served/courts>.

³⁹ *Id.*

⁴⁰ *Id.* (noting that lawyers continue to disqualify potential jurors on the basis of their sexual orientation or gender identity).

⁴¹ See Ctr. For Am. Progress & Movement Advancement Project, *Unjust: How the Broken Criminal Justice System Fails LGBT People*, iii-iv (2016), <http://www.lgbtmap.org/file/lgbt-criminal-justice.pdf>.

⁴² *Id.* at iii.

⁴³ Ilan H. Meyer, et al., *Incarceration Rates and Traits of Sexual Minorities in the United States: National Inmate Survey, 2011-2012*, 107 *Am. J. Pub. Health* 234, 238 (2017).

⁴⁴ Smith et al., *supra* n. 23.

⁴⁵ Allen J. Beck & Candace Johnson, Bureau of Justice Statistics, *Sexual Victimization Reported By Former State Prisoners 2008*, at 5 (2012) <http://bjs.ojp.usdoj.gov/content/pub/pdf/svrfsp08.pdf>.

⁴⁶ *Id.* at 5

⁴⁷ Allen J. Beck, Bureau of Justice Statistics, *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12: Supplemental Tables* (2014), http://www.bjs.gov/content/pub/pdf/svpjri1112_st.pdf.

sexual acts to escape violence, and threatened with sexual assault by other incarcerated people.⁴⁸ She filed dozens of complaints and requests to be placed in safekeeping, but instead of protecting her, TDCJ officials told her to “suck dick,” “fight” or to stop “acting gay” if she did not want to be assaulted. Even after horrific attacks, prison officials refused to protect her. Only after Lambda Legal filed an emergency lawsuit on Passion’s behalf did TDCJ officials finally agree to place her in safekeeping.⁴⁹

Research strongly suggests that incarcerated LGBTQ people are also more likely to be sexually assaulted by prison and jail staff. BJS has found that of men formerly incarcerated in state facilities, 18% of bisexual men and 12% of gay men reported having experienced sexual victimization by staff, compared to 5% of heterosexual men.⁵⁰ “Male inmates who identified themselves as bisexual were . . . 4 times more likely to report being sexually assaulted by staff than male inmates who identified themselves as straight or heterosexual.”⁵¹ Of formerly incarcerated women in state facilities, the rate of sexual victimization of bisexual and lesbian women by staff was double that of heterosexual women; 8% of bisexual women and 8% of lesbian women reported experiencing sexual misconduct by state prison staff compared with 4% of heterosexual women.⁵² A 2012 survey found that, of the LGBTQ respondents who were incarcerated in the five years prior to the survey, 7% reported sexual assault by prison or jail staff.⁵³ Of formerly incarcerated transgender respondents, 11% reported having been sexually assaulted by facility staff during the prior year.⁵⁴ Of the survey respondents who were assaulted by staff, nearly half (49%) reported that it happened once, 9% reported that it happened twice, 19% said it happened between three and seven times, and nearly a quarter (23%) said that it happened eight or more times.⁵⁵

As an example of the abuse that LGBTQ people experience when seeking to visit incarcerated loved ones, in New York, Lambda Legal’s client Thomas Hamm, a gay man, went to visit his partner of many years at Rikers Island. When his partner greeted Mr. Hamm with a hug and a kiss, the couple were ordered by corrections officers to stop embracing, even though other visitors around them were allowed to embrace. The officers called Mr. Hamm and his partner “faggots” and ordered them to stop holding hands. The officers then abruptly ordered the end of the visit. As Mr. Hamm was preparing to leave the facility, one of the officers who had been harassing the couple said to Mr. Hamm, in essence, “Fucking homosexual, who the fuck do you think you are?” and “You’ll burn in hell.” As Mr. Hamm tried to go, the officers grabbed him and viciously beat him, repeatedly punching and kicking him. As his head bled profusely, Mr. Hamm begged the officers to stop. Mr. Hamm eventually was taken by ambulance to the hospital, where he was diagnosed with facial fractures and head trauma and held overnight, shackled to his bed. After his discharge from the hospital, Department of Correction officers took Mr. Hamm back to Rikers, where he was given an order banning him from visiting the facility for 180 days. On Mr. Hamm’s behalf, Lambda Legal resolved this case against the City of New York and the NYC

⁴⁸ *Passion Star a/k/a Zollicoffer v. Livingston*, No. 4:14-CV-03037, U.S.D.C., S.D. TX (commenced Oct. 23, 2014), case information available at <https://www.lambdalegal.org/in-court/cases/star-v-livingston>.

⁴⁹ The lawsuit was settled in 2018.

⁵⁰ Beck & Johnson, *Sexual Victimization*, *supra* note 45, at 16.

⁵¹ *Id.* at 27.

⁵² *Id.* at 16.

⁵³ Lambda Legal, *Protected and Served?*, (2012), <https://www.lambdalegal.org/protected-and-served/jails-and-prisons>.

⁵⁴ James et al., *supra* note 29, at 191-92.

⁵⁵ *Id.* at 192.

Department of Corrections with an award to Mr. Hamm of \$280,000, a formal nondiscrimination statement and instructions to Rikers Island officers on the policy for visitors.⁵⁶

In addition to a heightened risk of sexual assault, the healthcare needs of incarcerated LGBTQ people are also frequently ignored, notwithstanding constitutional guarantees that people in government custody receive medically necessary treatment behind bars, a guarantee that includes treatment for gender dysphoria. For example, in 2018, a federal district court struck down a Missouri Department of Corrections (MDOC) policy as cruel and unusual punishment, because it denied vital health care to Lambda Legal client Jessica Hicklin, a transgender woman incarcerated at the Potosi Correctional Center in Mineral Point.⁵⁷ The court's order requires MDOC and its contracted healthcare provider, Corizon LLC, to provide Ms. Hicklin with medically necessary care, including hormone therapy, and access to gender-affirming canteen items.⁵⁸

In a 2015 survey of nearly 300 inmates who self-identified as transgender, less than 25% were receiving gender dysphoria treatment that conformed with medically-accepted standards of care.⁵⁹ And incarcerated LGBTQ people who received hormone therapy were frequently denied other equally-crucial forms of care, including surgery and “social transition,” i.e. allowances concerning gender expression, grooming, and dress. Transgender prisoners who are denied access to comprehensive gender dysphoria care often experience mental and physical anguish including depression, suicidality, and the compulsion to engage in self-harm and self-surgery, including attempted castration in the case of transgender women, such as Lambda Legal client Mia Rosati.⁶⁰

The Department of Justice and law enforcement agencies can and must do more to protect LGBTQ people in their custody. Only nineteen states have fully adopted the Prison Rape Elimination Act (PREA) standards, and simply adopting the standards does not mean that prisons and jails are complying with them.⁶¹ The Department of Justice must do more to pressure states to adopt regulations consistent with PREA's standards for addressing sexual assault in prisons and jails, and to comply with them. And law enforcement agencies who hold people in custody must fulfill their Eighth Amendment obligations to provide necessary medical care, including for the treatment of gender dysphoria.

⁵⁶ See Stipulation and Order of Dismissal, *Hamm v. City of New York*, 15 Civ. 06238-JPO (S.D.N.Y. Sept. 10, 2018). Case information is at https://www.lambdalegal.org/in-court/cases/ny_hamm-v-city-of-new-york.

⁵⁷ *Hicklin v. Precynthe*, No. 4:16-CV-01357-NCC, U.S.D.C. (E.D.MO May 22, 18), available at https://www.lambdalegal.org/in-court/legal-docs/hicklin_mo_20180522_order.

⁵⁸ Additional case information is available at <https://www.lambdalegal.org/in-court/cases/hicklin-v-lombardi>.

⁵⁹ The World Professional Association for Transgender Health's Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People (the “WPATH Standards”, available at https://www.wpath.org/media/cms/Documents/SOC%20v7/Standards%20of%20Care_V7%20Full%20Book_English.pdf) are the definitive protocol on the treatment of gender dysphoria inside and outside of prison. According to the WPATH Standards, the accepted course of treatment for gender dysphoria typically involves hormone therapy to feminize or masculinize the body; changes in gender expression, grooming, and dress to affirm one's gender identity; and surgery to change primary and/or secondary sex characteristics where medically indicated. WPATH Standards at 9-10. See also Statement of Int. of the U.S., *Diamond v. Owens*, 131 F.Supp.3d 1346 (M.D. Ga 2015).

⁶⁰ WPATH Standards at 68.

⁶¹ Derek Gilna, *Five Years after Implementation, PREA Standards Remain Inadequate*, Prison Legal News (Nov. 8, 2017) available at <https://www.prisonlegalnews.org/news/2017/nov/8/five-years-after-implementation-prea-standards-remain-inadequate/>

V. The Commission’s Composition Gives Us Concern.

Given the pressing issues affecting the LGBTQ community, particularly LGBTQ people of color, as well as all people of color in the United States at the hands of law enforcement today, we are deeply concerned about the Commission’s limited ability to recognize the roots of the problems and devise productive strategies to address them. The Commission is composed entirely of current or former law enforcement officials and lacks any other relevant institutional perspective into the criminal legal system, of which there are many—defense attorneys, academics, public-health experts, disability rights experts, mental health experts, social workers, formerly incarcerated people, and advocates working on reforms to the criminal legal system, to name a few.

The Commission’s inquiries, centering on the perceptions of law enforcement and on respect for law enforcement, transparently communicate its goal—to be a bulwark for its members, regardless of the failures of agencies’ accountability systems nationwide, and in striking disregard of the rights of members of the public and of the violence and indignities that law enforcement officers have perpetrated and continue to perpetrate, particularly on communities marginalized by discriminatory state policies.

VI. Conclusion

The Commission’s “law and order” goals will fail in the absence of just and equitable treatment for people who are policed. As we are seeing on the streets of many cities throughout the United States, the use of excessive, militarized force against protestors does not subdue rightful demands for justice and equality. Nor is it a constitutional response to protests for police accountability and equitable access to basic services. Systemic discrimination against communities marginalized by state policies has contributed to their over-representation in the criminal legal system. It is time to stop and take a new approach. If we are to have functioning systems, the perspective of communities who still are over-policed and grossly over-represented in the criminal legal system must be centered. This Commission’s work will only cause further harm to the communities law enforcement is charged to serve, fueling further public alienation from and rebuke of law enforcement, until it truly partners with communities most affected by policing policies. LGBTQ people, whose modern movement launched in a riot against police harassment at the Stonewall Inn on June 28, 1969, stand with people demanding greater police accountability and to be free from police bias and brutality today.



Protected and Served?

Police

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3. Key Recommendations



Introduction

"I was 14 years old when my adoptive sisters and I were in a severe accident. The damages and injuries were extensive. My older sister was asked who our parents were, and she told them the names of our two moms. The officer gave my sister a puzzled look and asked, 'Who is your father?' My sister responded with, 'We have lesbian parents.' The officer without hesitation told her, 'We don't recognize that in this state.' This incident only added to the horror of the terrible accident we were in. Our moms reported the incident, but nothing was done about it." —Michael, Menomonie, WI

"I was arrested and charged with prostitution at a local casino. While the case was subsequently dismissed without going to court, during my arrest, I was physically and verbally assaulted by the arresting officers and others. I was put in handcuffs so tight that my wrists swelled up and turned purple. My face was shoved into a wall while I was handcuffed. The officers threatened, mocked and demeaned me for being transsexual." — Natalie, Las Vegas, NV

As part of the Protected and Served? survey, Lambda Legal asked respondents to share their personal stories of mistreatment by police, in courts, in prisons and by school security toward LGBT and HIV-positive people. See other stories or contribute your own [here](#).

Police officers are charged with serving and protecting the public—all of the public. Yet lesbian, gay, bisexual and transgender (LGBT) people and people living with HIV have often been given good reason to be wary of whether that responsibility includes them. Police have targeted LGBT people and the places they congregate and socialize, including certain bars and parks, for unwarranted searches, arrests and raids. Some police officers have also demonstrated prejudice and hostility based on actual or perceived sexual orientation, gender identity or HIV status.

In 2012, Lambda Legal—a national organization committed to achieving full recognition of the civil rights of LGBT people and people living with HIV through impact litigation, education and public policy work—conducted a national study exploring the issue of government misconduct by the police, courts, prisons and school security against LGBT people as well as people living with HIV in the United States. (Note that in our findings, one of the categories we use, based on self-definitions, is “transgender or gender-nonconforming [TGNC]”).

A total of 2,376 people completed the individual survey. Respondents were also given the opportunity to share their own accounts of their experiences with government misconduct and some of those stories are also incorporated into this report.

Among the survey respondents, 1682 (73% of those responding to this question) said they had face-to-face contact with the police within the past five years. Many LGBT people and people with HIV reported that they felt discriminated against when dealing with police department officers and personnel.

In recent years Lambda Legal has filed discrimination lawsuits against police on behalf of LGBT people who have experienced harassment and unfair treatment. Defendants in these cases have included:

- **Westchester County Police** in New York for releasing sealed information—including names, photos, towns of residence, and original arrest charges—about more than a dozen men whose charges had been dropped, as part of "Operation Overexposed," a police sting targeting gay men.
- **the Atlanta Police Department** for aggressively and illegally raiding a gay bar called the Atlanta Eagle. During the raid, police detained and searched the bar's patrons, forced them to lie face-down on the floor, and subjected them to verbal abuse. Not a single patron was charged with any crime as a result of that raid.
- **the Johnson City Police Department (JCPD)** in Tennessee for issuing a press release that included photos of 40 men arrested in a public sex sting. Lambda Legal reviewed hundreds of news releases issued by the JCPD and found that no other release about arrests included photos. Lambda Legal client, Kenneth Giles said he lost his job because of the publicity about his arrest.

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What the Study Found

"I was called a faggot and beaten up by police officers right here in the nation's capital, then charged with assaulting them and forced to plead guilty to being under the influence of my HIV meds."—Andrew, Washington, DC

Our survey responses included many aspects of interactions with police, which broadly can be described by the following two categories: 1) Misconduct and 2) Unsatisfactory Response.

Sometimes police officers themselves harass and assault LGBT people and people living with HIV. These serious forms of police misconduct are damaging and illegal. Police harassment and assault are destructive to the lives of victims, obviously, and they are also destructive to the prospect for the police of building trust within LGBT communities and people living with HIV.

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Hostile attitudes

Many respondents reported that police officers' attitudes toward them had been hostile. Among the 1682 respondents who reported having face-to-face contact with police in the past five years, the percentages who reported hostile attitudes from officers included:

- 21% of all relevant survey respondents
- 31% of respondents age 30 and under
- 32% of respondents of color (including 26% of Native American, 27% of African American and 40% of Latina/o respondents)
- 32% of TGNC respondents (30% of transgender)
- 35% of low-income respondents
- 38% of respondents of color under 30

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Harassment and assault

Harassment and assault by police are far too common occurrences in LGBT and HIV-positive communities. More than one in eight respondents (14%) who had police contact in the past five years reported verbal assault by police, while 3% reported sexual harassment and 2% reported physical assault.

People of color, low-income people, and people living with HIV reported harassment and assault by police more frequently than survey respondents as a whole. The percentage of respondents with police contact in the past five years who reported harassment or assault by police included:

Physically assaulted by police:

- 2% of all respondents
- 4% of respondents of color
- 4% of TGNC respondents
- 5% of low-income respondents
- 6% of HIV-positive respondents

Sexually harassed by police:

- 3% of all respondents
- 5% of respondents of color
- 5% of HIV-positive respondents
- 7% of low-income respondents
- 7% of TGNC respondents

Verbally assaulted by police:

- 14% of all relevant respondents
- 21% of relevant HIV-positive respondents
- 22% of relevant TGNC respondents
- 24% of relevant respondents of color
- 25% of relevant low-income respondents

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Immigration Checks and Physical Searches

Only 1% of survey respondents with police contact in the past five years who reported their race as white said that police asked them to prove their immigration status. In contrast, certain groups of respondents were more likely to be asked for proof of their immigration status, including:

- 2% of all respondents with police contact in the past five years
- 2% of TGNC respondents
- 5% of Native American respondents
- 6% of black respondents
- 8% of Latina/o respondents

(A statistically insignificant number of respondents identified as immigrants).

Black and Latina/o respondents were also much more likely than LGBT or HIV-positive people of other races to be physically searched during their police contact within the past five years, including:

- 10% of all respondents with police contact in the past five years
- 18% of TGNC respondents
- 21% of black respondents
- 21% of Latina/o respondents
- 22% of similar Native American respondents

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False Accusation and False Arrest

It is important to note that our survey's responses are self-reported incidents of false accusation and false arrest, and that those responses have not been verified by Lambda Legal. Still, these numbers indicate troubling disparities in police treatment of people who are LGBT and people with HIV according to race/ethnicity, income level and gender identity.

Those who say they were falsely accused during police contact within the past five years include:

- 20% of all respondents with police contact in the past five years
- 28% of respondents of color
- 30% of low-income respondents
- 34% of TGNC respondents

Those who say they were falsely arrested during police contact within the past five years include:

- 4% of all respondents with police contact in the past five years
- 6% of TGNC respondents
- 8% of respondents of color
- 8% of low-income respondents

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Neglect of Police Misconduct Complaints

When LGBT and HIV-positive people experience police misconduct, many file complaints about their negative experiences, either with other police officers or police monitoring boards.

However, among the 205 (out of 2,376 total) respondents who complained about police misconduct in the last five years, 71% said that their complaint was not fully addressed by those they reported it to.

Low-income and TGNC respondents reported higher levels of neglect of a police misconduct complaint: 84% of low-income complainants and 83% of TGNC complainants reported that at least one police misconduct complaint in the last five years was not fully addressed.

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Unsatisfactory Police Response

Many respondents reported inadequate or indifferent responses by law enforcement officials to reports of property crimes and assaults. The rate of dissatisfaction was significantly higher when the person reporting the crime is low-income or a person of color. (Our survey respondents' self-reported experiences with police are not the equivalent of an objective evaluation of the adequacy of police response to reported crimes).

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Inadequate Response to Complaints of Physical Assault

Eleven percent of all survey respondents reported that they were a victim of physical assault (of all types, not just those related to their orientation, identity, or expression) in the last five years.

TGNC people (35% of all TGNC respondents) and low-income people (44% of all low-income respondents) are much more likely to report having been the victim of physical assault.

Of the 238 respondents who experienced physical assault:

- nearly two-thirds (62%) reported experiencing at least one incident in which police failed to fully address their complaints about physical assault.
- HIV-positive respondents and transfeminine respondents reported having experienced police neglect of physical assault at higher rates: 73% of HIV-positive personal assault victims and 70% of transfeminine respondents say they experienced police neglect of their physical assault complaint, compared to 59% of HIV-negative physical assault victims and 60% percent of cisgender (non-TGNC) assault victims.

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Inadequate Response to Reports of Property Crime

One-third of our survey respondents (33%) had been the victim of property crime in the previous five years. Of those 772 respondents, nearly half (49%) said they experienced at least one incident in which police failed to fully address their complaints about property crime.

Within this pool of 772 respondents, transgender and gender-nonconforming people (TGNC) and people of color were more likely than other respondents to report police indifference or lack of proper response to property crime. This included:

- 58% of TGNC respondents
- 59% of African-American respondents
- 62% of Latina/o respondents
- 70% of Native American respondents

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Inadequate Response to Reports of Intimate Partner Violence (IPV)

More than one out of ten respondents (11%, or 251 respondents) had been the victim of IPV (or domestic violence) in the previous five years.

The percentages of certain respondent groups who experienced IPV are higher than the survey sample as a whole, including:

- TGNC people (28%)
- people of color (32%)
- low-income people (42%)
- and people under 30 (43%)

Of the 251 respondents who experienced IPV, 41% reported experiencing at least one incident in which police failed to fully address their complaints about IPV. Some respondents were even more likely to report experiencing police neglect of IPV than others. Of those who reported IPV to the police, an inadequate response was reported by:

- 48% of African-American respondents
- 49% of TGNC respondents (56% of transfeminine and 46% of transmasculine respondents)
- 54% of HIV-positive respondents

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Inadequate Response to Reports of Sexual Assault

More than one out of 20 respondents (6%, or 135) had been the victim of sexual assault in the previous five years. The percentages are higher for particular groups of respondents, including:

- African American respondents (8.2%)
- Latina/o respondents (8.9%)
- TGNC respondents (15.5%)
- Native Americans respondents (16%)

Of the 135 respondents who reported that they had been sexually assaulted, 39% experienced at least one incident in which police failed to fully address their complaint. Some groups were more likely to report police neglect of sexual assault complaints than others, including:

- 45% of low-income respondents
- 46% of disabled respondents
- 52% of TGNC respondents
- 53% of respondents of color
- 60% of Native American respondents
- 62% of Latina/o respondents
- 65% of TGNC respondents of color

Overall, respondents in this survey reported much higher levels of police neglect than did respondents in a 2011 national survey by the Bureau of Justice Statistics on the general population (although the questions were not fully comparable), which found that 18% were not satisfied by the police response to a reported crime, disturbance, or suspicious activity.

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Key Recommendations

Police departments should:

- include sexual orientation, gender identity and expression, as well as HIV status, sex, race and ethnicity, in nondiscrimination policies, guidelines and resolutions. While our constitution commands equal treatment of people without regard to these characteristics, including an express prohibition increases the likelihood of compliance, and makes it easier to enforce.
- ensure that Police Patrol Guides and similar guidelines explicitly include a commitment to equal and respectful treatment of people who are LGBT, people living with HIV, and people of all racial and ethnic backgrounds, including explicit procedures for the respectful treatment of transgender people. These guidelines should specifically explain that police officers will be held accountable for failing to comply. For examples, see the patrol guides and policy manuals of [New York City](#), [New Orleans](#) and [Los Angeles](#), all of which were adopted after intense, long-term community pressure.
- adopt or amend policies prohibiting discriminatory practices, such as profiling based on race, ethnicity, HIV status, sex, sexual orientation, and gender identity and expression — practices that disproportionately affect people of color, low-income people, LGBT people, and gender non-conforming people.
- hire and promote qualified police officers and leaders across all levels of the department who demonstrate the interpersonal skills necessary to get along with peers, instructors, supervisors, and others, and demonstrate that they are able to interact professionally, regardless of the social standing, ethnic background, culture, gender, gender identity or expression, sexual orientation, or religion of other people.
- institute “early warning systems” to flag officers who have engaged in insensitive or abusive behavior and follow up with training, discipline or reassignment as necessary. When hiring police chiefs and related leadership positions, states and municipalities should ensure that final candidates are supportive of the rights of LGBT people and people living with HIV.
- implement mandatory cultural competency training for employees at all levels of the department, with content specific to the duties of the personnel being trained. The training should address issues relevant to the LGBT community. These trainings should be led by non-police personnel and with participation and input of community members.
- implement mandatory training about HIV for employees at all levels of the department, with content specific to the duties of the personnel being trained. The training should address issues like the need for confidentiality and accurate information about how HIV is transmitted. These trainings should be led by non-police personnel and with participation and input of community members.
- incorporate nondiscrimination policies and disciplinary consequences for non-compliance into union contracts to ensure consistent implementation.
- adopt a community-based complaint mechanism where victims of police misconduct and discrimination can report incidents in a safe, welcoming environment, with options for anonymous reporting (For example, the [Civilian Complaint Review Board](#), an independent agency in charge of monitoring New York Police Department behavior). Adopt internal complaint mechanisms that ensure that those who report misconduct, including officers, are not retaliated against, and that any retaliation by officers or commanders against either community members or other officers is severely punished.
- designate personnel or an advisory board to be liaisons with the LGBT and HIV-positive communities, whose mission includes improving communications and relationships with those communities, and increasing departmental awareness, training and knowledge of LGBT and HIV-related issues.
- capture and track complaints alleging racial and other profiling based on bias with regard to sexual orientation or gender identity or expression. Data collected should include characteristics of the complainants (including but not limited to sexual

orientation and gender identity or expression) as well as the outcome of investigations and any disciplinary actions taken. Regularly report on the number of complaints of misconduct based on sexual orientation or gender identity.

- work with LGBT community advocates and anti-violence groups to maintain up-to-date training and to ensure that policies and procedures are successfully implemented.

All government agencies included in the *Protected and Served?* survey, including police departments, courts, prisons and schools, should adopt comprehensive non-discrimination policies that:

- prohibit bias and discrimination based on sexual orientation, gender identity and expression and HIV status;
- ensure that culturally competent services and treatment are provided to LGBT and HIV-positive detainees. Police, court, jail/prison and school staff (including but not limited to police officers, police clerks, attorneys, judges, guards, schools security guards, school-based police and school safety officers) should undergo significant cultural competency trainings about sexual orientation, gender identity and expression, and HIV status so they will be able to treat all members of the LGBT community in a respectful, nondiscriminatory manner. These trainings should have a particular focus on gender identity and expression cultural competency, to emphasize the importance of improving the treatment of TGNC people. Additionally, these trainings should address HIV confidentiality and transmission, to improve the treatment of HIV-positive people;
- provide a transparent and accessible oversight process for reporting and redressing discrimination complaints, combined with clear and enforced disciplinary procedures;
- include employment policies that can help improve the hiring and retention of LGBT employees as well as contribute to a more LGBT-friendly environment.

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Gender, Sexuality, and 21st Century Policing

PROTECTING THE RIGHTS OF
THE LGBTQ+ COMMUNITY

James E. Copple and Patricia M. Dunn



COPS
Community Oriented Policing Services
U.S. Department of Justice



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The Internet references cited in this publication were valid as of the date of publication. Given that URLs and websites are in constant flux, neither the author(s) nor the COPS Office can vouch for their current validity.

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Letter from the Director

Dear Colleagues,

According to the FBI's hate crime statistics, almost 20 percent of all hate crime victims in 2015 were targeted because of their sexual orientation, gender identity, or gender. The following report documents the findings of the Forum on Gender, Sexuality, and 21st Century Policing, "Protecting the Rights of the LGBTQ+ Community," hosted by the COPS Office in partnership with Strategic Applications International; it offers practical advice and eye-opening insights that can be of great value in improving the relationship between law enforcement and the LGBTQ+ community.

The participants—members of law enforcement agencies and representatives of the LGBTQ+ community—discussed needed changes and the challenges in implementing them, in many cases drawing on specific recommendations of the *Final Report of the President's Task Force on 21st Century Policing*. In doing so, they developed a dialogue that enlightened all who participated and led to suggestions for new policies in recruitment, hiring, training, communications, and outreach.

In the course of their discussions, participants acknowledged that a number of agencies have made progress in improving relationships with the LGBTQ+ community, and that there is a genuine desire on the part of many police to rebuild strained relationships. But the fact remains that a significant percentage of LGBTQ+ people have experienced harassment by police, and many are reluctant to ask for help or report crime. This reality demonstrates that we still have work to do.

I recommend this report as an excellent starting point for freeing our departments of bias and ensuring that we protect and serve all people, especially those whose trust in us may have been lost. Our stature as legitimate representatives of the law and ability to effectively maintain public safety depend upon it.

Sincerely,



Ronald L. Davis
Director
Office of Community Oriented Policing Services

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Introduction

“Using new tools and authorities, including the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act, we have improved our ability to safeguard our civil rights and pursue justice for those who are victimized because of their gender, their sexual orientation, their gender identity, or their disability. We will continue working to guarantee that in our workplaces and in our military bases, in our housing and lending markets, in our schools and places of worship, in our immigrant communities and also in our voting booths that the rights of all Americans are protected.”

– Testimony of Attorney General Eric J. Holder, Hearing before the Committee on the Judiciary, House of Representatives, May 15, 2013

Protecting the rights of the LGBTQ+ community

In his June 2016 LGBT Pride Month Presidential Proclamation, President Obama wrote,

Since our founding, America has advanced on an unending path toward becoming a more perfect Union. This journey, led by forward-thinking individuals who have set their sights on reaching for a brighter tomorrow, has never been easy or smooth. The fight for dignity and equality for lesbian, gay, bisexual, and transgender people is reflected in the tireless dedication of advocates and allies who strive to forge a more inclusive society. They have spurred sweeping progress by changing hearts and minds and by demanding equal treatment—under our laws, from our courts, and in our politics.¹

Over the past eight years we have witnessed an unprecedented effort to advance the civil rights of—and justice for—lesbian, gay, bisexual, transgender, queer, and questioning (LGBTQ+) people living in the United States. The U.S. Supreme Court struck down the Defense of Marriage Act in 2013,² paving the

¹ “*Presidential Proclamation—LGBT Pride Month, 2016*,” The White House, May 31, 2016, <https://www.whitehouse.gov/the-press-office/2016/05/31/presidential-proclamation-lgbt-pride-month-2016>.

² *United States v. Windsor*, 133 S. Ct. 2675 (2013).

way for its 2015 ruling that denying same-sex couples the right to marry was unconstitutional.³ In 2009 congress passed the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (18 U.S.C. § 249), which extends the federal hate crimes law to include attacks based on the victim’s actual or perceived sexual orientation or gender identity. And 2013 saw the first federal funding statute, the Violence Against Women Reauthorization Act of 2013 (42 U.S.C. § 13925 (b)(13)), to explicitly bar discrimination based on actual or perceived gender identity or sexual orientation.

With these groundbreaking court decisions and federal statutes, same-sex couples and LGBTQ+ victims of crime are now provided the same protections under federal law as different-sex couples and non-LGBTQ+ victims of crime. But despite these successes, LGBTQ+ people living in the United States still experience discrimination in education, employment, and housing—and in the justice system, including policing, arrest, and incarceration. Sometimes this discrimination results from the biased enforcement of the law. However, laws themselves may be inherently discriminatory, either by accident or, as with North Carolina’s notorious “bathroom bill,” by design. In such cases, even completely impartial enforcement of the law can still undermine trust and tolerance.

To address these issues and to explore their importance to policing, the U.S. Department of Justice’s (DOJ) Office of Community Oriented Policing Services (COPS Office), in collaboration with Strategic Applications International (SAI), hosted a forum in Washington, D.C., on July 21, 2016. The forum was attended by law enforcement and representatives of LGBTQ+ advocacy groups. This publication, which summarizes that meeting, is based on input provided by participating subject matter experts and law enforcement agencies during the July forum and pre-forum interviews.

The forum focused on specific recommendations found in the *Final Report of the President’s Task Force on 21st Century Policing*⁴ and included discussions on police relations with the LGBTQ+ community. As participants noted, agencies are making progress in recruiting and hiring LGBT officers and in establishing, building, and sustaining partnerships with the LGBTQ+ community and advocacy organizations. Of particular interest to participants were the following recommendations from the final task force report:

Recommendation 2.12: Law enforcement agencies should establish search and seizure procedures related to LGBTQ and transgender populations and adopt as policy the recommendation from the President’s Advisory Council on HIV/AIDS (PACHA) to cease using the possession of condoms as the sole evidence of vice.

Recommendation 2.13: Law enforcement agencies should adopt and enforce policies prohibiting profiling and discrimination based on race, ethnicity, national origin, religion, age, gender, gender identity/expression, sexual orientation, immigration status, disability, housing status, occupation, or language fluency.

³ *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015).

⁴ President’s Task Force on 21st Century Policing, *Final Report of the President’s Task Force on 21st Century Policing* (Washington, DC: Office of Community Oriented Policing Services, 2015).

The action steps of 2.13 spoke specifically to interactions with LGBTQ+ individuals:

2.13.1 Action Item: The Bureau of Justice Statistics should add questions concerning sexual harassment of and misconduct toward community members, and in particular LGBTQ and gender-non-conforming people, by law enforcement officers to the Police Public Contact Survey.

2.13.2 Action Item: The Centers for Disease Control should add questions concerning sexual harassment of and misconduct toward community members, and in particular LGBTQ and gender-non-conforming people, by law enforcement officers to the National Intimate Partner and Sexual Violence Survey.

2.13.3 Action Item: The U.S. Department of Justice should promote and disseminate guidance to federal, state, and local law enforcement agencies on documenting, preventing, and addressing sexual harassment and misconduct by local law enforcement agents, consistent with the recommendations of the International Association of Chiefs of Police.⁵

Summary of topics discussed at the forum

While law enforcement representatives at the forum volunteered that they had already adopted a number of proactive policies governing officer conduct and police procedures with respect to interactions with LGBTQ+ people and had made efforts in recruitment, bias training, and outreach, they discovered much more could be done. Advocacy groups, meanwhile, reported positive and productive experiences in working with departments to promote the safety and security of their LGBTQ+ residents.

Participants generally agreed that the relationship between law enforcement and the LGBTQ+ community has improved, but that until recently collaboration was often seen as a symbolic gesture. Many departments, however, are now demonstrating a commitment to organizational change by instituting mandatory trainings and updating operational and personnel policies, particularly those concerning bias-free policing, sexual harassment, and recruitment and retention protocols.

All participants recognized that bias still exists, and together they explored ways to advance a policies and practices agenda. Such an agenda would create safer departments for the LGBTQ+ community, affording them the confidence they will not be harassed, become victims of institutional bias, or be criminalized because of their sexual orientation or gender identity or expression. One overarching concern at the forum was police misconduct related to the transgender and non-gender conforming community.

⁵ Ibid., 27–28.

Participants' recommendations for advancing understanding and collaboration ranged from creating awareness through exposure to the LGBTQ+ community to including members of local LGBTQ+ communities as educators in long-term training environments, allowing officers to see peers and advocates as individuals and their instruction as credible and professional. All participants affirmed the need to strengthen data collection and analysis while maintaining the privacy and safety of LGBTQ+ people; further research is required to develop the means to secure that data and use it proactively. Participants agreed that strong, enforceable policy, clearly understood throughout the rank and file, is needed to address how LGBTQ+ individuals are treated when stopped, arrested, or held in confinement. Just as important are policies governing agencies' internal conduct, particularly around sexual harassment, hiring, and protocols for recruitment and retention.

The discussion moved to cultural change in law enforcement agencies, and the need to talk specifically about what is required to make changes in a department's culture. Emphasis was placed on recruitment, training, in-service training, and reliable enforcement of departmental policies. Clear signals from leadership that demonstrating bias or threatening the civil or human rights of an individual will no longer be tolerated are essential to success.

Last, participants discussed challenges and barriers; many strong and innovative solutions to those challenges were proposed, reflecting the participants' varied community and department contexts. Participants acknowledged and appreciated the advocacy community's work in the development of model policies and procedures, and noted their importance in guiding future discussions with law enforcement. Everyone agreed that a toolkit would be useful for departments seeking to advance their work with the LGBTQ+ community.

Karol Mason, assistant attorney general for the Office of Justice Programs, summed up many of these discussions, stating "Equal rights and equal treatment do not always go hand in hand. Laws on the book don't mean people will be treated that way. We have the obligation to bridge that artificial divide." Forum participants and representatives from the DOJ expressed a commitment to developing and adopting tools that will provide equal protections, access, and openness for the LGBTQ+ community, including those seeking careers in policing.

1. Understanding Data and the Need for Data Collection

A national survey of LGBT people found that 73 percent of LGBT people and people living with HIV who responded reported face-to-face contact with law enforcement in the past five years:

- 25 percent of respondents who had contact with police experienced at least one type of misconduct or harassment, including profiling, false arrests, verbal or physical assault, or sexual harassment or assault.
- LGBT people of color, LGBT people under 30, low-income LGBT people, and transgender respondents were much more likely to report police misconduct or harassment.
- LGBT people of color were five times more likely than white LGBT respondents to be asked about their immigration status by law enforcement officers.⁶

A national survey of more than 27,000 transgender adults found that 58 percent of transgender people who interacted with police in the last year reported some form of biased treatment, including verbal harassment (20 percent), physical assault (4 percent), and sexual assault by officers (3 percent). A majority of respondents (57 percent) said they would be somewhat or very uncomfortable asking for help from police. Reported rates of mistreatment and discomfort seeking help were higher for black, Latino, and American Indian transgender respondents.⁷

Of 1,094 youth surveyed throughout New York City, nearly half (48 percent) reported a negative experience of some kind with police in the preceding six months. LGBTQ-identified youth were much more likely to have negative experiences with police, and less likely to have positive experiences, than their non-LGBTQ peers. They were more likely to experience negative legal contact, verbal contact, physical contact, and sexual contact with police. Nearly half (49 percent) of those who had been arrested said they felt unsafe in the patrol car following their arrest.⁸

In the absence of clear policies prohibiting discrimination based on sexual orientation and gender identity—and of clear policies governing the determination of gender for the purposes of arrest and

⁶ Lambda Legal, “Protected and Served?” [executive summary of survey report], (New York: Lambda Legal, 2015), 6, http://www.lambdalegal.org/sites/default/files/publications/downloads/ps_executive-summary.pdf.

⁷ Sandy E. James et al., “The Report of the 2015 U.S. Transgender Survey” (Washington: National Center for Transgender Equality, 2016).

⁸ Brett G. Stoudt, Michelle Fine, and Madeline Fox, “Growing Up Policed in the Age of Aggressive Policing Policies,” *New York Law School Law Review* 56 (2011): 1331–70.

processing—LGBTQ+ people in police custody (including police lock-ups) experience unlawful, unnecessary, and humiliating searches to assign gender; homophobic and transphobic discrimination and abuse; and unsafe placement.⁹

Quantifying all these problems is a necessary first step to solving them. Forum participants stressed that data collection and analysis are critical to hiring, policy development, creating an open environment, and reducing bias. Departments are beginning to create the infrastructure that will allow them to collect relevant data, but advocacy groups at the forum emphasized that data concerning an individual's sexual orientation or gender identity should never be collected by law enforcement officers as a matter of course during stops, arrests, or in use of force reports to avoid the unintentional consequences of causing harm or reinforcing existing bias. Further, data collection and its methodology are contextualized. Collection and analysis of data concerning hate crime victims' sexual orientation or gender identity on a voluntary basis during investigation and anonymous reporting of such data in the aggregate is helpful to tracking and potentially preventing patterns of violence against LGBTQ+ individuals and communities. Collection and analysis of data concerning complaints filed by LGBTQ+ individuals who voluntarily disclose their sexual orientation or gender identity during the investigation and anonymous reporting of such data in the aggregate can similarly be helpful to tracking and preventing patterns of officer misconduct against LGBTQ+ individuals and communities. Finally, data collection concerning LGBTQ+ people's experiences of policing by federal, state, and local non-law enforcement agencies, such as the Bureau of Justice Statistics and civilian oversight agencies, and by academic researchers and community organizations is essential to better understanding the community's experiences. Forum participants, and other researchers supporting the development of this document, recommended participatory data collection and evaluation to ensure that data collection and evaluation produces enlightenment, not harm. All participants agreed that data must be collected with sensitivity and without bias, and with maximum protections for individuals' privacy and safety.

Dr. Philip Matthew Stinson, Sr., J.D., of Bowling Green State University, spoke at the forum about his research on police misconduct data he collected between 2005 and 2016. His database includes records of more than 12,000 arrest cases involving more than 10,000 arrested officers. These officers were employed by 3,846 state and local law enforcement agencies in 1,585 counties and independent cities in all 50 states and the District of Columbia. Stinson focused on victims of police crimes, and sworn law enforcement officers, who identify as LGBTQ+ persons. Stinson's findings revealed a need for additional targeted research on topics including the following:

- Police violence against transgender women
- Sexual assault of transgender men by police officers
- Police violence against gay men
- Police harassment of gay men

⁹ *National Prison Rape Elimination Commission Report* (Washington, DC: National Prison Rape Elimination Commission, 2009).

- Police harassment of lesbians
- Prevalence of homophobia among police
- Treatment of LGBTQ+ police officers within law enforcement agencies, specifically looking at data of harassment, discrimination, and retaliation by other police officers

Recommendations: improve data collection and analysis

- Community participatory research is necessary: Involve the communities affected in collecting the data we need. Consider funding research through community organizations that will hire black and brown non-gender conforming people to ask the questions that people won't answer when they come from a police officer.
- Departments should determine how researchers can access and use the data collected in law enforcement internal investigations, to increase transparency about how agencies deal with these issues internally.
- There is a tremendous gap between the number of hate crimes reported and those that actually occur. If we can discover the reasons for that gap, not only can we prevent more hate crimes, but we can also build stronger relationships between police and those who are victims of crimes of hate.
- At the same time, we need to talk about trust and hate crimes, and the political nature of hate crimes reporting. There are many chiefs who are not comfortable with increasing the reporting of hate crimes—for example, because they're in a tourist town where there are concerns it could have negative economic impacts, or because the mayor may not be on board with public data showing increases.

“In Atlanta we are talking about data collection. We recently released a report highlighting the experiences of trans and non-gender-conforming people of color. We found that over 38 percent had called them at a police department for help but instead were arrested. These are the issues trans people face daily, which is why we don't trust the police departments.”

– *Toni-Michelle Williams, SNaP Coalition Programs Coordinator, Racial Justice Action Center, Atlanta, Georgia*

- It would be advantageous for law enforcement agencies to move from Uniform Crime Reporting (UCR) to the National Incident-Based Reporting System (NIBRS): When all crimes are aggregated into one highest representation of violence, the granular data that allows for the details to be teased out is lost.
- Departments should collect data on aggregate complaints lodged by LGBTQ+ people (as self-disclosed, on a voluntary basis, after informed consent, and separated from identifying information) or about police misconduct based on actual or perceived sexual orientation or gender identity. (Central to the debate on data collection is whether or not data should be collected based on actual or perceived sexual orientation. Forum participants were unanimously opposed to data collection based on the officer’s perception of an individual’s gender, gender identity, or sexual orientation.)
 - Police leadership expressed a need for data to ensure their accountability to LGBTQ+ communities for problems with their policing, but emphasized that this data and its collection must not place community members in greater danger of retaliation or unauthorized disclosure of sexual orientation or gender identity.
 - The President's Task Force on 21st Century policing recommended that the Bureau of Justice Statistics expand the Police Public Contact Survey to include “questions concerning sexual harassment of and misconduct toward community members, and in particular LGBTQ and gender-nonconforming people, by law enforcement officers.” Systems should be put in place to facilitate the collection of this data.¹⁰
- Departments should also collect voluntary data regarding the LGBTQ+ status of law enforcement officers.

“We think it's critical the CDC [Centers for Disease Control] and the [DOJ's] Bureau of Justice Statistics gather data on LGBTQ+ experiences of policing, and on broader areas in which that LGBTQ+ people experience disproportionate police violence. These things are not captured and need to be captured by federal agencies. What I want to emphasize, though, is that we do not think that law enforcement officers should be collecting data on people's sexual orientation and gender identity in day-to-day contact. That will increase the exact forms of violence we are talking about. When people mention that their experience was based on LGBTQ+ discrimination, you gather that data separately and in the aggregate and don't identify people's names.

– *Andrea Ritchie, Soros Justice Fellow*

¹⁰ President's Task Force, *Final Report*, 28 (see note 4).

Model practices: state and local data collection and analysis

Guidance on law enforcement data collection may be applied at the federal, state, or local level. Some law enforcement agencies and cities (such as Seattle, Washington; Albuquerque, New Mexico; and New Orleans, Louisiana) have entered into agreements with the DOJ for data collection on incidents involving police bias, as well as other policies and practices required for federal investigations into such incidents. And some police departments have established internal reporting procedures to assist them in developing better understanding and relationships with their local LGBTQ+ community.

The following are highlights of some local law enforcement agencies' efforts to collect and report data on hate crimes based on sexual orientation and gender identity and expression:

- Washington state law (RCW 36.28A.030) requires collecting data on hate crimes and makes prompt reporting of crime statistics a condition for funding and accreditation. Over a six-year period, only one Washington agency consistently failed to report hate crime information. In two of the nation's most populous and diverse states, California and Florida, compliance also is nearly universal.¹¹
- In 2014, the New York State Division of Government Accountability audited the New York Police Department (NYPD) to identify opportunities for improving operations, specifically in the area of reporting and using bias incident data. The ensuing report's key recommendations included (1) developing a document tracking system to properly account for all bias-related incidents; (2) periodic analysis of the captured hate crime–related summary data, followed by inquiries or action as appropriate; (3) developing a recordkeeping system, easily accessed by management, to ensure that all officers receive required training; and (4) considering requiring periodic hate crime–related training as part of the regular NYPD training curriculum. NYPD officials agreed with the recommendations and had begun implementing them at the time of the release of the audit report.¹²
- In 1990, Massachusetts created a Crime Reporting Unit as a joint project of the Department of State Police and the Criminal History Systems Board to collect hate crime incident reports from state, local and campus police and other law enforcement authorities. The unit is required by statute to summarize and analyze the information it collects and to distribute periodic reports analyzing and interpreting crime rates and trends, sending copies to the governor, attorney general, and committees on public safety, criminal justice, judiciary, and ways and means. The annual reports are public records.¹³

¹¹ The Associated Press, "Police Fail to Consistently Report Hate Crime Numbers to FBI, AP Investigation Finds," Oregon Live, June 3, 2016, http://www.oregonlive.com/data/2016/06/no_full_accounting_of_hate_cri.html.

¹² Division of State Government Accountability, *Reporting and Utilization of Bias Incident Data* (Albany, NY: New York State Office of the State Comptroller, 2014), <http://osc.state.ny.us/audits/allaudits/093014/14n2.pdf>.

¹³ Christopher Reinhart, "Hate Crimes in Massachusetts," OLR Report 99-R-1013 (Hartford, CT: Office of Legislative Research, 1999), <https://www.cga.ct.gov/ps99/rpt/olr/htm/99-r-1013.htm>.

- The Los Angeles Police Department (LAPD) recently instituted a reporting mechanism, the hate crime supplemental report, to assist in stronger and better reporting of hate crimes at the intake level.
- The Seattle Police Department is encouraging officers to take reports on categories of crimes that have no official designation (e.g., a person being called a negative name relating to their LGBTQ+ status.) If the officers have any doubt about whether something is a hate crime, they're expected to report it as a potential crime with a bias element, and title it as such, so that the LGBTQ Liaison and crime coordinator look at it.
- The Columbus (Indiana) Police Department is a member of the Indiana Hate Crimes Reporting Network, which gathers statistical information regarding hate crimes and bias incidents in Indiana. The statistical information is gathered by law enforcement agencies, prosecutors, and community-based organizations, including the Columbus Human Rights Commission.¹⁴
- In New York City, the Civilian Complaint Review Board recently conducted an analysis of all complaints of police misconduct against LGBTQ+ people relating to their sexual orientation or gender identity.¹⁵

¹⁴ "Hate/Bias Crimes," *City of Columbus*, accessed January 6, 2017, <http://www.columbus.in.gov/cityofcolumbus/index.cfm/human-rights/hate-bias-crimes/>.

¹⁵ "Pride, Prejudice and Policing: An Evaluation of LGBTQ-Related Complaints from January 2010 through December 2015" (New York: Civilian Complaint Review Board, 2016), http://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/issue_based/20160630_lgbtq-report.pdf.

2. Policy Development and Implementation

Law enforcement agencies across the country, in response to community demands, are adopting and reviewing policies and practices related to the LGBTQ+ community. A written policy is an important first step towards ensuring transparency. However, once new policies have been adopted, law enforcement agencies still need clear and transparent mechanisms for ensuring effective implementation—including holding their members accountable for violations.

Advocacy groups who have engaged in policy development and implementation conclude, “Though data on this subject is quite limited, the studies that do exist reinforce the point that policy change does not necessarily lead to change on the ground.”¹⁶ Numerous examples of policy implementation support this, including one cited from the District of Columbia: “For example, in the District of Columbia a 2012 survey of transgender residents, conducted over five years after the Metropolitan Police Department adopted a groundbreaking general order on interactions with transgender people, found that 55 percent of respondents remained uncomfortable speaking to the police. Of those who had interacted with police, a third reported being treated with disrespect.”¹⁷

While many of the policies in place in U.S. law enforcement agencies have been negotiated with high-level police officials, other barriers to implementation often go unaddressed; these may include lack of training, lack of supervisory enforcement, or lack of willingness on the part of leadership to enforce policy change through accountability and discipline. The resulting disconnect between an agency’s stated policies and actual behavior can lead community members to become even more distrustful of law enforcement, further breaking down police-community relations.¹⁸ For all these reasons, agencies find that effecting the needed cultural changes to fully implement a new policy may be a much slower process than researching and drafting the policy itself. Forum participants acknowledged that progress is happening, but, in some jurisdictions, all too slowly.

Forum participant and Soros Justice Fellow Andrea Ritchie and the Policing Subcommittee of the LGBT/HIV Federal Criminal Justice Policy Working Group¹⁹ have researched and drafted sample model policies for law enforcement, including policies on police sexual harassment and misconduct and more

¹⁶ This analysis was summarized in a document presented at the forum, Terry et al.’s “Implementation of LGBTQ-Related Policing Policies and Long-Term Accountability,” which is provided as appendix D.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ The LGBT/HIV Federal Criminal Justice Policy Working Group is a network of nearly 50 organizations and individual stakeholders working to reduce the unique harms of the U.S. criminal legal system experienced by LGBTQ+ people, people living with HIV or those at risk of acquiring HIV, through research, education, and policy advocacy at the federal level.

broadly addressing police interactions with LGBT individuals, based on best practices reflected in policies already in place in some of the nation’s largest—and smallest—departments. These documents can be found in full in the appendices.

“The International Association of Chiefs of Police (IACP) recommends that all law enforcement agencies adopt written policies specifically addressing sexual harassment and misconduct by members of law enforcement agencies against members of the public and arrestees.”²⁰ Sections of the sample policy, provided as appendix B, provide definitions of sexual misconduct and outline prohibited conduct, including on- and off-duty sexual activity; sexually inappropriate material; unnecessary law enforcement activity; and discriminatory or sexual language or gestures.

A group of forum participants proposed the following police sexual misconduct policy language:

This agency strictly prohibits sexual harassment, sexual assault, sexual misconduct, sexual abuse, and rape of any member of the public by any member of the agency. Engaging in such conduct will be grounds for immediate discipline, up to and including suspension and/or termination.

This language has not been endorsed by the DOJ or any other official government body, but it is included here as guidance for local law enforcement agencies assessing their own internal policies on sexual misconduct.

The model policy on law enforcement interactions with LGBT individuals (appendix A) states,

It is the policy of this agency to apply and administer all programs, initiatives, and activities without discriminating on the basis of race, color, ethnicity, national origin, religion, gender, disability, sexual orientation, gender identity, or gender expression. Factors such as a person’s race, sex, sexual orientation, gender, gender identity, gender expression, age, dress, [or] unusual or disheveled or impoverished appearance do not alone justify even a brief detention, a request for identification, or an order to move on, nor do general complaints from residents, merchants or others. Agency employees shall be professional and courteous to all members of the public, including lesbian, gay, bisexual, transgender and gender-nonconforming persons. The policy of this agency is to interact with such persons in an unbiased, fair and respectful manner at all times, including when initiating stops, responding to requests for assistance, verifying identification, performing searches, arrests, transportation, and detention. Any substantiated claim of misconduct or harassment or violation of these policies may result in discipline up to and including termination of the members’ employment, civil penalties, or other punitive actions as deemed appropriate.

²⁰ *Addressing Sexual Offenses and Misconduct by Law Enforcement: Executive Guide* (Alexandria, VA: International Association of Chiefs of Police, 2011), <http://www.theiacp.org/portals/0/pdfs/addressingsexualoffensesandmisconductbylawenforcementexecutiveguide.pdf>.

Recommendations: policy development and implementation

The following overarching recommendations were made during the forum; they reflect the best lessons participants have learned from policing experts and advocates for the LGBTQ+ community:

- Examine all departmental policies and procedures that may affect interactions with LGBTQ+ people and update as necessary.
- Cross-reference relevant policies throughout police Standard Operating Procedures, patrol guides, policies, procedures, and general or standing orders.
- Create a stand-alone document that is easily accessible to officers who come into contact with LGBTQ+ people, so that they can receive quick guidance on appropriate procedures and language without having to search through departmental procedures.
- Ensure policies do not contradict one another—for example, ensure search, seizure, and detention policies do not use language about sex or gender that would contradict an LGBTQ+ policy about searches of transgender or non-gender nonconforming persons.²¹

Discussion by forum participants also included the following recommendations concerning policy development and implementation:

- Policy development is important, but it is also equally critical to be sure policies are fully implemented, monitored, and enforced and that their effectiveness is evaluated.
- Every police department in the country needs policies. They can start with the template policies but they need to work hand-in-hand with local LGBTQ+ community members and organizations to know and understand what's going to work in creating policies that affect the LGBTQ+ community.
- It is important to model inclusion, and to be very visible and public, in good times *and* in bad times. A visible, public policy is integral to developing good relationships between police departments and their local communities.
- Departments should focus on prevention, i.e., moving away from the model of deterrents and disincentivizing tickets and arrests.
- It is important to honor the great work the police are doing while also growing our understanding of the complex issues and being more proactive toward change; shed light on gaps and barriers and at the same time lift up what is working well.
- Departments should use incident reviews to help shed light on what worked and what didn't, and as a teaching tool.

²¹ See appendix A, Ritchie, *Draft Sample Policy for Law Enforcement Interactions with LGBT Individuals*.

The following policy and procedure recommendations and action items of the President’s Task Force on 21st Century Policing are of particular concern to LGBTQ+ communities:

- Recommendation 1.9: Law enforcement agencies should build relationships based on trust with immigrant communities. This is central to overall public safety. Immigrants often fear approaching police officers when they are victims of and witnesses to crimes and when local police are entangled with federal immigration enforcement. At all levels of government, it is important that laws, policies, and practices not hinder the ability of local law enforcement to build the strong relationships necessary to public safety and community well-being. It is the view of this task force that whenever possible, state and local law enforcement should not be involved in immigration enforcement.
- Action Item 1.9.1: Decouple federal immigration enforcement from routine local policing for civil enforcement and nonserious crime. The U.S. Department of Homeland Security should terminate the use of the state and local criminal justice system, including through detention, notification, and transfer requests, to enforce civil immigration laws against civil and nonserious criminal offenders.²²
- Recommendation 2.9: Law enforcement agencies and municipalities should refrain from practices requiring officers to issue a predetermined number of tickets, citations, arrests, or summonses, or to initiate investigative contacts with citizens for reason not directly related to improving public safety, such as generating revenue.
- Recommendation 2.10: Law enforcement officers should be required to seek consent before a search and explain that a person has the right to refuse consent when there is no warrant or probable cause. Furthermore, officers should ideally obtain written acknowledgement that they have sought consent to a search in these circumstances.
- Recommendation 2.11: Law enforcement agencies should adopt policies requiring officers to identify themselves by their full name, rank, and command, and provide that information in writing to individuals they have stopped. In addition, policies should require officers to state the reason for the stop and the reason for the search if one is conducted.
- Recommendation 2.12: Law enforcement agencies should establish search and seizure procedures related to LGBTQ and transgender populations and adopt as policy the recommendation from the President’s Advisory Council on HIV/AIDS to cease using the possession of condoms as sole evidence of vice.
- Recommendation 2.13: Law enforcement agencies should adopt and enforce policies prohibiting profiling and discrimination based on race, ethnicity, national origin, religion, age, gender, gender identity/expression, sexual orientation, immigration status, disability, housing status, occupation, or language fluency.²³

²² President's Task Force, *Final Report*, 18 (see note 4).

²³ *Ibid.*, 26–8.

Model practices: policy development status and successes

At the direction of the DOJ, in 2013 the City of Seattle established the Community Police Commission (CPC) to provide “community input on the on the police department reform process and reform proposals. The CPC is responsible for engaging Seattle’s diverse communities to understand and represent their viewpoints, and to give them a voice and stake in improving police services.”²⁴ Many local and regional LGBTQ+ organizations partner with the CPC. The resulting January 2014 Outreach Report details survey results and recommendations by the various communities attending meetings.²⁵ Another result of this initiative is the Seattle Police Department’s Bias-Free Policing Policy, effective as of August 1, 2015. This policy is intended to increase the department’s effectiveness as a law enforcement agency and to build mutual trust and respect with Seattle’s diverse groups and communities.²⁶

The West Hartford (Connecticut) Police Department recently adopted a policy designed to help officers navigate cases and situations involving members of the town’s LGBT community. In interactions with transgender individuals, the policy states that officers should use that person’s preferred name, which might not be their legal name or the name on a government-issued ID. The policy also advises that officers should honor a request by a transgender person to be searched by an officer of a specific gender.²⁷

Many states have adopted hate crime laws that require law enforcement agencies to investigate and prosecute crimes committed with bias against LGBTQ+ people; at the federal level, as a result of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, these laws cover both sexual orientation and gender identity. Many jurisdictions have established hate-crime units in their police departments and implemented school- and community-based prevention programs. California and Massachusetts are notable for including these and other strategies in their efforts to combat hate crime.²⁸

According to Director Michael Munson, FORGE, a national transgender anti-violence organization located in Milwaukee, Wisconsin, has worked with the DOJ and law enforcement to create transgender sensitivity training for police. As a result of this training, the Philadelphia (Pennsylvania) Police Department and other agencies have collaboratively developed policies for law enforcement, intended to provide basic education on transgender and other LGBTQ+ issues, as well as professional guidelines and expected procedural practices.

²⁴ *Community Outreach Report* (Seattle, WA: Seattle Community Police Commission, 2014), <http://www.seattle.gov/Documents/Departments/CommunityPoliceCommission/Outreach%20Report%2001-24-14.pdf>.

²⁵ *Ibid.*

²⁶ “5.140 - Bias-Free Policing,” in *Seattle Police Department Manual* (Seattle, WA: Seattle Police Department, 2017), <http://www.seattle.gov/police-manual/title-5---employee-conduct/5140---bias-free-policing>.

²⁷ “West Hartford Police Department Adopts New LGBT Policy,” Associated Press, August 15, 2016.

²⁸ Michael Shively and Carrie F. Mulford, “Hate Crime in America: The Debate Continues,” *NIJ Journal* 257 (June 2007), <https://nij.gov/journals/257/Pages/hate-crime.aspx>.

The San Francisco Police Department's Hate Crimes Unit was formed in December 1990. The department was also instrumental in the formation of the Bay Area Hate Crime Investigator's Association, a unique organization comprising officers from law enforcement agencies in the nine bay area counties, as well as representatives of community-based organizations. Members interact to reach a common goal of ridding communities of bias-related crimes.

In 2012, the LAPD instituted a policy requiring officers to refer to transgender individuals by the name and gender they prefer and precluding officers from searching transgender individuals solely for the purpose of determining their biological sex.²⁹

Several major metropolitan police forces have already taken the step of establishing bias-based profiling prohibitions that include sexual orientation and gender identity; many of these local policies and procedures may be informative for other departments. The New Orleans Police Department's policy includes a provision that officers are not allowed to profile people based on sexual orientation or gender identity—they may not assume, for example, that transgender women are engaged in prostitution (n.b., the New Orleans policy was negotiated under DOJ supervision in a consent decree process with input from black transgender people and other LGBTQ+ youth and people of color). Other examples of local policies include the following:

- In 2007, the Washington, D.C., Metropolitan Police Department implemented one of the first policies in the country on transgender interactions with police: General Order PCA 501-02, Handling Interactions with Transgender Individuals.³⁰ This policy includes many features, including definitions of key terms; regulations (e.g., use of appropriate/non-demeaning language and proper pronouns); procedural guidelines (e.g., methods for handling calls for service and citizen complaints involving transgender individuals; proper techniques for stop-and-frisk situations with transgender persons; procedures for conducting arrest situations involving transgender individuals, including appropriate searching; ways to communicate with fellow officers; and procedures for documenting potential risk factors associated with an arrest, such as hostility from other arrestees); procedures for transporting transgender arrestees; and ways to process and house transgender persons in custody.³¹
- In 2013, the Boston Police Department issued guidelines for police contact with transgender individuals. The Special Order requires that all officers use the name and pronouns the transgender individual prefers, and also lists changes to policies regarding field stops, frisking, prisoner

²⁹ Office of the Chief of Police, "Notice 1:12: Police Interactions with Transgender Individuals," memorandum issued April 10, 2012 (Los Angeles, CA: Los Angeles Police Department), http://assets.lapdonline.org/assets/pdf/OCOP_04-10-12.pdf.

³⁰ Cathy Lanier, "General Order PCA 501-02: Handling Interactions with Transgender Individuals," revision of January 5, 2015 (Washington, DC: Metropolitan Police Department), https://go.mpdonline.com/GO/GO_501_02.pdf.

³¹ Tod W. Burke, Stephen S. Owen, and April Few-Demo, "Law Enforcement and Transgender Communities," *FBI Law Enforcement Bulletin* (June 2015), <https://leb.fbi.gov/2015/june/law-enforcement-and-transgender-communities>.

transportation, booking, searches, and conditions during holding. As part of the new guidelines, a Statement of Search Preference Form is used for transgender individuals in custody, specifying whether to have a female or male police officer conduct their search.³²

- The Philadelphia Police Department implemented Directive 152 in 2014 to guide its interactions with transgender communities. One of the orders within the directive instructs officers to remain cognizant of proper terminology when addressing transgender individuals, for example, by asking a person being questioned which gender pronoun is preferred. Some of the other orders within Directive 152 include keeping transgender arrestees isolated from the general inmate population and referring to transgender victims, witnesses, or arrestees by their preferred names, particularly when addressing the media. This policy was one of the few guidelines in the country to offer direction on how to speak to reporters about transgender offenders or transgender victims of crime.³³

³² “Boston Police Department Issues Special Order for Interacting with Transgender Individuals,” BPDnews.com, last modified June 11, 2013, <http://bpdnews.com/news/2013/6/11/boston-police-department-issues-special-order-for-interacting-with-transgender-individuals>.

³³ Burke, Owen, and Few-Demo, “Law Enforcement and Transgender Communities” (see note 31).

3. Creating Community Access and Partnerships: Supporting the LGBTQ+ Community and Enhancing Communication

Forum participants agreed on law enforcement’s need to develop initiatives and practices to increase communication with, expand access to, and demonstrate support for the LGBTQ+ community. One important and increasingly common departmental practice is to create or designate an LGBTQ+ liaison to build trust, respect, and understanding between law enforcement and the community.

Another effective step is to create an advisory board made up of members of the diverse populations within the LGBTQ+ community, including organizations working with LGBTQ+ people of color, youth, and people experiencing homelessness. Departments are also convening citizen/community police academies focused on the LGBTQ+ community. In addition, community forums and meetings on particular issues or with particular communities can be convened as needed, or perhaps on an annual basis (such as during or in advance of LGBT Pride month). These mechanisms are important for soliciting community input throughout the policy development process, learning about and addressing current issues affecting the community, establishing communication protocols, and recruiting officers.

Departments that are effectively engaged with the LGBTQ+ community also ensure they have a presence at key community events important to the LGBTQ+ community, both for security purposes when appropriate and to demonstrate support. Presence at LGBTQ+ community events and support and engagement with community organizations also helps to demonstrate support for LGBTQ+ officers or prospective recruits; it is important for departments to give particular attention to recruiting and retaining officers from the LGBTQ+ community. Agencies should check with community agencies to ensure that police presence is would be welcome.

Recommendations: LGBTQ+ community engagement

- It is important to be transparent regarding departmental policies that impact police-LGBTQ+ relations, including making policies easily accessible to the public on departmental websites.
- Accountability processes need to be adopted and incorporated into all the work police departments do to create relationships of trust with the LGBTQ+ community, including establishing liaison units, trainings, and policies.

- Bias and discrimination against LGBTQ+ people happen in the day-to-day life of a community. Addressing these issues should be embedded into everything police chiefs are doing—e.g., senior officers should go out on the streets to see what junior officers are doing.
- LGBTQ+ people need to be able to have regular, open dialogue direct with law enforcement administration to talk about issues within their community, in a way that is objective, solution-based, and accountable. Many police departments are perceived to be lacking in effective oversight and inaccessible to the communities they are intended to serve. In order to address this, departments should
 - create an LGBTQ+ community advisory board or response team, made up of individuals, agencies, and organizations whose work focuses on policing and criminal justice issues and who work closely with LGBTQ+ populations that experience frequent police contact;
 - ensure the LGBTQ+ liaison has access to the chief and senior leadership and an established role for providing input into policy and decision making, beyond simply serving as a receptacle for community concerns;
 - develop a process for annual review of policies and training materials and clear mechanisms for soliciting feedback on policies from community members;
 - ensure that senior leadership, especially chiefs and sheriffs, are accessible to community members and present at community events, along with liaison officers or units.

Our department has drawn up a transgender policy with the help of the transgender community that addresses treatment of transgender people if, for instance they are locked up; our policy makes sure they are treated with respect and that their needs are met.

William Evans, Boston Police Department Commissioner

- LGBTQ+ liaisons should be very active and responsive to the LGBTQ+ community—always on the scene when needed, overseeing interactions as well as providing resources.
- Departments should consistently find ways to show support, even in symbolic ways, such as flying the rainbow flag. Support is key to good relationships, and it is important that the LGBTQ+ community feel our support.
- It is important for police departments to understand their role with the LGBTQ+ community is not only policing but also protection, especially for large events and nighttime events. The community needs to know they can rely on police for protection.

Our monthly/bi-monthly meetings of 15–20 people and panels work great for us as a way to resolve issues—sometimes very serious issues. Also, we’ve reached out to other law enforcement agencies in the state and included them—another strategy we think is important for communication and improving overall relationships between law enforcement and the [LGBTQ+] community.

William Evans, Boston Police Department Commissioner

- There needs to be consistent and meaningful dialogue at the grassroots level, with rank and file—LGBTQ+ community and law enforcement—working together and in regular communication (e.g., through monthly meetings).
- Complaints from the LGBTQ+ community need to be addressed through policies and procedures within and across departments, rather than responded to one at a time, without standardized policies. There also needs to be more transparency in the complaint and response process.
- It is valuable to involve community members in officer training and to participate in training for community members. Together community and department trainers can officer credibility and new perspectives to both audiences. Many times members of the LGBTQ+ community don't know what their rights are, or about department policies and procedures (e.g., what is required of officers to complete an investigation); officers can help demystify these subjects.
- The complaints people file with police departments need to be recognized as a call for service; when there are significant increases in responding to complaints, it makes the community feel their voice is heard and increases their ability to trust in their relationships with law enforcement.

One of our community relations officers (also designated as our LGBTQ liaison) is very active in the LGBTQ community, and has worked to establish an LGBT citizen police academy. For 12 weeks each year, attendees learn about police work in different areas (e.g., hate crimes, domestic violence, human trafficking), policies, and the efforts law enforcement is making towards building relationships with different communities to make them safe.

Steve Conrad, Chief of Police, Louisville (Kentucky) Metropolitan Police Department

One of my biggest challenges, since Seattle has much more of a handle on LGBTQ+ outreach than ever in history, is dealing with the other communities in Seattle and how they treat LGBTQ+ individuals. We have a number of assaults and harassments that occur each year and they are often perpetrated by other minority communities. What I would love to do with these communities, and communities with a religious background which has discouraged interaction with the LGBTQ+ community, is try to educate them on fighting for the same cause. It is disingenuous for individuals who are also fighting for those same things to perpetrate crimes on the LGBTQ+ community. I think it's important to educate everybody, police officers, community, victims, suspects, to figure out why this go on and bridge cultural barriers that have existed for a long time.

Jim Ritter, LGBTQ Liaison, Seattle Police Department

Model practices: creating access, partnerships, and support and ensuring open communication with the LGBTQ+ community

- The Atlanta (Georgia) Police Department’s LGBT Liaison Unit exists to improve the relationship between the LGBT community and the Atlanta Police Department. Collaborating with community leaders, residents and businesses to design and implement public safety projects and programs to establish a closer, more effective dialogue between the police and the community, the LGBT Liaison Unit is managed by Atlanta’s Community Oriented Policing Section. Additionally, for the past two years a deputy chief for the department has been entirely focused on work with the LGBT community, making a point to attend all community and organizational meetings.³⁴
- The LAPD’s LGBTQ Liaison heads the department’s LGBTQ working group, which includes robust representation from all facets of the community. The working group hosts events, such as LGBTQ Community Forums at the Los Angeles Gay & Lesbian Center, creating opportunities to “engage in open dialogue about the LGBTQ community within the City of Los Angeles,” and discuss the department’s policies and operations, hate crime updates, and news from the LGBT community police academy.³⁵

³⁴ “LGBT Liaison,” Atlanta Police Department, accessed January 9, 2017, <http://www.atlantapd.org/lgbtliaison.aspx>.

³⁵ Los Angeles Police Department, “LAPD Hosts Lesbian, Gay, Bisexual, Transgender and Questioning Community Forum,” press release, June 22, 2012, http://www.lapdonline.org/june_2012/news_view/51266.

- The Metropolitan Police Department of Washington, D.C. has taken a proactive approach, by establishing a unit within the department to specifically handle issues affecting the LGBT community. The unit’s goals are threefold: to educate the police, to educate the community, and to build trust.³⁶
- The NYPD has an LGBT Advisory Panel, made up of representatives of dozens of community organizations, that meets regularly with the Police Commissioner and his staff. Members of the panel provided substantial input on policies governing interactions with LGBTQ people and the citation of condoms as evidence of prostitution, and they participate in training new recruits on these policies. Additionally, the department has a Community Affairs Bureau LGBT Liaison Unit, whose mission includes “fostering positive relations between the LGBT community and the NYPD, and working with precincts, police (housing) service areas, and transit districts, located in areas with a large, visible LGBT community within them, to address concerns of that area.”³⁷ Collaborating with the New York County District Attorney’s Community Partnerships Unit, representatives from the unit meet with schools, community boards, neighborhood associations, and LGBT organizations to work on solving issues in their communities.
- The Phoenix (Arizona) Police Department’s LGBT Citizen Advisory Boards aim to create a climate of trust between the community and the Phoenix Police Department and to provide a forum where the Phoenix Police Department can listen actively to community concerns and create solutions to social problems. Two department detectives act as LGBT liaisons and actively participate in the board meetings.³⁸

Power dynamics are a huge issue. When I was first appointed [to the Police Commission] about five years ago, commission meetings were held at the Hall of Justice in the Police headquarters. So to complain about the police, community members had to walk past 4 floors of 250 officers before they got to the hearing room. So we would average 1-2 people a week. Our meetings were every week. We changed it to City Hall and it went to 50–75 a week. They didn't feel intimidated getting to the meeting. So change the venue.

Theresa Sparks, Senior Advisor to the Mayor on Transgender Initiatives, San Francisco

³⁶ Metropolitan Police Department, “Lesbian, Gay, Bisexual and Transgender Liaison Unit (LGBTLU),” DC.gov, accessed January 9, 2017, <http://mpdc.dc.gov/page/lesbian-gay-bisexual-and-transgender-liaison-unit-lgbtlu>.

³⁷ New York Police Department, “NYPD - Lesbian Gay Bisexual Transgender Liaison Unit,” City of New York, accessed January 17, 2017, http://www.nyc.gov/html/nypd/html/community_affairs/lgbt.shtml.

³⁸ “Phoenix Police Department Citizen Advisory Boards,” City of Phoenix, accessed January 9, 2017, <https://www.phoenix.gov/police/neighborhood-resources/citizen-advisory-boards>.

- Through a grant from the U.S. Department of Justice’s Office on Violence Against Women’s Culturally Specific Services Program, the Kansas City Anti-Violence Project started the Law Enforcement and LGBTQ Advocacy Coalition (LELAC) in collaboration with the Kansas City (Missouri) Police Department LGBTQ Liaison. LELAC is focused on the Kansas City metropolitan area and comprises area law enforcement and LGBTQ advocacy leaders. LELAC aims “to address underreporting and the historically tense relationship between law enforcement and the LGBTQ community.”³⁹
- The Seattle Police Department launched the Safe Place Initiative in May 2015. The initiative focuses on preventing and responding to anti-LGBTQ bias crimes. As part of the program, businesses and other organizations put a small “Safe Place” decal in a window, indicating that they will provide a safe place for any LGBTQ person who feels harassed or threatened; staff members also agree to call 911 for assistance while the person remains safe inside.⁴⁰
- The Boston Police Department hosts regular monthly meetings with the LGBTQ community; since their beginning in 2011, these meetings have addressed not only Boston issues but have expanded to include participation from statewide agencies, including the Massachusetts State Police, Massachusetts Bay Transit Authority (MBTA) police, and the Civil Rights Office of the FBI. Gay and lesbian police officers are very involved in the discussions. Partly as a result of statewide engagement in these monthly community meetings, the Boston Police Department, Massachusetts State Police, and MBTA police have all now instituted LGBT community liaisons.
- Many police departments, both large and small, participate in their cities’ Pride parades. The Louisville, Kentucky, mayor and chief of police walked in their local Pride parade for the first time in 2016, as a show of solidarity after the Pulse massacre in Orlando. The chief was invited to and spoke at a fundraiser for Orlando victims’ families at a local gay night club; he talked about the importance of being safe, and his department’s commitment to making sure that happens.
- When the Supreme Court of the United States issued the Obergefell decision⁴¹ in 2016, Austin, Texas’s, gay bar district celebrated with a rally, march, and street party—and the police department joined in, making it safe for the LGBTQ+ community by closing the streets to traffic. They also spoke at the rally, showing their support of the decision and involving their officers and department in the LGBTQ+ community’s unity.

Several police departments have partnered with the It Gets Better Project to produce videos to reach out to and inspire hope for LGBTQ+ youth facing harassment. The project has collected more than 50,000 user-created videos, including submissions from celebrities, organizations, activists, politicians,

³⁹ “Community Involvement,” Kansas City Anti-Violence Project, accessed January 12, 2017, <http://www.kcavp.org/home/training>.

⁴⁰ “Seattle Police Department Safe Place,” City of Seattle, accessed January 13, 2017, <https://www.seattle.gov/spd-safe-place>.

⁴¹ *Obergefell v. Hodges* (see note 3).

and media personalities,⁴² as well as from the following law enforcement and government agencies whose messages are aimed at change in their local communities:

- The video from the Austin Police Department Lesbian & Gay Peace Officers Association, comprising LGBT officers and civilian members of the Austin Police Department, is available at <http://www.itgetsbetter.org/video/entry/WBPhJjzLjmk>.
- The Atlanta Police Department’s video, showcasing LGBT personnel from many ranks—including a deputy chief, a captain, several lieutenants, sergeants, and officers—and an introduction from Chief George Turner, is available at <http://www.itgetsbetter.org/video/entry/9998/>.
- The San Francisco Police Department’s video, which includes Mayor Ed Lee, is available at, <http://www.itgetsbetter.org/video/entry/8104/>.
- The Seattle Police Department’s video, which features officers telling their stories and an intro by the chief of police, is available at <http://www.itgetsbetter.org/video/entry/9999/>. The City of Seattle Office of Civil Rights’ video, which also includes interviews with police officers, is available at <http://www.itgetsbetter.org/video/entry/9520/>.

Citizen and community police academies are an important means to building and fostering relationships between law enforcement agencies and their local communities. A great number of police departments incorporate LGBTQ+ cultural and sensitivity training into the academy curriculum, and some designate specific sessions just for that type of education. Examples include the following:

- One of the Louisville Metropolitan Police Department’s community relations officers (also designated as its LGBTQ liaison) worked to establish an LGBT citizen police academy. For 12 weeks each year, attendees learn about police work in different areas (e.g., hate crimes, domestic violence, human trafficking), police department policies, and the efforts law enforcement is making towards building relationships with different communities to make them safe. The academy recently had its third graduation.
- The LAPD holds an annual LGBT community police academy, a nine-week course of basic introduction to the department’s training and policies and state laws. Graduates become the department’s liaison representatives for their communities.
- The mission of the NYPD’s LGBT Liaison Unit is, in part, to maintain “an interactive role in recruit based and in-service police trainings regarding the LGBT community,” including at the department’s citizens police academy.⁴³

⁴² “What is the It Gets Better Project?” It Gets Better Project, accessed January 9, 2017, <http://www.itgetsbetter.org/pages/about-it-gets-better-project/>.

⁴³ “LGBT Outreach: An Informational Guide for Members of the LGBT” (New York: NYPD Community Affairs Bureau, 2014), http://www.nyc.gov/html/nypd/downloads/pdf/community_affairs/NYPDLGBO outreachTri-foldrev 11-14mm.pdf.

4. Implementation Audits and Evaluation

A major concern addressed by forum participants was the issue of monitoring and evaluation. Feedback mechanisms need to be created to allow ongoing dialogue between officers and the community, so that leadership can know what is working and what can be improved. Transparency, honesty, and all the principles of procedural justice need to be in place for evaluation to be effective.

Recommendations: implementation audits and evaluation

- Conduct regular audits and evaluations of policy implementation. Elements of such audits, which should ideally be conducted annually, could include the following:⁴⁴
 - Community forums at which individuals and organizations can come forward to share their experiences of policy implementation with police leadership without fear of retaliation
 - Regular “spot checks” of policy implementation at the precinct or division level through integrity audits and quality assurance reviews
 - Interviews with desk officers and line officers regarding their understanding of relevant policies and how those policies would apply in hypothetical situations identified in partnership with LGBTQ advisory group members based on real-life experiences and complaints
 - Regular review of complaints alleging discrimination or abuse based on sexual orientation or gender identity
- Regularly report on implementation of policy reforms, making information regarding steps taken to implement policies transparent and available to the public.
- Work with civilian oversight agencies and district attorneys to track complaints regarding issues related to sexual orientation and gender identity or expression, while respecting complainants’ confidentiality. Provide regular reports on departmental responses to trends in complaint patterns.

⁴⁴ Ideas for this section were generated from an unpublished paper by Jason Terry and members of the Policing Subgroup of the Federal LGBT/HIV Criminal Justice Working Group titled “Implementation of LGBTQ-Related Policing Policies and Long-Term Accountability” (included as appendix D) and input from interviews with participants conducted prior to the forum.

5. Recruitment and Internal Support for LGBTQ+ Officers

Departments need to be intentional about hiring and retaining LGBTQ+ officers. Departments can create working groups comprising advocates, current LGBTQ+ officers, unions, and members of the community to support recruitment and hiring. It is also critical to ensure infrastructure is in place to effectively communicate a department's inclusivity to potential recruits: LGBTQ+ recruits need to know that they are valued and that the department is willing to accommodate their needs when it comes to identity and expression. This will be an ongoing process that will evolve over time.

Recruitment strategies will include going to places where members of the LGBTQ+ community meet or celebrate and advertising in publications read by the LGBTQ+ community. Leadership and recruiters will need to go to community and advocacy group meetings and seek help identifying potential candidates. Websites, literature, and all written communication should emphasize inclusion of the LGBTQ+ community.

A theme in recent research into police interactions with LGBTQ+ people is the mistreatment of LGBTQ+ police officers within their own law enforcement agencies, through pranks, harassment, discrimination, and retaliation by other police officers. This continuing problem requires further research; however, there are many examples of internal support for LGBTQ+ officers that can be studied as a source of best practices and policies. Police departments across the U.S. have demonstrated visible, public support for diversity and inclusion in their ranks, as well as in the communities they serve. Police chiefs have told stories of transgender officers transitioning within their departments, and the resulting impact on education and training, relationships within the department, and developing and implementing policy. Even having a police contingent in Pride parades and other LGBTQ+ community events demonstrates to LGBTQ+ officers that the department supports and celebrates them.

Recommendations: hiring and creating a welcoming environment for LGBTQ+ officers

- As with sexual assault units, LGBT units need to have the right people. Including officers who are openly LGBTQ+ will help develop the important conversations in those departments, and that's when bias will begin to recede.
- It is important to develop a culture internally in police departments that welcomes diverse people. A culture of "you're not going to be judged here" invites more people into the department as staff or officers as well.

- Create a working group within the department to develop strategies for recruitment of LGBTQ+ officers and for solving issues that may arise with transgender officers considering or in transition.
- Culture is hugely related to all the issues of policing and should not be taken for granted. It is something that has to be reinforced with training and experience, then doubled down with good policy and supervision.

Model practices: hiring and creating a welcoming environment for LGBTQ+ officers

- The Boston Police Department has 15 officers involved in the Gay Officer's Action League (G.O.A.L.-New England). G.O.A.L functions as a support group for gay, lesbian, bisexual, and transgender sworn public safety officers and civilian employees of federal, state and local agencies. The Boston Police Commissioner attends G.O.A.L.-New England conferences. G.O.A.L. also serves as a bridge between law enforcement and LGBT communities. Other affiliates include G.O.A.L.-New York, G.O.A.L.-Chicago, and G.O.A.L.-Greater Philadelphia.
- An officer of the Louisville Metropolitan Police Department came out as transgender and transitioned after 15 years on the force. As a result, the department developed a policy, guidelines, and training for the department in supporting officers with on-the-job transitions.⁴⁵
- The San Francisco Police Department (SFPD)'s work with the Human Rights Commission in 2003 included the creation of the SFPD Pride Alliance, an LGBT employee group which, among other support activities for its members, hosts fundraising events to fund scholarships for gay youth, kids of LGBT parents, and kids of SFPD officers.
- Many of the Boston Police Department's officers march hand-in-hand, in uniform, in the city's Pride parade, as do the police commissioner and mayor. This is an important way to show support for officers and demonstrate support and celebration of the LGBTQ+ community.

⁴⁵ One helpful employee guide "sets forth guidelines to address the needs of transgender and gender non-conforming employees and clarifies how the law should be implemented in situations where questions may arise about how to protect the legal rights or safety of all employees." See *Transgender & Gender Non-Conforming Employees* (Los Angeles: Los Angeles County Sheriff's Department, n.d.), <http://www.theiacp.org/portals/0/documents/pdfs/lasdtransgenderemployeeeguide.pdf>.

6. Officer and Recruit Education and Training

The literature, pre-forum interviews, and comments in the forum all emphasized the importance of training in transforming a department. Curriculum design should be sensitive to the issues facing the LGBTQ+ community and should include input from advocates and those experienced in working with the LGBTQ+ population.

Police department trainings often include general sensitivity and diversity issues, but can also focus on specific issues that have a distinct impact on LGBT individuals and communities, such as bias-motivated crime, hate crime, or intimate partner violence. Some states' hate crime laws require law enforcement training on hate crime. In addition, many police departments across the country have implemented sexual orientation-specific and gender identity-specific trainings in a variety of contexts.

Recommendations: officer and recruit education and training

- Develop a working group of expert trainers and subject matter experts familiar with the LGBTQ+ community; partner with local LGBTQ+ organizations for assistance in developing and presenting training curricula at all levels of an organization and during roll call and in-service trainings.
- Ensure trainings are tailored to the community. Use diverse platforms, including social media.
- When a police encounter escalates, especially an encounter with young people, there's a rhetoric that develops along with it. But aggressive verbal contact, threats, and heteronormative and homophobic language should not be present in these encounters.
- Law enforcement officers need training in respect. It is important they understand the positive effect using proper pronouns can have during an interaction and how an officer's treatment of LGBTQ+ people can avoid escalation and make it easier to relate to the community. Training needs to be given at all levels of the department, and should be done consistently because of turnover.
- Proper training, protocols, and supervision are essential; if there's bias, a victim's claims may be dismissed. These, and other scenarios where bias leads to underreporting, can be complex cases law enforcement has not had proper training on, and we need to be more proactive on these issues rather than demonize police departments.
- Training in how to be an engaged, patient listener and engage with respect, even if we can't agree and solve the problem, is something that's missing from training academies and training throughout an officer's career. Police officers and leadership alike need to learn "empathic policing" through engagement opportunities with diverse populations.

- Ongoing, in-depth training is critical to effective policy implementation and cultural shift and transformation within police departments. Departments should do the following:
 - Intentionally allocate time to regularly train *all* officers throughout the department, focusing first on veteran officers, on policies governing interactions with LGBTQ+ people. Tailor training to the needs of particular groups: street officers, recruits, supervisors, investigators, etc.
 - Ensure that supervisors and superiors responsible for implementing policies attend each training to ensure officers take the training seriously to better understand and address officers' challenges in implementing policies, and to reinforce the potential consequences for failing to abide by policies.
 - Provide training on a regular and continuous basis. Refreshers should be provided at roll call and through daily training bulletins, and LGBTQ+ issues should be integrated into other training materials as well.
 - Ensure all trainings regularly cover issues related to transgender women, transgender men, people with other gender identities, gay men, lesbians, bisexual people, homeless youth, police sexual harassment and assault, seniors, hate violence, intimate partner violence (including on reporting/documentation), and understanding how LGBTQ+ people's experience may also differ based on race, ethnicity, and other factors.
 - Review training curricula with community groups, and consider allowing community groups to co-teach segments of the curriculum. Provide multiple ways for community groups, particularly smaller or under-resourced groups, to engage with officer trainings, such as by encouraging community members to make videos, help develop case scenarios or role plays, or develop printed materials for use in training.
 - Measure learning with evaluation tools such as pre- and post-tests; follow up as appropriate. Use multiple platforms for different adult learning styles, including in-person training, web-based training, and role plays and case scenarios.
- Final recommendations of the President's Task Force on 21st Century Policing regarding training for police officers include the following:
 - Recommendation 5.9: POSTs [Peace Officer Standards and Training] should ensure both basic recruit and in-service training incorporates content around recognizing and confronting implicit bias and cultural responsiveness.
 - Action Item 5.9.1: Law enforcement agencies should implement ongoing, top down training for all officers in cultural diversity and related topics that can build trust and legitimacy in diverse communities. This should be accomplished with the assistance of advocacy groups that represent the viewpoints of communities that have traditionally had adversarial relationships with law enforcement.

- Action Item 5.9.2: Law enforcement agencies should implement training for officers that covers policies for interactions with the LGBTQ+ population, including issues such as determining gender identity for arrest placement . . . as well as reinforcing policies for the prevention of sexual misconduct and harassment.⁴⁶

Model practices: officer and recruit education and training

- For the past 12 years, the Boston Police Department’s academy has invited LGBTQ people to come in to work with recruits; it has become an integral part of officer training and helps to create understanding between the department and the community.
- The Louisville Police Department has invested in Procedural Justice and Legitimacy training, to ensure that in every interaction, people come away feeling they’ve been respected and treated fairly. This training involves recognizing that everyone has biases and making sure that those biases don’t interfere with decisions officers or the department make—that nothing procedural can be based on personal judgments.
- The Atlanta Police Training Academy has people from the transgender community come out to teach the recruits, with the goals of creating understanding and personal connections and allowing the community to get to know their future police officers.
- Working with the seven community organizations represented on the Department’s LGBTQ Violence Prevention and Response Team, in 2015 all officers on the Metropolitan (Washington, D.C.) Police Department payroll received training on LGBTQ+ competency.
- The San Francisco Human Rights Commission developed an implicit bias training for sergeants and higher levels at the SFPD, initially focused primarily on race but now also focusing on LGBT issues. In addition, they developed a transgender training for the department and then created a task force that required community members and police to work together, encouraging familiarity and communication.
- Philadelphia Police Department cadets take courses on sensitivity and diversity led by Philadelphia’s Office of LGBT Affairs and LGBTQ community leaders.⁴⁷
- The Santa Barbara (California) Police Department implemented a training program in 2011 to address safety issues concerning LGBT community members. The five-hour training sessions are aimed at improving safety conditions in the LGBT community by training officers to respond to several types of potentially dangerous scenarios. The program was organized by a coalition of various local institutions and gender-oriented support groups along with the police department, and

⁴⁶ President’s Task Force, *Final Report*, 58 (see note 4).

⁴⁷ “LGBTQ: Serving the LGBT Community as a Unified City,” Temple University, last updated May 10, 2016, <https://philadelphianeighborhoods.com/2016/05/10/lgbtq-serving-the-lgbt-community-as-a-unified-city/>.

gives police and LGBT community members “the opportunity to work together to address oft-overlooked concerns . . . helping officers learn how to handle sensitive situations that require a more thoughtful approach to law enforcement.”⁴⁸

- In early 2014, with the aim of eliminating a wide gulf of distrust in the community, the Baltimore Police Department began training officers in Fair and Impartial Policing. The program was expanded in 2015 to include police leaders and community members and has been used in academy classes and schools for newly appointed sergeants and lieutenants. The program has also been implemented in Las Vegas, Nevada; Tampa, Florida; Durham, North Carolina; and Philadelphia, Pennsylvania, and is “part of a nationwide effort promoted by the Department of Justice to enhance officers’ understanding of how biased policing—whether implicit or explicit—impacts relationships in fighting crime.”⁴⁹

⁴⁸ Kristin Crosier, “LGBT Safety Concerns Prompt Police Department to Conduct New Training,” *UC Santa Barbara Daily Nexus*, May 22, 2012, <http://dailynexus.com/2012-05-22/lgbt-safety-concerns-prompt-police-department-conduct-training/>.

⁴⁹ Mark Puente, “Baltimore Police Training Designed to Eliminate Racial Bias,” *Baltimore Sun*, November 26, 2014, <http://www.baltimoresun.com/news/maryland/bs-md-impartial-police-training-20141126-story.html>.

Conclusion

The right to live openly and freely as a lesbian, gay, bisexual, transgender, queer, or questioning person must be safeguarded by law enforcement, and the LGBTQ+ community needs to have trust both in laws and in the institutions that enforce them. Trust is not merely an abstraction; rather, it is forged in the daily interactions between law enforcement and the community it serves. If a law enforcement agency, through individual or departmental bias or through the enforcement of biased laws, excludes a person or a class of persons from full participation in those rights, then not only the department, but the entire profession, loses its legitimacy in the eyes of the community.

Law enforcement agencies today are working hard to regain and restore the legitimacy that a history of bias has eroded. The forum on Protecting the Rights of the LGBTQ+ Community raised critical issues but also revealed that law enforcement is willing to change. Change is necessary and it must come through the development of enforceable policies, culturally sensitive training, and effective communication. Transparency, accountability, and honesty—all characteristics of procedural justice—must become the norm if our society is to truly be inclusive and fully integrated.

Appendix A. Sample Policy: Police-LGBTQ+ Interactions

Disclaimer: The inclusion of this resource, which is referenced throughout this report, is for informational purposes only and does not constitute an endorsement of specific individuals and/or organizations, or their policies, products, and services, by the U.S. Department of Justice. The formatting of this appendix has been adjusted to adhere to COPS Office publication standards and to enhance accessibility. Its content has not been altered.

Draft Sample Policy for Law Enforcement Interactions with LGBT Individuals

*Developed by Andrea J. Ritchie, Soros Justice Fellow,
and the Policing Subgroup of the LGBT/HIV Federal Criminal Justice Policy Working Group*

Purpose

This policy provides officers and other agency employees with guidance with respect to interactions with, and searches, arrest processing and detention of lesbian, gay, bisexual and transgender and gender-nonconforming (LGBT) persons so that officers and other members of the agency can interact with LGBT people in an appropriate, respectful and unbiased manner.

Policy

It is the policy of this agency to apply and administer all programs, initiatives, and activities without discriminating on the basis of race, color, ethnicity, national origin, religion, gender, disability, sexual orientation, gender identity, or gender expression.

Factors such as a person's race, sex, sexual orientation, gender, gender identity, gender expression, age, dress, unusual or disheveled or impoverished appearance do not alone justify even a brief detention, a request for identification, or an order to move on, nor do general complaints from residents, merchants or others.

Agency employees shall be professional and courteous to all members of the public, including lesbian, gay, bisexual, transgender and gender-nonconforming persons. The policy of this agency is to interact with such persons in an unbiased, fair and respectful manner at all times, including when initiating stops, responding to requests for assistance, verifying identification, performing searches, arrests, transportation, and detention.

Any substantiated claim of misconduct or harassment or violation of these policies may result in discipline up to and including termination of the members' employment, civil penalties, or other punitive actions as deemed appropriate.

Terminology

Gender Identity: An individual's internal, deeply held sense of gender. Unlike gender expression (see below), gender identity is not visible to others.

Gender Expression: External manifestations of gender; frequently expressed through one's name, pronouns, clothing, haircut, behavior, voice, or body characteristics.

Sexual Orientation: A term describing a person's attraction to members of the same sex and/or a different sex, often termed lesbian, gay, bisexual, heterosexual, pansexual or asexual.

Transgender (adj.): A term for people whose gender identity, expression or behavior is different from those typically associated with their assigned sex at birth. Transgender is a broad term and is appropriate for anyone to use. "Trans" is shorthand for "transgender." (Note: transgender is correctly used as an adjective, not a noun, thus "transgender people" is appropriate but "transgenders" is often viewed as disrespectful.)

Intersex: "Intersex" is an umbrella term used to describe a wide range of natural bodily variations. Intersex people are born with a reproductive or sexual anatomy and/or chromosome pattern that does not seem to fit typical definitions of "male" or "female." In some cases, intersex traits are visible at birth, while in others they are not apparent until puberty. Some intersex variations may not be visibly apparent at all. People with intersex conditions should not be assumed to be transgender. [Note: "Hermaphrodite" is an offensive and out-of-date term that should not be used.]

Profiling, discrimination, and verbal harassment interactions and forms of address

1. Members of the department shall address the public using names, pronouns and titles of respect appropriate to the individual's gender identity as expressed by the individual. Members will respectfully treat transgender, intersex and gender-nonconforming individuals in a manner appropriate to the individual's gender identity and/or expression, which may be different from their sex assigned at birth or what is listed on their official government-issued identification. Respectful treatment includes:
 - a. Using pronouns as requested by the individual (e.g. "she, her" for an individual who requests she/her pronouns; "he, his" for an individual who requests he/his pronouns; "they, them" for an individual who requests "they/them" pronouns.)

- b. Addressing all individuals, including transgender-identified individuals, by the name and gender pronoun they currently use. Members should be aware that individuals' names may change between one interaction and the next, and always use the name currently used by individuals.
 - c. If it is unclear what gender the person identifies as, members shall politely and discreetly ask individuals what gender pronoun and name they use.
 - d. When an individual self-identifies as transgender or states the name they use or gender, members shall not challenge this identity or request names previously used unless there is reasonable suspicion, supported by specific articulable facts linked to a specific suspect, time, place and circumstance, that such information is necessary for investigative purposes. Individuals shall not be penalized or suffer retaliation for clarifying name and pronoun usage by members of the department.
2. Members shall not:
- a. Request identification or otherwise initiate contact solely based on actual or perceived sexual orientation or gender identity or expression;
 - b. Inquire about intimate details of an individual's sexual practices, genitals, anatomy or medical history for the purpose of assigning an individual a gender based on anatomy;
 - c. Use language that is demeaning or derogatory to another person, in particular, language aimed at a person's actual or perceived gender identity, gender expression, or sexual orientation. This includes "he-she," "tranny," "faggot," "punk," "it," "shim," "thing," "dyke," "bull-dagger" or any other derogatory term;
 - d. Engage in any sexual harassment or assault of members of the public, while on or off duty, as defined by the department's policy on sexual misconduct; or
 - e. Consider an individual's gender identity, gender expression, or actual or perceived sexual orientation as a reason to stop, question, search or arrest that individual, a basis for reasonable suspicion, or as prima facie evidence that the individual is, has, or is about to engage in a crime, including, but not limited to, prostitution or lewd conduct.
3. Officers should be aware that the presence of needles may be indicative of prescribed hormone treatment and/or therapy and is not necessarily indicative of illegal drug possession or use, or drug paraphernalia.

Bathroom use

1. Individuals shall not be stopped, questioned, or arrested for using a single-sex restroom, including in bus stations or shelters, on the basis of a belief that the individual's gender expression does not match the gender designation of the single-sex restroom.
2. While in police custody, transgender, intersex and gender-nonconforming individuals shall be allowed to use the restroom in accordance with their gender identity. However, if the individual has safety concerns with using the restroom, that individual may use the restroom they feel will be safest for them.

Police reports and other official documents

1. Members shall note the name and gender pronoun currently used by individuals as "name and pronoun used" in memo books and on departmental forms, such as arrest forms. All officers shall use the listed "name and pronoun used" when referring to a person in police custody. Members shall not consider or document the name an individual currently uses as an "alias" or "nickname." All departmental forms shall allow a space for "Name used" and "Legal Name (if different from above), in addition to any spaces currently designated for "alias."
 - a. If a question or doubt arises about gender identification, the member of the department shall politely and discreetly inquire how the individual wishes to be addressed (e.g., Sir, Miss, Ms., Mr., he, she, they) and the name by which the individual wishes to be addressed. This name shall be noted on all police reports and documents in a box designated "name and pronoun used" if it differs from the individual's legal name.
 - b. If an individual has legally changed their name or gender marker, members shall not question this or ask for an individual's name or sex assigned at birth in the absence of reasonable suspicion, supported by specific articulable facts, linked to a particular suspect, time, place and circumstances, that the information is necessary for investigative purposes.
2. Transgender people who present a gender or name that differs from the gender or name on their identification documents or in official databases are typically expressing their gender identity and should not be presumed to be knowingly misrepresenting information concerning their name or gender, and should not be charged with false personation or analogous offenses solely on that basis.

Responses to violence

1. A member shall not fail to respond to a call for service or complaint on the basis of the gender identity, gender expression, and/or sexual orientation of the caller or complainant.
2. A member shall not fail to respond to an individual, fail to investigate crimes, or fail to take requests or complaints seriously on the basis of someone's actual or perceived sexual orientation, gender identity or expression, including calls to report cases of domestic, sexual, homophobic or transphobic violence.
3. When responding to calls for service relating to domestic violence, assault, harassment or other concerns, members shall not make assumptions about which individual(s) may be victims and/or suspects based on their race, ethnicity, national origin, religion, gender identity, gender expression, and/or sexual orientation, disability, immigration status or housing status.

Frisks

1. Under no circumstances shall members of the department frisk any person for the purpose of viewing or assigning gender based on the person's anatomy or genitalia or for any demeaning or harassing purpose.
2. Transgender, intersex, and gender-nonconforming individuals shall not be subject to more invasive frisk procedures than other individuals in the field or in police holding facilities.
3. Where circumstances permit, an individual may request to be frisked by a male or female officer. In exigent circumstances, the officer is not required to comply with the request.

Searches

1. Under no circumstances shall members of the department conduct a search of any person, including searches premised on an individual's consent, for the purpose of viewing or assigning gender based on the person's anatomy or genitalia or for any demeaning or harassing purpose.
2. Transgender, intersex, and gender-nonconforming individuals shall not be subject to more invasive searches than other individuals in the field or in police holding facilities.
3. Before searching an individual when no other lawful basis exists for the search other than an individual's consent, members shall inform the individual of their right to refuse a search, and ask for the written or recorded consent of the individual to be searched. If no such consent is provided, then no search will be conducted.

4. Before conducting any search of an individual in the field or at a police holding facility, officers conducting the search will ask the individual to be searched their preference with respect to the gender of the officer conducting the search (i.e. a trans woman may prefer to be searched by female members of the department). This request will be honored absent exigent circumstances, which shall be documented in writing as set forth below. This provision does not apply to frisks conducted to ensure officer safety.
 - a. If exigent circumstances exist, then the default should be for the individual to be searched by a female officer, unless a male officer is explicitly requested prior to or during the search. A search of a transgender, gender non-conforming, or intersex person by an officer sharing the same gender identity shall be considered a same-sex search for purposes of the Prison Rape Elimination Act (PREA) and any other applicable law.
 - b. If no officer of the gender requested is available, then members shall:
 - i. Summon an officer who is of the gender requested by the individual to conduct the search; and if no such officer is available within a reasonable time frame or the individual's request is not honored for any other reason, the member shall document in the command log the individual's preference with respect to the gender of the officer performing the search, and the reason the individual's preference was not honored.
 - ii. If an officer of the same sex is not available to conduct a legally justified strip search, then such a search may only be conducted in private by a physician as a last resort.
5. At no time shall a member refuse to search someone based on actual or perceived gender identity or gender expression.

Transporting transgender, intersex, and gender-nonconforming individuals

1. All members are required to contact dispatch at the beginning and end of transport and to document mileage from start to finish of each trip to transport arrestees.
2. Members shall transport transgender, intersex, and/or gender-nonconforming individuals with other arrestees of the same gender identity and expression unless the individual has expressed a safety concern and the wish to be transported alone or with people of a different gender identity.

Juveniles in custody

1. This policy shall also apply to juveniles as a complement to any special provisions already in place for juveniles in custody.
2. Members shall not disclose to parents or guardians sensitive information they discover about an individual's gender identity, gender expression, or sexual orientation. This information shall be kept private so as to avoid placing the juvenile at increased risk for violence or rejection in the home, and to allow the juvenile to choose whether to provide the information.

Placement in police custody

1. In the event that a transgender or gender-nonconforming person is in police custody and held in an area designated as single-sex, the individual shall be consulted on where they feel most safe before placement, and every effort will be made to ensure the person will be placed where they will feel most safe. Such safety preference for placement will be documented in writing. Unless individuals express a concern for their safety, individuals shall be housed in a manner consistent with their gender identity. All placements made that are not in accordance with what the arrested individual believes would be safest shall be documented in writing, with a detailed explanation for why the safety requests of the individuals were overridden.
2. Transgender, gender-nonconforming, and intersex individuals shall not be arbitrarily placed in segregated cells solely because of their transgender, gender-nonconforming, or intersex status or for their own protection, unless they have expressly requested to be so placed.
3. Requests to remove appearance-related items shall be consistent across genders while in police custody. Transgender people shall not be asked to remove appearance-related items (such as prosthetics, bras, clothes and undergarments of the presenting gender, wigs, or cosmetic items) if non-transgender individuals are not also required to do so. Whenever practicable, removal of items shall be conducted in private.
4. Transgender, gender-nonconforming, and intersex individuals shall not be handcuffed to railings, chairs, or other devices for any length of time solely because of their transgender, gender-nonconforming, or intersex status or for their own protection.
5. Transgender, gender non-conforming, and intersex individuals shall not be held longer than necessary for processing.

Training

1. The department shall implement full and regular training of new recruits, current members of the department, supervisors, and commanders on this policy and other matters related to the LGB and trans, intersex, and gender-nonconforming community.
2. Trainings shall be led or co-facilitated in meaningful part by members of the LGBT community who have experience with the department and by organizations knowledgeable about these issues and communities.
3. Training on transgender, intersex, and gender-nonconforming issues shall be incorporated throughout all officer trainings, including during search and seizure training and “cultural sensitivity” training. Members shall receive a minimum of a full day of training specifically on transgender, intersex, and gender-nonconforming issues and periodic roll-call trainings or other shorter “refresher” trainings.

Complaints

The following provisions should be added to the relevant agency provisions regarding complaints:

1. The department shall anonymously track all complaints concerning the quality of police services on the basis of gender identity, gender expression, and/or sexual orientation and make this data publicly available and accessible.
2. Copies of all complaints against members concerning the quality of police services on the basis of gender identity, gender expression, and/or sexual orientation shall be brought to the attention of the relevant civilian oversight agency.

Access to medication (including gender-affirming and HIV medications) and medical treatment

The following provisions should be added to the relevant agency policies governing access to medication in police custody:

1. Police must affirmatively ask individuals in custody whether they will need access to prescription medication during the time period before arraignment;
2. People in custody must be informed that if they need medication, they may request to be transported to a local hospital to be assessed by a doctor and administered any required medication. The hospital should issue enough medication to last through the entire arraignment process;

3. If an arrestee possesses prescription medicine at the time of arrest, the police officer who processes the arrest must fill out a Medical Treatment Form, recording the information on the individual's prescription bottle, including the name of the medication and dosing information, as well as the name and telephone number for the pharmacy and the individual's doctor;
4. Medication must be vouchered with personal property;
5. The Medical Treatment Form must accompany the person in custody through the arrest processing and be provided to any paramedic and other healthcare workers the arrestee will encounter in custody;
6. If the person in custody does not have prescription medication on hand but wants information about it to be available to health care workers, the person in custody must be permitted to contact a member of his or her household to bring it to the station, where the police can record prescription bottle information on the Medical Treatment Form;
7. Police must not discourage people in custody who need medication from asking for it by telling them that a trip to the hospital for medication will delay release from custody. Periodic assessments should be conducted to ensure that processes to ensure access to medication do not delay arraignment.

Medical treatment of transgender, intersex, and/or gender-nonconforming people in custody

1. If arrestees are permitted to retain and/or take prescription items while in custody, prescription hormones shall be treated like any other prescription medication necessary for an individual's health and wellbeing.
2. Whenever a transgender, intersex, and/or gender-nonconforming individual expresses a need for medical attention, members shall handle the situation with the same urgency and respect as any medical need or injury, including for injuries sustained during arrest.

Appendix B. Sample Policy: Sexual Misconduct

Disclaimer: The inclusion of this resource, which is referenced throughout this report, is for informational purposes only and does not constitute an endorsement of specific individuals and/or organizations, or their policies, products, and services, by the U.S. Department of Justice. The formatting of this appendix has been adjusted to adhere to COPS Office publication standards and to enhance accessibility. Its content has not been altered.

Draft Sample Policy Concerning Sexual Harassment and Misconduct by Law Enforcement against Members of the Public

*Developed by Andrea J. Ritchie, Soros Justice Fellow,
and the Policing Subgroup of the LGBT/HIV Federal Criminal Justice Policy Working Group*

Background

The International Association of Chiefs of Police (IACP) recommends that all law enforcement agencies adopt written policies specifically addressing sexual harassment and misconduct by members of law enforcement agencies against members of the public and arrestees. Additionally, a core requirement of the Prison Rape Elimination Act (PREA) standards is that law enforcement agencies create a written policy addressing “all forms of sexual abuse and sexual harassment and outlining the agency’s approach to preventing, detecting, and responding to such conduct.”⁵⁰ (§151.111) The standards also require agencies to “employ or designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its lockups.”

Policy

This agency strictly prohibits sexual harassment, sexual assault, sexual misconduct, sexual abuse, and rape of any member of the public by any member of the agency. Engaging in such conduct will be grounds for immediate discipline, up to and including suspension and/or termination.

⁵⁰ While PREA standards apply with equal force to sexual misconduct by police and prison officials and by fellow detainees, arrestees, and prisoners, this policy addresses only sexual misconduct by police officers.

Definitions

Sexual misconduct by law enforcement is defined as any behavior by an officer that takes advantage of the officer's position in law enforcement to misuse authority and power (including but not limited to force) in order to commit a sexual act, initiate sexual contact with another person, or respond to a perceived sexually motivated cue (from a subtle suggestion to an overt action) from another person. It also includes any communication or behavior by an officer that would likely be construed as lewd, lascivious, inappropriate, or conduct unbecoming an officer or that violates general principles of acceptable conduct common to law enforcement. Additional forms of sexual misconduct include adult consensual sexual contact while on duty, voyeuristic behavior, and non-sexual contacts (e.g., unnecessary call backs to crime victims and witnesses).

Prohibited conduct

1. **Sexual activity on duty** – Engaging in sexual activity or sexually motivated behaviors is prohibited under any circumstances:
 - a. while on duty, or
 - b. in a police vehicle under control of the agency, or
 - c. in, or at, a police or governmental facility.

Engaging in sexual activity while on duty is harmful to the agency's reputation and a breach of the public's trust. It is prima facie evidence of neglect of duty. Examples of prohibited sexual activity or sexually motivated behaviors include:

- i. sexual contact by force (e.g., sexual assault, rape);
- ii. extorting sexual favors in exchange for not taking law enforcement action, ticketing or arresting an individual;
- iii. gratuitous physical contact with suspects (e.g., inappropriate or unnecessary, or unnecessarily invasive searches, frisks or pat-downs, unnecessarily brushing up against members of the public);
- iv. officer-initiated sexual contacts while on duty;
- v. engaging in citizen-initiated sexual contact while on duty;
- vi. sexual behavior while on duty (e.g., masturbation, viewing and/or distributing pornographic images, sexting);

- vii. unnecessary contacts/actions taken by officers for personally and/or sexually motivated reasons (e.g., unwarranted call backs to crime victims, making a traffic stop to get a closer look at the driver for non-professional reasons);
- viii. inappropriate or unauthorized use of personal information, including telephone numbers, obtained from individuals in the course of duty, and of agency resources and/or information systems for other than legitimate law enforcement purposes;
- ix. any display of a member's uncovered genitalia, buttocks, or breast in the presence of an arrestee, detainee, or resident, and;
- x. voyeuristic actions that are sexually motivated (e.g., looking in windows of residences for sexually motivated reasons). Voyeurism is defined as an invasion of privacy of an arrestee, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an arrestee who is using a toilet in his or her cell to perform bodily functions; requiring an arrestee to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an arrestee's naked body or of an arrestee performing bodily functions.

2. **Sexual activity off-duty**

- a. Employees shall not use any agency facility or property, vehicle, or information system to initiate or participate in a sexual act with another or engage in voyeuristic behavior that is personally or sexually motivated.
 - b. Agency members shall not use their official position, official identification cards or badges to coerce, persuade, force or initiate sexual contact or penetration with anyone, or to solicit sexual conduct when off duty.
3. **Sexually inappropriate material** – Unless the employee can demonstrate a legitimate agency interest in such conduct, such as a recognized policy investigation into criminal activity or employee misconduct, employees shall refrain from any communications of sexually inappropriate material, electronic or otherwise, while on duty.
4. **Unnecessary law enforcement activity** – Officers shall not conduct any stop or investigation that is personally or sexually motivated and falsely veiled as a legal and warranted action within policy. Employees shall avoid inappropriate or unnecessary search, frisk or pat-downs.
5. **Discriminatory or sexual language or gestures** – In the performance of their duties, members shall not use coarse, violent, profane or insolent language or gestures, and shall not express any prejudice concerning race, ethnicity, religion, politics, national origin, lifestyle, gender, disability, sexual orientation, gender identity, or any personal characteristics. Discourteous conduct may include overt rudeness, annoyance, abusive or insulting language, racial or ethnic slurs, overbearing attitude, sexual or social references, disrespect, or a lack of proper attention or concern.

Frisks

1. Under no circumstances shall members of the agency frisk any person for the purpose of viewing or assigning gender based on the person's anatomy or genitalia or for any demeaning or harassing purpose.
2. Transgender, intersex, and gender-nonconforming individuals shall not be subject to more invasive frisk procedures than other individuals in the field or in police holding facilities.
3. At no time should a frisk involve touching of the breasts, genital area or buttocks absent reasonable suspicion to believe that an individual is concealing a weapon presenting an immediate danger to the officer in that location, or probable cause to believe that an individual is concealing weapons, evidence or contraband in that location.
 - a. When conducting a frisk of a woman, if the officer has a reasonable suspicion that a weapon is concealed in the chest area, the proper method of frisking the area consists of blading the side of the hand in between the breasts and then running the side of the hand underneath the breasts, palm facing downwards.

Searches

1. Under no circumstances shall members of the agency search any person, including searches premised on an individual's consent, for the purpose of viewing or assigning gender based on the person's anatomy or genitalia, or for any demeaning or harassing purpose.
2. Transgender, intersex, and gender-nonconforming individuals shall not be subject to more invasive searches than other individuals in the field or in police holding facilities.
3. At no time should a search involve touching of the breasts, genital area or buttocks absent probable cause to believe that an individual is concealing weapons, evidence or contraband in that location.
 - a. When conducting a search of a woman, if the officer has probable cause to believe that a weapon, evidence or contraband is concealed in the chest area, the proper method of searching the area consists of blading the side of the hand in between the breasts and then running the side of the hand underneath the breasts, palm facing downwards.
4. Before searching an individual when no lawful basis exists for the search other than the individual's consent, members shall inform the individual of their right to refuse a search based on consent, and ask for the written or recorded consent of the individual to be searched. If no such consent is provided, then no search will be conducted.

5. Before conducting any search of an individual in the field or at a police holding facility, officers conducting the search will ask the individual to be searched their preference with respect to the gender of the officer conducting the search (i.e. a transgender woman who identifies as a woman may prefer to be searched by female members of the agency). This request will be honored absent exigent circumstances, which shall be documented in writing as set forth below. This provision does not apply to frisks conducted to ensure officer safety.
 - a. If exigent circumstances exist or the search involves a frisk conducted to ensure officer safety and there is no time to determine whether the individual would feel safer with a male or female officer, then the default should be for the individual to be searched by a female officer, unless a male officer is explicitly requested prior to or during the search. A search of a transgender, gender non-conforming, or intersex person by an officer of the same gender identity shall be considered a same-sex search for purposes of PREA and any other applicable law.
 - b. If no officer of the gender requested is available, then the members shall:
 - i. Summon an officer who is of the gender requested by the individual to conduct the search; and if no such officer is available within a reasonable time period or the individual's request is not honored for any other reason, the member shall document in the command log the individual's preference with respect to the gender of the officer performing the search, and the reason the individual's preference was not honored.
 - ii. If an officer of the same sex is not available to conduct a legally necessary strip search, then such a search may only be conducted in private by a physician as a last resort.
 - c. At no time shall a member refuse to search someone based on actual or perceived gender identity or gender expression.

Transport

1. All members are required to contact dispatch at the beginning and end of transport and to document mileage from start to finish of each trip to transport arrestees.

Additionally, it is recommended that all police vehicles will be equipped with global positioning service (GPS) devices to track their location at all times.

Police lockups

1. Educational material concerning the agency's policy concerning sexual harassment, assault, abuse and misconduct shall be provided to all arrestees upon arrival at a police facility, and shall be displayed throughout police facilities through posters and written materials in commonly spoken languages. Such material will include information about arrestees' options for reporting

sexual abuse and sexual harassment, retaliation for reporting such an incident, or staff neglect or violation of responsibilities that may have contributed to the abuse. (For example: Arrestees may make a report of sexual abuse or sexual harassment by informing any staff member verbally or in writing; requesting a medical consultation through sick-call; having a friend or family member report on their behalf verbally or through the agency webpage. (PREA Standard §115.151 (a)(b)). Contact information for a local rape crisis center or other victim advocacy organization should also be included.

2. Officers will refrain from observing arrestees using toilets or engaging in private bodily functions absent exigent circumstances.
3. The department provides arrestees multiple ways to privately report sexual abuse and sexual harassment, including one method for reporting to an outside entity. Specifically, the department has entered into an agreement with an outside entity that is not part of the agency (i.e., [X city] police or a civilian oversight agency), and that is able to receive and immediately forward reports of sexual abuse and sexual harassment to agency officials.
4. The department has entered into an agreement with [local rape crisis center] reflecting that the center's information is being provided to arrestees, who may contact the organization upon release or transfer from the lockup, to ensure the provision of care for arrestees following a sexual assault.

Duty to report

1. Members of the agency shall immediately report to their direct supervisor any knowledge, suspicion, or information regarding an incident of: sexual abuse or sexual harassment by any member of the agency or retaliation against arrestees or staff who reported such abuse. Staff are also required to report any neglect of duties or deviation from agency policy that may have contributed to an incident of sexual abuse or sexual harassment. If a staff member is unable to report to their direct supervisor for any reason, the report may be made directly to the agency PREA Coordinator (§115.161 (a) and §115.151 (d)).
2. Staff shall not reveal any information regarding a report of sexual abuse or sexual harassment to anyone other than their direct supervisor or the agency PREA Coordinator (§115.161 (b)).
3. Arrestees and staff who report sexual abuse and sexual harassment, or cooperate with an investigation, will be protected from retaliation (§115.167 (a)).

Response to allegations of sexual assault or misconduct

1. Where the allegations relate to sexual misconduct that took place outside of a police holding facility governed by PREA, they shall immediately be referred to a civilian oversight agency, if one exists. In the absence of a civilian oversight agency, the complaint shall be investigated by

designated officers not assigned to the same precinct or unit as the alleged perpetrator, who have received training specific to investigation of police sexual misconduct as well as training specific to investigation of sexual assault.

2. Where the allegations relate to sexual misconduct that took place in a police holding facility governed by PREA, the PREA Coordinated Response Team will make recommendations regarding housing changes, transfers, and the provision of emotional support services for arrestees (§115.165). Refer to the Agency Coordinated Response Protocol for information about the Coordinated Response Team and investigations.
3. The PREA Coordinator will meet directly with arrestees and staff who report to monitor them for retaliation on the day after the report is made and weekly thereafter; the PREA Coordinator will also make recommendations to the agency on how to protect that person, if deemed necessary.
4. The agency shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation unless the allegation has been determined to be unfounded. This review shall ordinarily occur within 30 calendar days of the conclusion of the investigation. The review team shall include upper-level management officials, with input from line supervisors and investigators. The review team shall:
 - a. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
 - b. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or was motivated or otherwise caused by other group dynamics at the lockup;
 - c. Examine the area where the incident allegedly occurred to assess whether physical or other conditions in the area may enable abuse;
 - d. Assess the adequacy of staffing levels in that area during different shifts;
 - e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff;
 - f. Prepare a report of its findings, including, but not necessarily limited to, determinations made pursuant to the incident review, any recommendations for improvement and submit such report to the PREA Coordinator; and

The agency shall implement the recommendations for improvement, or shall document its reasons for not doing so (§115.186).

5. Using a standardized instrument and set of definitions, the agency shall collect accurate, uniform data for every allegation of sexual abuse at locations under its direct control. The agency shall maintain, review, and collect data as needed from all available documents and sexual abuse incident reviews.
6. The agency shall aggregate the incident-based sexual abuse data at least annually. The data collected shall include the data necessary to answer all questions from the Local Jail Jurisdictions Survey of Sexual Violence conducted by the Department of Justice, or any subsequent form developed by the Department of Justice and designated for police lockups.

Prevention and oversight

In order to effectively prevent, detect and ensure accountability for police sexual misconduct, departments should:

1. Contract with local anti-violence organizations to conduct exit interviews and random contacts with individuals who have been stopped, detained or arrested by police within one week to inquire as to whether the individual experienced sexual harassment or misconduct.
2. Conduct unannounced supervision of officers in the field on a regular (at a minimum, weekly) basis in order to monitor interactions for compliance with this policy.
3. Incorporate the following into quarterly reviews of officers' performance:
 - a. Review of number of stops of women
 - b. Review clearance rate of stops and arrests of women
 - c. Review of language used in reports to describe women and LGBT individuals
 - d. Review of complaints received from members of the public and fellow officers regarding sexually inappropriate language, conduct, and behavior
4. Prohibit hiring or promoting officers with a history of perpetrating sexual abuse in the community or in an institutional setting; and consider any incidents of sexual harassment in its review of candidates for employment or promotion (115.117).
5. Regularly conduct integrity audits designed to detect violations of this policy.
6. Independently audit agency compliance with this policy on an annual basis.

7. Review data collected and aggregated concerning violations of this policy in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, by:
 - a. Identifying problem areas;
 - b. Taking corrective action on an ongoing basis; and
 - c. Preparing an annual report of its findings and corrective actions for each lockup, as well as the agency as a whole.
 - i. The report should include a comparison of the current year's data and corrective actions with those from prior years, and should provide an assessment of the agency's progress in addressing sexual abuse. The agency report should be made readily available to the public through its website.

Appendix C. Sample Policy: Condoms

Disclaimer: The inclusion of this resource, which is referenced throughout this report, is for informational purposes only and does not constitute an endorsement of specific individuals and/or organizations, or their policies, products, and services, by the U.S. Department of Justice. The formatting of this appendix has been adjusted to adhere to COPS Office publication standards and to enhance accessibility. Its content has not been altered.

Draft Sample Policy for Law Enforcement Governing Confiscation and Citation of Condoms as Evidence of Prostitution-Related Offenses

*Developed by Andrea J. Ritchie, Soros Justice Fellow,
and the Policing Subgroup of the LGBT/HIV Federal Criminal Justice Policy Working Group*

Uniformed members of the service are advised that confiscating, citing, and invoicing condoms as arrest evidence for any prostitution-related offenses may compromise public health by creating a disincentive for vulnerable populations, including sex workers, people in the sex trade and victims of trafficking, to carry, distribute, share, receive or keep condoms on premises in order to engage in safer sex practices.

Accordingly:

1. Members of the service are prohibited from confiscating unused condoms from individuals under any circumstances.
2. Members of the service are prohibited from citing to or relying on the presence or possession of condoms to any degree as the basis for reasonable suspicion or probable cause to believe that an individual has engaged in or intends to engage in any prostitution-related charge, including patronizing, promoting, maintaining a premise, or trafficking.
3. Members of the service are prohibited from commenting on the presence or possession of unused condoms, or from asking individuals questions regarding the purpose and intended use of condoms, or regarding their sexual practices.
4. Members of the service are prohibited from harassing individuals or businesses engaged in the distribution of condoms, or from threatening to use presence or possession of condoms as a basis for ongoing harassment or initiation of any law enforcement action.

Procedure: When a uniformed member of the service effects any prostitution-related arrest and the prisoner is in possession of condoms, these should be invoiced as personal property to be returned upon release. Under no circumstances shall the presence or possession of condoms be referenced in any criminal complaint, supporting deposition, or any other departmental form.

Appendix D. Policy Implementation and Accountability

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Implementation of LGBTQ-Related Policing Policies and Long-Term Accountability

*Developed by Jason A. Terry and members of the Policing Subgroup of the Federal LGBT/HIV Criminal Justice Working Group
July 21, 2015*

Introduction

Recent years have seen increased visibility of the unique issues facing the LGBTQ community when it comes to law enforcement, and adoption of some of the most progressive law enforcement policies with respect to interactions with LGBT people in a number of jurisdictions around the country.

However, development of clear and transparent mechanisms for ensuring effective implementation of policies and accountability for violations has been slower to come. At the local level, many LGBT organizations and community members have been disappointed at the slow pace of change and culture shift within departments, even after policy victories have been won. Though data on this subject is quite limited, the studies that do exist reinforce the point that policy change does not necessarily lead to change on the ground. For example, in the District of Columbia a 2012 survey of trans residents, conducted over five years after the Metropolitan Police Department adopted a groundbreaking general order on interactions with trans people, found that 55% of respondents remained uncomfortable speaking to the police. Of those who had interacted with police, a third reported being treated with disrespect.⁵¹

While many of the policies in place have been negotiated with highest level police officials, barriers to implementation throughout departments often go unaddressed, ranging from lack of training, lack of supervisory enforcement, or lack of willingness on the part of leadership to enforce policy change

⁵¹ E.A. Edelman et al., *Access Denied: Washington, DC Trans Needs Assessment Report* (Washington, DC: DC Trans Coalition, 2015), <https://dctranscoalition.files.wordpress.com/2015/11/dctc-access-denied-final.pdf>.

through accountability and discipline. Often, this can lead community members to become even more distrustful of law enforcement and further breakdown police-community relations.

The following recommendations have been developed by policing experts and community members with years of experience advocating for LGBTQ policing reforms to ensure that police departments -- and community members -- get the most out of hard won policy reforms.

Broader policy review

Based on challenges in policy implementation that have arisen in several cities across the country, we recommend that law enforcement agencies:

- Examine all departmental policies and procedures that may affect interactions with LGBTQ people and update as necessary. Examples include policies on profiling, stops, search and seizure, use of force, transportation, arrest processing, police sexual misconduct, policing prostitution-related offenses, access to medical treatment and medications while in police custody, use of restrooms while in police custody, confidentiality, evidence, responding to intimate partner violence, and responding to alleged hate crimes;
- Cross-reference relevant policies throughout police Standard Operating Procedures, Patrol Guides, and/or Policies, Procedures, and General/Standing Orders;
- Create a stand-alone document that is easily accessible to officers who come into contact with LGBTQ people so that they can receive quick guidance on appropriate procedures if they are unfamiliar with them without having to search through departmental procedures.
- Ensure policies do not contradict one another (i.e. ensure search, seizure and detention policies do not use language about sex and/or gender that would contradict an LGBTQ policy about searches of transgender or gender nonconforming persons).

Outreach and communications

Many police departments are perceived to be lacking in effective oversight and inaccessible to the communities they are intended to serve, including LGBTQ communities. In order to address this, departments should:

- Develop easily accessible publicly available information about departmental policy governing interactions with LGBTQ communities;

Institute an LGBTQ community advisory board/response team made up of individuals, agencies and organizations whose work focuses on policing and criminal justice issues, who work closely with LGBTQ populations who experience frequent police contact such as LGBTQ people of color, LGBTQ youth, homeless and low-income LGBTQ people, and transgender people. The advisory

board/response team should meet regularly (at least quarterly) with the Department Chief and be offered the opportunity to regularly receive and provide LGBTQ-related case updates and statistics for review, oversee development and implementation of policy and training, and serve as a source of designated community members to provide assistance and response in cases of homicides or violent assaults/police-involved crimes;

- Establish designated LGBTQ liaisons or liaison units, that will have connections with the community and will be available to respond to issues in a timely fashion. Specially trained and designated officers dispersed throughout the force may also fill or supplement this function;
- Ensure that senior leadership, especially chiefs/sheriffs, are accessible to community members. The LGBTQ liaison role should also have access to the Chief and senior leadership and an established role for providing input into policy and decision-making, rather than simply serving as a receptacle for concerns from the community;
- Regularly attend community events when invited and/or appropriate to attend. Respect community organizations' requests about the presence of uniformed officers (some may prefer officers to be identifiable, but not wear their uniforms to meetings, for example) or space/time taken by law enforcement officials in meetings;
- Recruit LGBTQ officers to the department;
- Develop a process for annual review of policies and training materials and clear mechanisms for soliciting feedback on policies from community members.

Implementation audits and evaluation

Too often, LGBTQ communities voicing concerns around implementation issues are told that individuals must come forward to lodge complaints to be investigated on an individual basis, or that a small number of complaints does not warrant department-wide action. This approach does not take into account the reality that there are many reasons individuals are reluctant to come forward to make complaints regarding failure to comply with police policy or procedures, including fear of police and of retaliation, homelessness or precarious economic situations, involvement in criminalized activities, or immigration status.

In order to ensure effective implementation, departments should:

- Conduct regular audits and evaluations of policy implementation. Elements of such audits, which should ideally be conducted annually, could include:
 - Community forums at which individuals and organizations can come forward to share their experiences of policy implementation with police leadership without fear of retaliation;

- Regular “spot checks” of policy implementation at the precinct or division level through integrity audits and quality assurance reviews;
 - Interviews with desk officers and line officers regarding their understanding of relevant policies and their application in hypothetical situations identified in partnership with LGBTQ advisory group members based on real-life experiences and complaints;
 - Regular review of complaints alleging discrimination or abuse based on sexual orientation or gender identity.
- Regularly report on implementation of policy reforms, making information regarding steps taken to implement policies transparent and available to the public;
 - Work with civilian oversight agencies and district attorneys to track complaints regarding issues related to sexual orientation and gender identity/ expression while respecting confidentiality of complainants. Provide regular reports on departmental responses to trends in complaint patterns.

Data collection and reporting

- DO NOT collect data on the gender identity, sexual orientation, or gender expression of individuals stopped, searched, subject to use of force or arrested by police officers as part of departmental data “demographic category” data collection (and ensure that definitions of demographic category don’t create loopholes whereby officers could collect this data);
- Create spaces on departmental forms to record the name an individual currently uses, along with their current gender even if it differs from that on their identification or associated with their criminal history. These spaces should be distinct from spaces used to report “aliases” and names used to conceal identity.
- Ensure transparency in crime data and response rates, release data at least annually, including hate crime trends and aggregate-level intimate partner violence trends;
- Create procedures and data tracking systems that enable alteration of an arrestee’s name or gender marker to reflect their current name and gender if they have a prior record of arrest. This will ensure that individuals’ rights and dignity are respected during police interactions, that individuals are not called by the wrong name or pronouns or subject to improper housing and other civil rights violations in police custody (see *Patti Shaw v. Benjamin Kates, et al*, Court of Appeals for the D.C. Circuit, Case No. 13-5212);
- Create confidential procedures to transfer information *provided on a voluntary and confidential basis* about an arrestee’s sexual orientation or gender identity/expression on a need to know basis for the sole purpose of ensuring the individual’s safety and dignity that do not create a permanent record, if required by policy.

Historic case review

Many homicides involving LGBTQ victims, especially trans women of color, remain unsolved for years, even decades. This leads to a community perception that police do not take these crimes seriously and are not committed to serve and protect transgender people on an equal basis.

- Police departments should periodically review open cases and provide updates to community members and stakeholders with as many details as possible without compromising an investigation. Simply asking community members to come forward with information is counterproductive given already high levels of mistrust.

Long-term accountability

Overlapping, mutually reinforcing accountability structures need to be in place in order to ensure that police departments are responsive to LGBTQ people and the communities they are a part of, including communities of color, homeless communities, youth, immigrant communities, communities of people with disabilities, etc.

Independent oversight agencies

Independent and vigorous civilian oversight is essential to effective enforcement of policing policies affecting LGBTQ people. Additionally, civilian oversight bodies must be representative of and responsive to the experiences of communities directly impacted by discriminatory policing. Where they exist, independent police oversight agencies should:

- Be independent of both law enforcement agencies and political interference through funding;
- Have subpoena power and the authority to impose discipline up to and including terminating an officer for misconduct rather than simply ordering administrative leave or making a disciplinary recommendation to the department;
- Conduct independent investigations, rather than simply monitor investigations conducted by departments.
- Develop expertise and commitment to receiving, analyzing and responding to complaints of sexual harassment and assault by law enforcement agents and discrimination and abuse based on sexual orientation and gender identity or expression, ensuring that complainants receive appropriate support and referrals, and developing campaigns to raise public awareness of these forms of police misconduct and abuse. Additionally, given the reluctance of victims of sexual assault to come forward to make complaints, routine spot checks and “stings” should be employed to detect and deter sexual harassment and abuse by police;

- Regularly analyze data on a range of police department practices to determine if there are disparities based on race, age, gender, gender identity, or sexual orientation in enforcement practices, and must be provided with sufficient resources to do so. Any information relating to sexual orientation and gender identity of complainants must be collected on a voluntary, confidential, and anonymous basis, after informed consent, and analyzed separately from any identifying information regarding the complainant;
- Offer individuals the opportunity to file complaints anonymously in order to ensure that they can do so without fear of retaliation or further abuse. Oversight bodies should accept and vigorously investigate complaints filed by third parties and organizations on behalf of individuals;
- Ensure there is a “rapid response” mechanism for dispensing with customer-service related complaints and a quick, nearly effortless way to make complaints. Consider technology such as phone apps, one-click complaint processes whereby an investigator can contact the complainant later for more details, processes that require minimal levels of literacy or understanding of English, etc.;
- Ensure investigators and other staff are regularly trained on LGBTQ competence, including volunteers, interns, and anyone who may come in contact with a complainant, and that intake forms are LGBTQ friendly (such as providing a blank line for gender identity, space for naming a preferred name and/or pronoun, etc.);
- Ensure oversight agencies have the authority to investigate departmental performance proactively by monitoring patterns of complaints or reported police misconduct, without having to wait to receive a large number of complaints on an issue, particularly given the history of distrust of complaint processes by community members;
- Report annually on the types of complaints received and their disposition, and work collaboratively with community members and organizations to address issues and situations related to the community, even when official reprimand or discipline was not implemented;
- Consider instituting a standing biased policing review committee and/or regularly scheduled studies of police bias on the basis of all forms of discrimination.

Officer training

Ongoing, in-depth training is critical to effective policy implementation and cultural shift and transformation within police departments. Departments should

- Intentionally allocate time to regularly train *all* officers throughout the department, focusing first on veteran officers, on policies governing interactions with LGBTQ people. Tailor training to needs of particular groups: street officers, recruits, supervisors, investigators, etc.;

- Ensure that supervisors and superiors responsible for implementing policies are present in each training to ensure officers take the training seriously, better understand challenges officers face in implementing policies in order to address them, and reinforce potential consequences for failing to abide by policies;
- Provide training on a regular and continuous basis, including refreshers provided at roll-call, through daily training bulletins, etc., integrating LGBTQ issues throughout other training materials as well;
- Ensure issues related to transgender women, gay men, lesbians, bisexual people homeless youth, police sexual harassment and assault, seniors, hate violence, intimate partner violence (including on reporting/documentation), and understanding the intersections between race, sexual orientation, and gender identity receive regular attention in any training;
- Review training curriculum with community groups, consider allowing community groups to co-teach segments of the curriculum, providing stipends or monetary compensation to community trainers, and working around their schedule to the extent possible. Ensure that community groups participating in training have direct experience working with policed communities, especially people of color (including Black and Latino/a people), transgender women, youth, and other directly impacted community members, and have established trust with a wide variety of LGBTQ community members. Provide multiple ways for community groups, particularly smaller or under-resourced groups, to engage with officer trainings, such as encouraging community members to make videos to assist in training, help develop case scenarios or role plays for trainings, or develop printed materials for use;
- Ensure content of training is specific to local contexts, culture, and issues, particularly in more rural areas or the South, to ensure officers fully understand the relevancy of training;
- Measure learning with evaluation tools such as pre- and post-tests and follow-up as appropriate, use multiple platforms for different adult learning styles, including in-person training, web-based training, role plays and case scenarios, etc.

Human resource management

Officer compliance with and support for departmental policy related to LGBTQ interactions should be measurable and included in both recruitment and performance evaluation procedures.

- For management level officers and staff, ensure compliance and enforcement of LGBTQ-related policies and procedures by including them as a criterion in performance evaluations;
- For patrol and other unionized officers, departments should engage with the union during contract renegotiation processes to include these compliance criteria a part of performance reviews;

- Departments should seek to create an internal culture of accountability, wherein officers are able and encouraged to report misconduct they see, and feel safe and supported in addressing problematic behavior directly with a colleague;
- When officers violate policy, there should be established, proportional and documented repercussions for that behavior;
- Departments should publish aggregate data on both internal and external complaints related to officer misconduct and the disposition of those complaints.

Legislative oversight

Local legislative bodies (or state legislatures, as appropriate), should:

- Hold annual, public oversight hearings on police agencies, including special hearings on relationships with LGBTQ and/or other marginalized communities in the communities they are intended to reach;
- Review criminal codes and alter/repeal provisions that contribute to criminalization of LGBTQ people, even if not enforced, including outdated sodomy laws and unconstitutional prostitution-free-zone laws;
- In jurisdictions wherein the chief law enforcement official is directly elected, legislation should clearly articulate lines of authority within the executive branch, particularly between the chief executive, prosecutors, and law enforcement;
- If one does not exist, consider the establishment of an independent police oversight agency;
- Carefully oversee police department budgets. Necessary reforms can often be accomplished within existing budget parameters.

Case studies

District of Columbia

There is a long history of distrust between the LGBTQ community and the Metropolitan Police Department (MPD) dating back to at least 1950 when the MPD created a Perversion Subsection of its Morals Division, which patrolled public parks arresting gay men and gender non-conforming people for Solicitation for Lewd and Immoral Purposes (SLIP). Shortly after Home Rule went into effect in 1974, the DC Council stripped funding for the Morals Division due to activist intervention.

Transformation of police-LGBTQ relations has been gradual ever since, picking up steam under former Chief Charles Ramsey, who created the Gay and Lesbian Liaison Unit (GLLU) in 2000 to address ongoing violence against and improve relations with LGBTQ communities.⁵² The core of the GLLU staff began to shrink after Chief Cathy Lanier took office in 2007, though in October that year she did negotiate and adopt a general order on interactions with trans people in partnership with the DC Trans Coalition. Lanier's proposal to shrink the GLLU and establish a GLLU "affiliate officer" program in late 2009 was met with strong resistance from community organizations, as there was seemingly no plan in place to ensure those officers would be appropriately trained in responding to LGBTQ cases.

Though the restructuring that led to a smaller core GLLU and a number of affiliates deployed across the city went forward, it catalysed a movement to ensure that these affiliate officers received proper training. Thus from 2010-2013, LGBTQ community organizations provided training on a voluntary basis to over 300 MPD officers on topics including bias crime and intimate partner violence response and interactions with trans people and LGBTQ youth. Simultaneously, though, GLLU became less visible in the community, and violence against trans people in particular spiked in 2011. The police response to those murders was largely considered inadequate, in spite of the establishment earlier that year of an LGBTQ Violence Prevention and Response Team (VPART) made up of community activists and service providers to advise MPD and GLLU on violence response and outreach.

In fall 2011, the DC Trans Coalition sought out a confidential mediation process with MPD via the Department of Justice Community Relations Service. Although the MPD did not respond to that request, it instead appointed a "Hate Crimes Assessment Task Force" led by the Anti-Defamation League and featuring representatives from national civil rights organizations and two academics. Nonetheless, when the task force report was released in late February 2014, its recommendations were generally agreeable to both community activists and MPD. Both MPD and a coalition of seven community groups released separate responses to the task force report. Between the task force recommendations and the recommendations found in the community response, 57 points of change within the department were identified, in areas ranging from training, data collection, and policy to deeper issues like human resource management, community relations, and closing unsolved homicides.⁵³

Currently all MPD officers are being trained in LGBTQ cultural competency via a 90-minute online module and 3-hour classroom training, curriculum for both of which was approved by VPART. Other policies and approaches are being reviewed, including changing MPD's approach to policing of sex work. Critical to progress has been a united front among community organizations, including service providers

⁵² Richard J. Rosendall, "A Short History of Police Relations with the Gay Community in DC," paper presented to Amnesty International USA, Washington, DC, November 19, 2003, <http://glaa.org/archive/2003/rosendallmpdhistory1119.shtml>.

⁵³ DC Trans Coalition, "DCTC Joins in Community Response to Hate Crimes Assessment Task Force," WordPress.com, last updated March 13, 2014, <https://dctranscoalition.wordpress.com/2014/03/13/dctc-joins-in-community-response-to-hate-crimes-assessment-task-force/>. The report of the Hate Crimes Assessment Task Force, MPD response, and community response are all also available at this link.

and political groups, enabling them to speak with one voice on police issues. This allows to a comprehensive approach to reform and allows MPD to not have to negotiate every change with separate stakeholders. The monthly VPART meetings also provide a forum for dialogue and progress.

Though the GLLU core unit is smaller and less publicly visible than it once was, the affiliate program is considered to have improved the quality of police response in LGBTQ cases and helped spread vital cultural competencies within the department.

Since DC began this work in earnest over 15 years ago, it is in many ways ahead of the curve nationally. This leads to unique insights on the challenges on changing the dynamic between police and LGBTQ communities. Based on the D.C. experience, simply instituting a designated liaison, implementing training, and changing policies is insufficient to inculcating structural change within a department on LGBTQ interactions. By going deeper into human resource issues, historic case review, and built-in community accountability, the work to actively transform relationships is reinforced at a structural level. That said, DC has more police per capita than in any other city, under the jurisdiction of over 40 police agencies. While progress has been made with the largest and most visible police force in the city, significant work remains to change the dynamic with the other agencies, especially the various federal police forces that lack local accountability.

New York City

The LGBT Advisory Panel to the NYPD Commissioner, which previously existed in the late 1980s and early 1990s, was resurrected by then New York City Council Speaker Christine Quinn in 2010 following a series of false arrests of gay men for prostitution-related offenses and subsequent community outcry. Members were selected from among Community Board members, service providers, LGBTQ political organizations, and advocacy groups working directly with LGBTQ populations likely to experience discriminatory policing, including the Hetrick-Martin Institute, the LGBT Center, the New York City Anti-Violence Program, and Streetwise and Safe, a grassroots organization working directly with LGBTQ youth of color. The LGBT liaison to the Police Commissioner and staff of LGBT City Council members are also members of the Advisory Panel. While initially a closed, invitation-only group under the leadership of Police Commissioner Raymond Kelly, under Commissioner William Bratton, the Advisory Panel is open to all individuals and organizations who wish to join, at the discretion of current panel members.

Shortly after its inception, the Advisory Panel took up a comprehensive set of recommendations for changes to the NYPD Patrol Guide researched and drafted by a group of organizations known as Trans Policy Advocates (the Peter Cicchino Youth Project at the Urban Justice Center, the New York City Anti-Violence Program, the Sylvia Rivera Law Project, Lambda Legal and the New York Civil Liberties Union). Trans Policy Advocates came together to develop these proposals, working closely with transgender clients, constituents and community members, following a suggestion for a change to the department's search policy made one of the department's LGBT liaisons in response to a series of complaints of unlawful searches of transgender New Yorkers by NYPD officers. At the urging of the New York City Council Speaker's office, the Commissioner met with the group, who presented the proposals for

change. A negotiating team was established to further discuss the proposal, made up of representatives from the NYPD and four members of the Advisory Panel - two non-transgender attorneys representing the New York City-Anti-Violence Project and Peter Cicchino Youth Project (and later its offshoot Streetwise and Safe) and two transgender women representing the LGBT Center and the Stonewall Democrats. After 18 months of negotiations the NYPD announced comprehensive changes to its Patrol Guide - among the most progressive in the nation - intended to address ongoing violations of the rights of transgender New Yorkers in June of 2012.

Since then, the Advisory Panel has met annually with the Police Commissioner, raising issues relating to school safety officers, policing of gay bars and establishments, policing during annual Pride Celebrations, the confiscation and citation of condoms as evidence of intent to engage in prostitution-related offenses (resulting in a partial policy change in June 2014), and sexual harassment and assault of members of the public by law enforcement officers.

Key to the Advisory Panel's success has been the ongoing engagement of directly impacted individuals, and the organizations who work closely with them, working in partnership with attorneys with expertise in police policy and practice who take leadership from LGBT people directly impacted by the issues at hand. The support of elected officials in facilitating and overseeing the work of the Panel has also been critical to ensure ongoing and meaningful engagement of the department with the Advisory Panel. Finally, outside pressure from LGBT organizations on elected officials and the police department has been critical to enabling Advisory Panel members to be effective in pushing for change.

The Advisory Panel has however been concerned about implementation of the Patrol Guide changes over the past three years, as community organizations continue to receive complaints of violations of patrol guide provisions concerning disrespectful treatment, incorrect name and pronoun usage and use of slurs, impermissible questioning and searches conducted for the purposes of assigning gender on the basis of anatomy, and unsafe placement in police custody. As a result, community organizations have called on the newly formed Office of the Inspector General of the New York City Police Department to conduct a formal and independent audit of implementation of the 2012 patrol guide provisions.

Los Angeles

In 2010 a group of people came together to discuss issues arising in police interactions with transgender people rooted in a long history of profiling and mistreatment. Ultimately, an LGBT Liaison who was interested in making changes within the department facilitated a meeting with the Los Angeles Police Commissioner to discuss problems trans people were facing. Based on these discussions, a comprehensive set of policy proposals was developed by the Los Angeles Human Rights Commission and presented to the Chief. A number of the proposed policies were adopted in 2012.

Advocates involved in the process of developing and negotiating the proposed policies described the process as one that involved a great deal of community input. While it was a long process, what worked is ensuring that all community, not just service providers, were involved in providing input through community surveys and forums. Part of the outreach consisted of walking the streets of Skid Row to

ensure that the experiences of homeless transgender individuals were also captured, since they are rarely at the meeting table. On the other end of the spectrum, advocates also got buy in from the Mayor's Office early on.

In the immediate aftermath of the policy adoption, reports suggested that police practices with respect to profiling and searches had improved and officers were being trained. Pursuant to the policy changes, a trans-only unit was created in the Metro jail for both transgender men and transgender women made up of approximately 12 single cell units and covered showers.

However, more recent reports indicate that unfortunately, policy changes haven't translated to real change in the experiences of the trans community. Although the policy recommendations provided that all trans people were to be housed in the trans unit there are multiple reports of trans individuals still being detained in Hollywood or Van Nuys stations. Trans women continue to be held in isolation rather than with other women in the precincts, sending the message that they are not entitled to equal treatment alongside other women. Trans people also continue to report profiling and citation and confiscation of condoms as evidence of prostitution-related offenses, as well as re-victimization and victim blaming by police responding to incidents of intimate partner and community violence.

When the Human Relations Commission's Transgender Working Group dissolved, the LAPD created a Transgender Working Group and continues to meet regularly with the transgender community. The department also has an LGBT liaison who is a trans person. The Captain of the Hollywood Precinct, where there is a high concentration of trans women, holds quarterly meetings with the trans community. However, some community members report that they don't feel heard, and that no real change comes out of the meetings. No representative of the department was present at a recent meeting called to discuss implementation of the policy changes three years after they were adopted.

Community members believe that in order to effect real change in trans women's experiences of policing the department as a whole, including the top leadership, needs to demonstrate a greater commitment to enforcement of the policy changes, including integrity audits, as well as greater accountability and discipline for officers who violate policies governing interactions with transgender people, and commitment to an overall culture shift in the department.

Appendix E. Other Resources

Policy development

- The New Orleans (LA) Police Department issued their “Bias-Free Policing” policy in July 2016. This policy prohibits police officers from engaging in biased-based policing, defined as “an inappropriate reliance, to any degree, on characteristics, whether actual or perceived, such as race, color, ethnicity, national origin, ancestry, creed, religion, gender, gender identity, sexual orientation, economic status, age, cultural group, disability, housing status, or affiliation with any other similar identifiable group as a factor in deciding whether to take law enforcement action or to provide any form or type of service.”⁵⁴
- In 2012, the Chicago Police Department adopted a policy that mandates the respectful treatment of transgender detainees, mandating that police not search transgender people in an attempt to determine their gender, that officers respect preferred names and pronouns for transgender detainees and that they not use someone's gender identity as assumed cause for a crime. It further bans derogatory language against transgender people, and has resulted in trainings for department officers.⁵⁵

Community engagement

- The Cincinnati (Ohio) Police Department and Fire Prevention Bureau both appointed LGBT Liaisons in 2012; in 2013, the Hamilton County (Ohio) Sheriff’s Office followed suit, appointing a certified peace officer, who has served as a corrections officer most of her career, to the position. The three LGBT liaisons collaborate on programs and best practices in serving their departments and the LGBT community; in addition, the sheriff’s office liaison provides a point of contact for LGBT inmates and deputies.⁵⁶

⁵⁴ “Bias-Free Policing,” chapter 41.13, *New Orleans Police Department Operations Manual* (New Orleans, LA: New Orleans Police Department, 2016), <http://www.nola.gov/getattachment/NOPD/NOPD-Consent-Decree/Chapter-41-13-Bias-Free-Policing.pdf/>.

⁵⁵ Chicago Police Department, “Interactions with Transgender, Intersex, and Gender Nonconforming (TIGN) Individuals,” General Order G02-01-03, memorandum issued December 31, 2015, <http://directives.chicagopolice.org/directives/data/a7a57b38-1394a4ae-75313-94a4-b606a68cfab99615.pdf?hl=true>.

⁵⁶ Kareem Elgazzar, “Hamilton County Sheriff's Office Appoints LGBT Liaison,” WCPO.com, last updated August 6, 2013, <http://www.wcpo.com/news/local-news/hamilton-county/cincinnati/downtown/hamilton-county-sheriffs-office-appoints-lgbt-liaison>.

- The Jersey City (New Jersey) Police Department works with a nine-member LGBTQ Advisory Board, which was created in 2015 to advise city departments about issues and best practices for the LGBTQ community. As part of the city’s mission to advance equality for all residents, the board also “serves to drive understanding and awareness of the diversity of the LGBTQ community as a platform to connect Jersey City’s municipal government with the contributions of the vibrant, diverse and active members of the LGBTQ community.”⁵⁷
- The Detroit (Michigan) Police Department met with community members in August, 2016 for their second annual LGBT Community Chat, "Breaking Down Barriers." The event was facilitated by the Detroit Police Department’s LGBT Liaison, who works directly between the two communities to ensure that LGBT people in Detroit are more comfortable coming to law enforcement in the event of danger or as crime victims. The first such event, in 2015, motivated the police chief to create an advisory board of LGBT advocates and community members to ensure the department hears the community’s concerns.⁵⁸
- The San Francisco Human Rights Commission worked with the San Francisco Police Department to engage one of the city’s most disenfranchised communities, transgender Latinas. A transgender police officer and a culturally competent officer were active participants in a series of open discussions to establish communications between the department and the community. Transgender Latinas now have direct contacts at SFPD to go to if there are problems, and SFPD has direct contacts in the community.

Officer and recruit education and training

- Some police agencies include training for officers in their attempt to better serve transgender communities. For instance, the Chicago Police Department produced a video on police-transgender interactions, including interviews by transgender and LGB community members. To view the video online, see “Transgender Training Video (Chicago Police Department),” YouTube.com, <http://www.youtube.com/watch?v=58JMQmS-vno>.

⁵⁷ “Jersey City to Establish LGBTQ Advisory Board,” HudsonReporter.com, May 5, 2015, http://www.hudsonreporter.com/view/full_story/26615991/article-Jersey-City-to-establish-LGBTQ-advisory-board; City of Jersey City Office of the Mayor, “At-Large Councilman Daniel Rivera Announces Creation of LGBTQ Advisory Board,” press release, May 5, 2015, http://www.cityofjerseycity.com/uploadedFiles/Public_Notices/Press_Releases/LGBT%20Advisory%20Board.pdf.

⁵⁸ A.J. Trager, “Detroit Police Department Holds LGBT Community Chat,” *Between the Lines News* 2432 (2016), <http://pridesource.com/article.html?article=77641>.

DOJ resources

The U.S. Department of Justice (DOJ) has a number of resources for local law enforcement agencies. These can be of particular help to smaller departments which may need additional help enacting the reforms pioneered by larger cities.

- The DOJ has issued guidance for law enforcement agencies on identifying and preventing gender bias in policing: <https://www.justice.gov/opa/pr/justice-department-issues-guidance-identifying-and-preventing-gender-bias-law-enforcement>.
- The DOJ's Community Relations Service (CRS) assists local agencies in developing local mechanisms and community capacity to prevent tension and violent hate crimes; law enforcement agencies can learn about training opportunities, including specific training on working with transgender individuals, through the CRS website, <https://www.justice.gov/crs>.
 - In October, 2015, CRS released a training video that provides law enforcement with the information, tools, and techniques to better understand individuals who are transgender and non-gender conforming. The video can be viewed at <https://www.justice.gov/crs/video/law-enforcement-and-transgender-community-crs-training-program>.
 - In July, 2016, CRS released the "Law Enforcement and the Transgender Community – CRS Roll Call Training Video." This roll call training video features scenarios of three of the most common ways police officers encounter members of the transgender community and provides information, tools, and techniques to help ensure your interactions with them are mutually respectful and professional. The video can be viewed at <https://www.justice.gov/crs/video/law-enforcement-and-transgender-community-crs-roll-call-training-video>.
 - In November, 2016, CRS released the video "Respecting Identity: Law Enforcement Training and the Transgender Community." CRS partnered with the Jackson (Mississippi) Police Department and members of the transgender community to deliver cultural competency training for law enforcement officers. The video can be viewed at <https://www.justice.gov/crs/video/respecting-identity-law-enforcement-training-and-transgender-community>.
- The DOJ's Office of Community Oriented Policing Services (COPS Office) funds grants and cooperative agreements that grow community policing efforts in many different ways; these are detailed on the COPS Office website at <http://www.cops.usdoj.gov/grants>.
- The DOJ's Office on Violence Against Women (OVW) offers a number of grants addressing sexual assault, domestic and dating violence, and stalking, as well as offering technical assistance to grantees; information on OVW grants can be found at <https://www.justice.gov/ovw/grant-programs>.

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About SAI

Strategic Applications International (SAI) facilitated President Obama’s Task Force on 21st Century Policing. SAI provides training, technical assistance, and organizational development strategies for domestic and international non-governmental organizations; non-profits; and local, state, national, and international government organizations responding to crime, violence, and substance abuse. SAI provides facilitation and mediation services and brokers relationships between public and private sectors to address critical issues facing communities.

In partnership with the U.S. Department of Justice and the Substance Abuse Mental Health Services Administration of the U.S. Department of Health and Human Services, SAI has facilitated 22 governors’ summits on methamphetamine and, in collaboration with state and local agencies, developed comprehensive strategies with measurable outcomes. Most recently, with funding from the COPS Office, SAI worked with 40 tribal law enforcement agencies seeking to address drug abuse in tribal nations.

SAI is a global firm with projects to prevent and treat HIV and AIDS in South Africa and Swaziland; gender-based violence in Kenya, South Sudan, Ethiopia, and Rwanda; and criminal-justice reform, counter-terrorism, and de-radicalization in Kenya. Globally, SAI addresses development issues around community policing, substance abuse, gender empowerment, climate and the environment, and youth employment.

SAI builds capacity, supports research, develops publications, and promotes community action with all its partners and clients.

About the COPS Office

The **Office of Community Oriented Policing Services (COPS Office)** is the component of the U.S. Department of Justice responsible for advancing the practice of community policing by the nation's state, local, territorial, and tribal law enforcement agencies through information and grant resources.

Community policing begins with a commitment to building trust and mutual respect between police and communities. It supports public safety by encouraging all stakeholders to work together to address our nation's crime challenges. When police and communities collaborate, they more effectively address underlying issues, change negative behavioral patterns, and allocate resources.

Rather than simply responding to crime, community policing focuses on preventing it through strategic problem solving approaches based on collaboration. The COPS Office awards grants to hire community police and support the development and testing of innovative policing strategies. COPS Office funding also provides training and technical assistance to community members and local government leaders, as well as all levels of law enforcement.

Another source of COPS Office assistance is the Collaborative Reform Initiative for Technical Assistance (CRI-TA). Developed to advance community policing and ensure constitutional practices, CRI-TA is an independent, objective process for organizational transformation. It provides recommendations based on expert analysis of policies, practices, training, tactics, and accountability methods related to issues of concern.

Since 1994, the COPS Office has invested more than \$14 billion to add community policing officers to the nation's streets, enhance crime fighting technology, support crime prevention initiatives, and provide training and technical assistance to help advance community policing.

- To date, the COPS Office has funded the hiring of approximately 129,000 additional officers by more than 13,000 of the nation's 18,000 law enforcement agencies in both small and large jurisdictions.
- Nearly 700,000 law enforcement personnel, community members, and government leaders have been trained through COPS Office-funded training organizations.
- To date, the COPS Office has distributed more than eight million topic-specific publications, training curricula, white papers, and resource CDs.
- The COPS Office also sponsors conferences, roundtables, and other forums focused on issues critical to law enforcement.

The COPS Office information resources, covering a wide range of community policing topics—from school and campus safety to gang violence—can be downloaded at www.cops.usdoj.gov. This website is also the grant application portal, providing access to online application forms.

Nearly 20 percent of hate crimes reported to the FBI in 2015 were based on a victim's sexual orientation, gender, or gender identity. In addition to being frequent victims of hate crimes, the LGBTQ+ community has a long history of experiencing harassment and discrimination by law enforcement. As a result, many lesbian, gay, bisexual, transgender, and queer individuals feel that they are not provided with the same degree of respect and protection that other Americans enjoy and are often reluctant to report crimes or ask for help.

To address this problem and explore ways to repair relations with LGBTQ+ communities, the COPS Office, in partnership with Strategic Applications International, hosted a forum on gender, sexuality, and 21st-century policing. This report documents the discussions and recommendations of the forum's participants, who came together from police departments and LGBTQ+ advocacy groups to explore ways to reshape policies; improve hiring, training, and communications; and identify strategies for eliminating bias against the LGBTQ+ community. In doing so, participants acknowledged police departments making progress in these efforts, and the report includes descriptions of those programs.



COPS
Community Oriented Policing Services
U.S. Department of Justice

U.S. Department of Justice
Office of Community Oriented Policing Services
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To obtain details about COPS Office programs, call the COPS Office Response Center at 800-421-6770.

Visit the COPS Office online at www.cops.usdoj.gov.



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