
I. UNADDRESSED PROBLEMS OF LGBT YOUTH IN FOSTER CARE

A foster care teenager in a group home is beaten bloody by eight residents because he is gay, while staff ignore his screams and then show him the door. A lesbian teen is sexually assaulted in a group facility by a staff member, who tells her she is supposed to be with men, not women; after she is attacked again at another group home, she runs away and refuses to return to care. Another teenager, taunted by foster parents, staff, and peers for being a “dyke” and a “homo,” is shuttled among foster families, group homes, and shelters because she “doesn’t fit in.” A gay youth is forced by his foster family to undergo “conversion therapy” designed to change him to a heterosexual by coercing him to believe that his same-sex attraction is repulsive and deviant. A teenager adopted years earlier by foster parents is thrown out and returned to foster care when his adoptive parents learn he is gay; the parents accuse the child services agency of having “tricked” them.³ These are not isolated incidents of bias, but rather standard treatment for many LGBT adolescents in foster care. Other LGBT youth, fearful of similar abuses, attempt to hide their sexual orientation or gender identity and weather in silence and isolation the homophobia of child welfare workers, foster families, and group home peers. While some foster care professionals recognize the plight of LGBT foster youth and the need for reforms in their child welfare systems, these well-meaning individuals typically lack the training, resources, and institutional support to make a systemic difference on their own. Pushed far into the margins of society by indifference, discrimination, and harassment, LGBT youth in foster care face an array of problems too often ignored — or worsened — by the child welfare agencies responsible for their safety and care.

The Mission of Child Welfare Services

The basic mission of child welfare services is to safeguard children from harm and to act in their best interests. Through foster care, the state “provide[s] a temporary, safe haven for children whose parents are unable to care for them.”⁴ The state thus steps in where parents cannot to help foster and protect youth through their crucial developmental years. Federal law requires as a condition of federal funding that states develop for

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every child in their charge a plan to assure “safe and proper care” consistent with the child’s “best interest and special needs.”⁵ States are also required by federal law to establish standards to protect foster children’s civil rights.⁶ Fundamental federal and state constitutional guarantees of equal protection require that in fulfilling their *parens patriae* role, states give all youth in their care, *including those who are LGBT*, access to supportive services and protection.⁷

Nonetheless, states uniformly fail to acknowledge and address the unique needs of and hazards faced by LGBT youth in foster care. A few locales and individual child welfare workers have taken important first steps to help their LGBT foster care youth, but many child welfare professionals remain oblivious to the very existence of suffering LGBT adolescents in their care. Still others are outright hostile and abusive towards the LGBT adolescents they are charged to protect. As a result, state and private foster care agencies have so far been unable or unwilling to serve these adolescents appropriately.

Earlier Calls for Reform

We are not the first coalition of advocates to call attention to the plight of LGBT youth in foster care. For example, a decade ago the Child Welfare League of America with other youth advocates reported that, “Child welfare agencies and their staff members have often been handicapped in their ability to properly meet the needs of this client group due to societal stigmatization, a lack of information, misinformation, and fear, and a consequent lack of understanding.”⁸ In 1994, a joint task force of New York City’s Child Welfare Administration and the Council of Family and Child Caring Agencies published a report finding that “lesbian and gay adolescents have often been misunderstood, neglected and in some cases discriminated against by the child welfare system,” and calling for services for lesbian and gay youth.⁹ Yet in the intervening years, while a generation of LGBT foster care youth have suffered through adolescence, little has been done anywhere in the nation to remedy these problems. Although there are individual professionals in child welfare systems around the country distressed by the needless abuse and neglect of LGBT youth in their midst, these individuals cannot cure systemic problems singlehandedly. There is a dire need for child welfare agencies nationwide to take basic remedial steps throughout their programs, without further delay, to acknowledge and care for neglected LGBT adolescents.

LGBT Youth Are In The Foster Care System In Significant Numbers

Serving these marginalized youth must begin by acknowledging that they are present in the foster care system, and in significant numbers. Whether child welfare professionals recognize it or not, if they work with adolescents, they work with LGBT youth. The core feelings and attractions that form the basis for adult sexual orientation typically emerge by early adolescence,¹⁰ and gender non-conforming behavior often manifests earlier in childhood.¹¹ Approximately 5-10% of the general population is estimated to be gay or lesbian.¹² Given that the nation's total out-of-home care population of youth ages 11 and older is estimated at 244,000,¹³ it can be assumed that at a minimum 12,000-24,000 lesbian and gay adolescents are in out-of-home care, or that one of every ten to twenty adolescents in care is lesbian or gay.

But even these figures do not adequately reflect the numbers of LGBT youth in the foster care population, for LGBT adolescents make up a disproportionate part of the foster care pool. Because gay, lesbian, and gender-nonconforming adolescents commonly find themselves disapproved of and overtly rejected by their own families, they are more likely to be forced from their homes to become part of the foster care, runaway, and "throwaway" populations. For example, research on gay adolescent males found that 50% reported negative reactions from their parents when they disclosed their sexual identity, and that 26% were forced to leave home as a result.¹⁴ In another survey, 33% of gay men and 34% of lesbians reported suffering physical violence at the hands of a family member as the result of their sexual orientation.¹⁵ The National Network of Runaway and Youth Services has estimated that 20-40% of youths who become homeless each year are lesbian, gay or bisexual,¹⁶ and reports from urban centers serving runaway and "throwaway" adolescents likewise have shown similar percentages of LGBT youth among their clients.¹⁷ These LGBT youth often cycle through foster homes, group homes, and the streets.

Child Welfare Systems Neglect Their LGBT Youth

Despite the significant numbers of LGBT adolescents in the foster care system, many child welfare workers are unable or unwilling even to recognize that there are LGBT youth in their care. Child welfare professionals are the product of our heterosexist culture, in which heterosexual and traditional gender-conforming behavior is assumed to be universal.¹⁸ Furthermore, most LGBT adolescents have been socialized to fear revealing their sexual orientation; unless assured that they will be accepted and protected, many LGBT youth in the foster care system will continue to hide this aspect of their identity from the agencies that should provide them support. Indeed, one child welfare official reported to Lambda Legal Defense that her state had no need for policies, training, and

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programs to protect LGBT youth because there simply were none in the state's foster care system. This blindness and indifference translates into closeted and isolated, or abused and unprotected, LGBT adolescents.

As is apparent from the overview of the policies and practices of fourteen representative states that follows, little institutional attention has been paid to the needs of LGBT foster care youth. For example, not a single surveyed state foster care agency currently maintains formal policies prohibiting discrimination against LGBT foster care youth. This is true even in those states — California, Connecticut, New Jersey, and New York — that have state laws prohibiting sexual orientation discrimination in the provision of state services.

Likewise, not a single surveyed state mandates training for foster care parents and professionals on non-discrimination principles and sensitivity to the sexual orientation of foster youth. In just California, Connecticut, New Jersey, New York, and Ohio was limited optional training on LGBT concerns reported available, and in only scattered locales in those states. On the positive side, several states have begun to acknowledge deficiencies in their programs for LGBT youth. Florida and Illinois reported plans to incorporate LGBT foster parent and staff training into their curricula, and Connecticut, in part because our queries in connection with this Report caused it to focus on the wide gaps in its policies, now plans to broaden its LGBT sensitivity training.

There is also a serious paucity of such basic programs and services for LGBT youth as safe group homes, counseling, and resource guides. For example, in only Los Angeles and New York City can LGBT youth find group homes — whose capacity are far exceeded by demand — dedicated to their care. Moreover, none of the states has a program to identify and train foster parents, including lesbian and gay adults, to care for LGBT youth. Ironically, although all the states have some provision for access to HIV testing, none require the meaningful sexual health education and services that would significantly safeguard foster care youth from risk of infection in the first place.

Individual child welfare workers may try to make a difference for the LGBT youth in their care, and undoubtedly have helped blunt the effects of inadequate policies, training, and systemic responses. But the fate of an LGBT adolescent, already struggling with the loss of parents and other hardships, should not depend on luck in reaching one of these individuals. He or she could as easily fall into the caseload or home of a homophobic adult. Even committed social service providers who see the needs of LGBT youth often do not have all the information and resources necessary to care appropriately for these especially vulnerable adolescents.

Anti-Gay Views Have No Place In The Child Welfare System

Crucial to remedying neglect and abuse of LGBT adolescents in foster care is recognizing that anti-gay attitudes are the product of prejudices with no place in the child welfare system. The American Psychiatric Association, the American Psychological Association, and the National Association of Social Workers (“NASW”) have long recognized that homosexuality is not a mental or physical disorder.¹⁹ Homosexuality is as biologically based as heterosexuality,²⁰ and is not susceptible to alteration through medical or psychological intervention.²¹ A same-sex sexual orientation is a core part of a gay person’s identity, just as a heterosexual orientation is for heterosexuals, and mainstream health care professionals concur that gay persons should not be undermined in this aspect of their identity. The American Psychiatric and Psychological Associations, the NASW, the American Medical Association (“AMA”), the American Academy of Pediatrics (“AAP”), the American Counseling Association (“ACA”), and the American School Health Association have all adopted policies against sexual orientation discrimination.²² Moreover, the American Psychiatric and Psychological Associations, the NASW, and the ACA have also raised serious ethical concerns at efforts by mental health professionals to alter a person’s sexual orientation — i.e., through “reparative” or “conversion” therapy. Such unprofessional efforts undermine self-esteem without effectively changing sexual orientation.²³ The best interests of LGBT youth are instead served by protection against discrimination and harassment, and support for them to develop to their fullest potential. Yet profound prejudice and stigma against LGBT individuals persist throughout our society, including within child welfare systems charged to protect the youth in their care.

Support, Not Stigma, Is Critical For LGBT Adolescents

Regardless of sexual orientation, adolescence can be a confusing and difficult phase of sexual awakening and pressure to conform to peer norms. For LGBT youth, this already trying phase can be enormously more difficult. LGBT adolescents struggle to come to terms with their same-sex sexual attraction or gender identity in the face of strong internalized and societal expectations of heterosexuality and rigid gender roles. At the point in life when the pressure to fit in is strongest, LGBT youth are recognizing that they belong to stigmatized minorities.²⁴ While heterosexuality is assumed, anticipated, and supported by parents and the wider culture for the heterosexual child, homosexuality or gender non-conformity are commonly discouraged and condemned in the LGBT child. Hostility towards a non-heterosexual orientation or non-traditional gender identity are often internalized and can lead to a serious loss of self-esteem in the LGBT adolescent.²⁵

Unlike other minority children, moreover, LGBT youth generally do not grow up in

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families and cultural communities sharing their minority status that can act as buffers against stigmatization and present affirming role models.²⁶ As they struggle with feelings of worthlessness and confront prejudice against their sexual orientations, these youth often cannot turn to their families for support. Instead, many LGBT youth who “come out” to their families face parental disappointment, disapproval, and even the outright rejection that leads to their disproportionate membership in the foster care population.²⁷ Such hostile reactions unfortunately are often replicated within foster care.

Added Challenges for LGBT Racial and Ethnic Minority Youth

The problems of LGBT youth who belong to racial and ethnic minorities may be further compounded by cultural responses to homosexuality. This is particularly important to consider in the foster care context, given that nationwide approximately 43% of all children in foster care are African-American and 15% are Latino;²⁸ these percentages may be higher in urban centers like New York and Los Angeles.²⁹ For LGBT youth belonging to these racial and ethnic minorities, in which extended families play a key role and are a focal point of ethnic identity, “coming out” may cause ostracism not only from the nuclear family but also from the extended family group. These youth risk separation from their cultural communities and the loss of support for their racial and ethnic identities.³⁰ Moreover, racial and ethnic groups holding strong religious and cultural beliefs condemning homosexuality can be less accepting of their LGBT members. For example, “[a]lthough emotional and physical closeness among women is encouraged by Latino culture, overt acknowledgment of lesbianism is even more restricted than in mainstream USA society... This pattern is also very similar within the African-American community.”³¹

Harassment in School

Isolation and abuse arise not only at home and in cultural communities. Schools can also be particularly trying environments for LGBT youth, who confront invisibility, verbal harassment, and physical attacks there.³² LGBT youth commonly lose friends as the result of disclosure of their sexual orientation, and often attempt to remain closeted to their peers to avoid ridicule and violence.³³ In a survey of 496 LGBT students from 32 states, more than 90% reported that they sometimes or frequently heard homophobic comments in school, and 61% reported outright verbal harassment.³⁴ Nearly one out of three LGBT students in this survey also reported hearing homophobic comments by school faculty or staff. In a 1995 study, 22% of gay and bisexual males and 29% of lesbian and bisexual females reported having been physically hurt by another student because of their sexual orientation, and 7% of the youths reported having been hurt by a teacher.³⁵ This victimization often

leads to poor academic performance, truancy, and dropping out, which in turn place LGBT youth at higher risk of entering the foster care and runaway populations.³⁶

High Risk of Suicide

The gravity of these stresses for LGBT youth is reflected in their high rates of suicide and suicide attempts. For example, a survey of students in grades 7 through 12 found that 28.1% of bisexual and gay males and 20.5% of bisexual and lesbian females had reported attempting suicide.³⁷ Other data suggests that gay youths account for approximately 30% of all completed adolescent suicides.³⁸

Discrimination Compounds the Daily Struggles of Foster Care

LGBT youth in out-of-home care, already coping with shattering family problems and displacement, bear the often overwhelming added burden of hostility toward their sexual orientation or gender identity. They suffer disapproval by caseworkers, rejection by foster families, harassment and violence at the hands of foster care peers, and prejudice and neglect by group home staff.³⁹ From their first encounters with the child welfare system, they frequently face, at a minimum, subtle discrimination from a caseworker who, through heterosexist assumptions and terminology, signals discomfort with homosexuality and that it is not safe to be LGBT and out. LGBT youth who choose to and can remain closeted in foster care suffer isolation, shame, and a sense of peril from being privy to the homophobic slights directed at openly gay individuals. Those LGBT adolescents courageous enough or with no choice but to be open about their identity are routinely mistreated. Often the response of child care workers when an LGBT foster youth is harassed or hurt by peers or foster care staff is to punish or expel the victim rather than the perpetrators.⁴⁰ The child care workers who are sensitive to the problems of LGBT youth lack the resources and support to shield these young people from discrimination. Moreover, LGBT adolescents are high on child welfare agencies' lists of "hard-to-place" children, unwanted by sectarian and other placement agencies that disapprove of homosexuality,⁴¹ and subject to multiple and unstable placements because of negative reactions to their sexual orientations.⁴²

Unaddressed Health Risks of LGBT Foster Youth

In the midst of these challenges, LGBT youth are reluctant to seek services for preventing, testing for or counseling about, HIV and other sexually transmitted diseases ("STDs"). Child welfare systems have not taken the initiative to offer these vital services in a nonjudgmental and confidential manner. Furthermore, cultural discomfort about the sexuality of all youth, not just LGBT adolescents, has hindered foster care systems in providing adequate education about sexuality, birth control, and STD prevention.⁴³ There

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are insufficient programs and requirements in place in these systems to ensure that youth in the state's care are taught about and protected against grave threats to their health.

This is particularly alarming, and demands a swift response, in light of very recent studies showing dramatically high rates of HIV infection among young African-American and Latino gay men. A study published in 2000 of gay men aged 23 to 29 in six major cities found that 30% of the African-Americans surveyed had contracted HIV, as had 15% of the Latinos.⁴⁴ Many of these men were believed to have become infected during adolescence. In fact, it is estimated that one in five Americans with AIDS was infected during adolescence.⁴⁵ Another recent study of males aged 15 to 22 found that more than 23% of those reporting having had male sex partners were HIV-positive. In the same study, 9% of the males testing HIV-positive had been runaways or removed from home.⁴⁶ LGBT youth who flee abusive foster and group homes, preferring to take their chances living on the streets, are at even higher risk of engaging in unsafe sexual conduct.⁴⁷

Conclusion

LGBT youth have too long been neglected and stigmatized in foster care. To meet the needs of these adolescents, state foster care systems should acknowledge the LGBT youth in their midst and implement the basic, yet vital, reforms called for in this Report.

Notes to Unaddressed Problems of LGBT Youth in Foster Care

3. These examples are based on experiences reported in *Joel A. v. Giuliani*, No. 99 Civ. 0326 (RJW) (U.S.D.C., S.D.N.Y.); Gerald P. Mallon, *We Don't Exactly Get the Welcome Wagon: The Experiences of Gay and Lesbian Adolescents in Child Welfare Systems* (1998); and our own work with LGBT foster care youth and advocates.

4. Michael B. Mushlin, *Unsafe Havens: The Case for Constitutional Protection of Foster Children from Abuse and Neglect*, 23 Harv. C.R.-C.L. L. Rev. 199, 204 (1988).

5. See 42 U.S.C. §§ 671(a)(16), 675(1)(B) & (5)(A). State laws also provide that the purpose of intervention by the state into the parent-child relationship is to protect the child from harm and to advance the best interests of the child. See, e.g., N.Y. Family Court Act §§ 1011, 1052, 1055 (McKinney 2000); N.C. Gen. Stat. §§ 7B-100, 300, 903 (West, WESTLAW through 2000 Regular Session); Tex. Fam. Code Ann. § 262.001(b) (Vernon 2000).

6. See 42 U.S.C. § 671(a)(10).

7. See, e.g., *Romer v. Evans*, 517 U.S. 620 (1996) (equal protection violated by Colorado's amendment to the state constitution that deprived gay and lesbian residents of governmental protections from discrimination); *Stemler v. City of Florence*, 126 F.3d 856 (6th Cir. 1997) (equal protection violated by discrimination based on disapproval of perceived sexual orientation); *Nabozny v. Podlesny*, 92 F.3d 446 (7th Cir. 1996) (equal protection guarantee requires government to protect gay as well as non-gay public school students from harassment).

8. Child Welfare League of America, *Serving Gay & Lesbian Youths: The Role of Child Welfare Agencies* 1 (1991).

9. Joint Task Force of New York City's Child Welfare Administration and the Council of Family and Child Caring Agencies, *Improving Services to Gay and Lesbian Youth in New York City's Child Welfare System* 9-12 (1994). Little change followed this report. Instead, in 1999, a class action suit was filed on behalf of LGBT youth in the New York City foster care system challenging the pervasive abuse and neglect to which they are subject. See *Joel A.*, No. 99 Civ. 0326, *supra* note 3. That suit was subsumed within another class action, *Marisol v. Giuliani*, a much broader challenge to general problems with New York City's foster care system, which settled with little attention to redressing the unique problems of LGBT youth in foster care. See *Joel A. v. Giuliani*, 218 F.3d 132 (2d Cir. 2000).

Several child welfare professionals and advocates have worked tirelessly to call attention to the problems of LGBT youth in out-of-home care, including Gerald Mallon, who has published extensively on the subject and founded the LGBT programs of Green Chimneys Children's Services in New York City, and Teresa De Crescenzo, a founder of Gay and Lesbian Adolescent Social Services (GLASS) in Los Angeles. Green Chimneys and GLASS are the only two organizations in the nation providing foster care services specifically for LGBT youth. See additional discussion of these organizations in surveys of New York and California *infra*; Gerald P. Mallon, *Let's Get This Straight: A Gay- and Lesbian-Affirming Approach to Child Welfare* (1999); Mallon, *We Don't Exactly Get the Welcome Wagon*, *supra* note 3.

In addition, a Task Force to End Homophobia has recently convened in Los Angeles to address the problems of LGBT youth in the county foster care system.

10. Dennis A. Anderson, *Lesbian and Gay Adolescents: Social and Developmental Considerations*, 77 *The High School J.* 13 (1993-1994); Richard R. Troiden, *The Formation of Homosexual Identities*, 17 *J. Homosexuality* 43 (1989). The mean age of first awareness of sexual orientation among 54 surveyed gay and lesbian youths who had been in out-of-home care was 10 years for males and 13 years for females. Mallon, *Welcome Wagon*, *supra* note 3, at 11-12.

11. See, e.g., Gerald P. Mallon, *Practice with Transgendered Children*, in *Social Services with Transgendered Youth* (Gerald P. Mallon ed., 1999).
12. See, e.g., John C. Gonsiorek & James D. Weinrich, *The Definition and Scope of Sexual Orientation*, in *Homosexuality: Research Implications for Public Policy*, at 3-4 (John C. Gonsiorek & James D. Weinrich eds., 1991).
13. Children's Bureau, U.S. Dept. of Health and Human Services, *How Many Children Were in Foster Care on March 31, 1999?*, Factsheets/Publications, at <http://www.acf.dhhs.gov/programs/cb/publications/afcars/rpt0100/ar0100c.htm> (updated on January 17, 2001).
14. See Paul Gibson, *Gay Male and Lesbian Youth Suicide*, in Report of the Secretary's Task Force on Youth Suicide, at 3-112 (U.S. Dept. of Health and Human Services ed., 1989).
15. Philadelphia Lesbian and Gay Task Force, *Discrimination and Violence Against Lesbian Women and Gay Men in Philadelphia and the Commonwealth of Pennsylvania* (1996). See also Emery S. Hetrick & A. Damien Martin, *Developmental Issues and Their Resolution for Gay and Lesbian Adolescents*, in *Psychotherapy with Homosexual Men and Women* (Eli Coleman ed., 1987).
16. Reported in Pierre J. Tremblay, *The Gay, Lesbian and Bisexual Factor in the Youth Suicide Problem* (1994), at <http://www.virtualcity.com/youthsuicide/book.html>.
17. Mallon, *Let's Get This Straight*, *supra* note 9, at 129; Caitlin Ryan & Donna Futterman, *Lesbian & Gay Youth, Care & Counseling* 25-26 (1998); Child Welfare League of America, *supra* note 8, at 7; Gabe Kruks, *Gay and Lesbian Homeless/Street Youth: Special Issues and Concerns*, 12 *J. Adolescent Health* 515 (1991); Seattle Commission on Gay and Lesbian Youth, *Report on Gay and Lesbian Youth in Seattle* 13 (1988).
18. See, e.g., Beverly Greene, *Lesbian and Gay Sexual Orientations: Implications for Clinical Training, Practice and Research*, in *Lesbian and Gay Psychology: Theory, Research, and Clinical Applications* (Beverly Greene & Gregory M. Herek eds., 1994); Audrey A. Glenn & Richard K. Russell, *Heterosexual Bias Among Counselor Trainees*, *Counselor Education and Supervision*, March 1986, at 222; Ryan & Futterman, *Lesbian & Gay Youth*, *supra* note 17, at 26-27.
19. See list of policy statements of leading mental health organizations reprinted in *Just the Facts About Sexual Orientation and Youth: A Primer for Principals, Educators and School Personnel*, developed and endorsed by the American Psychological Association, the NASW, et al., at <http://www.apa.org/pi/lgbcp/publications/justthefacts.html>; *Resolution of the American Psychiatric Association* (Dec. 15, 1973), reprinted in 131 *Am. J. Psychiatry* 497 (1974); American Psychological Association, *Minutes of the Annual Meeting of the Council of Representatives*, 30 *Am. Psychologist* 620, 633 (1975); NASW, *Social Work Speaks: NASW Policy Statements* 162 (3d ed. 1994).
20. See, e.g., J. Michael Bailey & Richard C. Pillard, *A Genetic Study of Male Sexual Orientation*, 48 *Archives Gen. Psychiatry* 1089 (1991); J. Michael Bailey, et al., *Heritable Factors Influence Sexual Orientation In Women*, 50 *Archives Gen. Psychiatry* 217 (1993); William Byne & Bruce Parsons, *Human Sexual Orientation: The Biologic Theories Reappraised*, 50 *Archives Gen. Psychiatry* 228 (1993); Dean H. Hamer, et al., *A Linkage Between DNA Markers on the X Chromosome and Male Sexual Orientation*, 261 *Science* 321 (1993); Simon LeVay, *A Difference in Hypothalamic Structure Between Heterosexual and Homosexual Men*, 253 *Science* 1034 (1991); Simon LeVay, *The Sexual Brain* (1993).

21. See, e.g., Douglas C. Haldeman, *The Practice and Ethics of Sexual Orientation Conversion Therapy*, 62 *J. Consulting & Clinical Psych.* 221 (1994); Douglas C. Haldeman, *Sexual Orientation Conversion Therapy for Gay Men and Lesbians: A Scientific Examination*, in *Homosexuality: Research Implications for Public Policy* 149 (John C. Gonsiorek & James D. Weinrich eds., 1991); Charles Silverstein, *Psychological and Medical Treatments of Homosexuality*, in *Homosexuality: Research Implications for Public Policy* 101 (John C. Gonsiorek & James D. Weinrich eds., 1991).
22. *Resolution of the American Psychiatric Association*, *supra* note 19; American Psychological Association, *supra* note 19; American Psychological Association, *Minutes of Annual Meeting of the Council of Representatives*, 32 *Am. Psychologist* 408 (1977); American Psychological Association, *Minutes of Annual Meeting of the Council of Representatives*, 36 *Am. Psychologist* 552 (1981); National Association of Social Workers Code of Ethics § 4.02: Discrimination; American Medical Association, Reports of Board of Trustees, Annual Meeting of the House of Delegates (June 1993); American Academy of Pediatrics, Policy Statement: Nondiscrimination in the Care of Pediatric Patients (RE9611) (1996), *reprinted in* 97 *Pediatrics* 595 (1996); American Counseling Association Code of Ethics § A.2.a.; American School Health Association Resolution on Gay and Lesbian Youth in School (1990), at <http://www.ashaweb.org/resolutions.html>.
23. See, e.g., Just the Facts About Sexual Orientation and Youth: A Primer for Principals, Educators and School Personnel, *supra* note 19; Gregory M. Herek, *Myths About Sexual Orientation: A Lawyer's Guide to Social Science Research*, 1 *Law & Sexuality* 133 (1991); Gary B. Melton, *Public Policy and Private Prejudice*, 44 *Am. Psychologist* 933 (1989), *supra* note 21.
24. See, e.g., Joyce Hunter & Robert Schaecher, *Gay and Lesbian Adolescents*, in *Encyclopedia of Social Work* 1055, 1056-57 (1995); Anthony R. D'Augelli, *Developmental Implications of Victimization of Lesbian, Gay, and Bisexual Youths*, in *Stigma and Sexual Orientation* 187 (Gregory M. Herek ed., 1998).
25. John C. Gonsiorek & James R. Rudolph, *Homosexual Identity: Coming Out and Other Developmental Events*, in *Homosexuality: Research Implications for Public Policy* 161 (John C. Gonsiorek & James D. Weinrich eds., 1991); D'Augelli, *Developmental Implications*, *supra* note 24; Christian Burgess, *Internal and External Stress Factors Associated with the Identity Development of Transgendered Youth*, in *Social Services with Transgendered Youth* 35 (Gerald P. Mallon ed., 1999).
26. See, e.g., Ryan & Futterman, *Lesbian & Gay Youth*, *supra* note 17, at 14-15 (1998).
27. See *supra* notes 14-17 and accompanying text.
28. See estimates as of January 2000 by Children's Bureau, *How Many Children Were in Foster Care?*, *supra* note 13.
29. In 1997, 70% of all New York City children in foster care were African-American, and 23.6% were Hispanic. NYC Administration for Children's Services, *Measuring Up: NYC Child Welfare Statistics, The Outcome and Performance Indicators Report*, at <http://www.ci.nyc.ny.us/html/acs/html/rpindhome.html> (last visited March 23, 2001). As of February 2001, 48.1% of Los Angeles County children in foster care were African-American, and 34.3% were Hispanic. LA County Dep't of Children and Family Services, Statistics Section, *Out of Home Care – Ethnic Report, February 2001* (March 26, 2001).
30. Edward S. Morales, *Ethnic Minority Families and Minority Gays and Lesbians*, in *Homosexuality and Family*

Relations 217 (Frederick W. Bozett & Marvin B. Sussman eds., 1990). See also Ritch C. Savin-Williams, *Self-Labeling and Disclosure Among Gay, Lesbian, and Bisexual Youths*, in *Lesbians and Gays in Couples and Families: A Handbook for Therapists* (Joan Laird and Robert-Jay Green eds., 1996); Ryan & Futterman, *Lesbian & Gay Youth*, *supra* note 17, at 13-15.

31. Julia Andino, *Sexual Orientation and Cultural Competence*, in *Improving Services To Gay and Lesbian Youth in New York City's Child Welfare System: A Task Force Report*, at 7-8. (Child Welfare Administration and Council of Family and Child Caring Agencies ed., 1994). See also Mallon, *Welcome Wagon*, *supra* note 3, at 45-47.

32. See, e.g., D'Augelli, *Developmental Implications*, *supra* note 24, at 200-01; Ritch C. Savin-Williams, *Verbal and Physical Abuse as Stressors in the Lives of Lesbian, Gay Male, and Bisexual Youths: Associations with School Problems, Running Away, Substance Abuse, Prostitution, and Suicide*, 62 *J. Consulting and Clinical Psych.* 261, 263 (1994); Hunter & Schaefer, *Gay and Lesbian Adolescents*, *supra* note 24, at 1058-59; Nabozny, *supra* note 7; Burgess, *Internal and External Stress Factors*, *supra* note 25, at 43.

33. Neil W. Pilkington & Anthony R. D'Augelli, *Victimization of Lesbian, Gay, and Bisexual Youth in Community Settings*, 23 *J. Community Psych.* 34, 44 (1995); D'Augelli, *Developmental Implications*, *supra* note 24, at 200-01.

34. Gay, Lesbian and Straight Education Network, *Youth Speak: GLSEN's School Climate Survey* (Sept. 1999), at <http://www.glsen.org/templates/resources/record.html?section=17&record=24>.

35. Pilkington & D'Augelli, *Victimization*, *supra* note 33, at 44. LGBT adolescents' peer group accounts for more than 40% of all reported acts of anti-LGBT violence. According to the 1999 Annual Report of the National Coalition of Anti-Violence Programs, 43% of reported acts of anti-LGBT violence were committed by offenders 22 years old or younger. New York City Gay and Lesbian Anti-Violence Project, *Anti-Lesbian, Gay, Transgender and Bisexual Violence in 1999: A Report of the National Coalition of Anti-Violence Programs* 20, at <http://www.avp.org> (2000).

36. D'Augelli, *Developmental Implications*, *supra* note 24, at 200-01; Savin-Williams, *Verbal and Physical Abuse*, *supra* note 32, at 262-63; Hunter & Schaefer, *Gay and Lesbian Adolescents*, *supra* note 24; Robert Garofalo et al., *The Association Between Health Risk Behaviors and Sexual Orientation Among a School-based Sample of Adolescents*, 101 *Pediatrics* 895 (1998); Colleen A. Sullivan, *Kids, Courts, and Queers: Lesbian and Gay Youth in the Juvenile Justice and Foster Care Systems*, 6 *Law & Sexuality, A Review of Lesbian and Gay Legal Issues* 31 (1996).

37. Gary Remafedi et al., *The Relationship Between Suicide Risk and Sexual Orientation: Results of a Population-Based Study*, 88 *Am. J. Public Health* 57 (1998). In contrast, 4.2% of the heterosexual males and 14.5% of the heterosexual females in the survey reported attempting suicide. According to another study, an estimated 30% of gay and bisexual male youths have attempted suicide at least once. Gary Remafedi et al., *Risk Factors for Attempted Suicide in Gay and Bisexual Youth*, 87 *Pediatrics* 869 (1991). Studies coordinated by the Centers for Disease Control and Prevention as part of the national Youth Risk Behavior Survey ("YRBS") similarly reflect that sexual minority youth are at higher risk of attempting suicide than their peers. For example, a 1997 Massachusetts – YRBS survey reflected that sexual minority youth were six times as likely as their peers to have made a suicide attempt that was treated by a doctor or nurse. Safe Schools Coalition of Washington, *Eighty-Three Thousand Youth, Selected Findings of Eight Population-Based Studies as They Pertain to Anti-Gay Harassment and the Safety and Well-Being of Sexual Minority Students* (May, 1999), 13-14, at <http://www.safeschools-wa.org/83000youth.pdf>. See also American Academy of Pediatrics, *Statement: Suicide and Suicide Attempts in Adolescents* (RE9928) (2000), *reprinted in* 105 *Pediatrics* 871 (2000); Ryan & Futterman, *Lesbian & Gay Youth*, *supra* note 17, at 60-62.

38. Paul Gibson, *Gay Male and Lesbian Youth Suicide*, in *Report of the Secretary's Task Force on Youth Suicide*, at 3-

110 (U.S. Dept. of Health and Human Services ed., 1989).

39. See, e.g., Mallon, *Welcome Wagon*, *supra* note 3; *Joel A.*, No. 99 Civ. 0326, *supra* note 3; Child Welfare League of America, *Serving Gay and Lesbian Youths*, *supra* note 8. A 1987 study found that 30% of surveyed social workers were homophobic. Jack J. Wisniewski & Beverly G. Toomey, *Are Social Workers Homophobic?*, 32 *Social Work* 454 (1987).

40. See, e.g., A. Damien Martin & Emery S. Hetrick, *The Stigmatization of the Gay and Lesbian Adolescent in Psychopathology and Psychotherapy in Homosexuality*, 15 *J. Homosexuality* 163, 176 (1988); Mallon, *Welcome Wagon*, *supra* note 3.

41. See Gary Mallon, *Gay and No Place to Go: Assessing the Needs of Gay and Lesbian Adolescents in Out-of-Home Care Settings*, 71 *Child Welfare* 547, 549 (1992).

42. See Mallon, *Welcome Wagon*, *supra* note 3, at 54.

43. Roger J. R. Levesque, *The Peculiar Place of Adolescents in the HIV-AIDS Epidemic: Unusual Progress & Usual Inadequacies in "Adolescent Jurisprudence,"* 27 *Loy. U. Chi. L. J.* 237 (1996); Ralph J. DiClemente, *Preventing Sexually Transmitted Infections Among Adolescents*, 279 *JAMA* 1574 (1998).

44. Linda A. Valleroy et al., *High HIV and Risk Behavior Prevalence among 23- to 29-Year-Old Men Who Have Sex with Men in 6 US Cities*, Abstract 211, at <http://www.retroconference.org/2001/abstracts/abstracts/abstracts/211.htm> (last visited March 23, 2001).

45. David Siegel et al., *Early Effects of a School-Based Human Immunodeficiency Virus Infection and Sexual Risk Prevention Intervention*, 152 *Archives of Pediatrics & Adolescent Medicine* 961 (1998).

46. Linda A. Valleroy et al., *HIV Prevalence and Associated Risks in Young Men Who Have Sex With Men*, 284 *JAMA* 198 (2000).

47. See, e.g., Mary Rotheram-Borus et al., *Preventing HIV Among Runaways: Victims and Victimization*, in *Preventing AIDS: Theories and Methods of Behavioral Interventions* 175 (Ralph J. DiClemente & John L. Peterson eds., 1994); Bronwyn Mayden, *Sexuality Education for Youths in Care: A State-by-State Survey* (1996).