



HARVARD Kennedy School
JOHN F. KENNEDY SCHOOL OF GOVERNMENT

LGBTQ POLICY JOURNAL
AT THE
HARVARD KENNEDY SCHOOL

VOLUME 1, 2010-2011

AN HKS STUDENT PUBLICATION

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The LGBTQ Policy Journal at the Harvard Kennedy School is funded entirely through subscriptions and contributions. The John F. Kennedy School of Government at Harvard University provides only in-kind assistance. We would like to thank the following organizations and individuals who have made the publication of our first volume possible:

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The *LGBTQ Policy Journal at the Harvard Kennedy School* is a student-run, nonpartisan review dedicated to publishing interdisciplinary work on policy making and politics including and impacting lesbian, gay, bisexual, transgender, and queer (LGBTQ) communities and individuals. We strive to improve the quality of public policies affecting LGBTQ communities by furthering reflection and debate on the complex economic, political, and social consequences of public policy regimes for LGBTQ persons.

We are currently accepting submissions for our second volume to be published in Spring 2012.

We seek papers that explore the impact of public policies on LGBTQ communities around the world, examine the role of LGBTQ individuals, communities, and allies in shaping public policy, and provide new insight into policy dilemmas and solutions from an LGBTQ perspective. We also welcome articles and commentaries that consider traditional areas of policy debate—economic, political, social—with an understanding of their implications for the advancement of LGBTQ interests and their intersection with complex areas of sexuality, sexual orientation, and gender identity.

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The *LGBTQ Policy Journal* will select papers for publication based on the following criteria:

- Relevance of the topic to LGBTQ policy issues and timeliness to current policy debates
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- Sophistication and style of argument
- Contribution to scholarship and policy making on LGBTQ issues

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- Research articles should be 4,000-7,000 words and include a 100-word abstract.
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- Work should be formatted and submitted in any version of Microsoft Word.
- Citations must be formatted according to the Chicago Manual of Style author-date system. Footnotes are not accepted.
- All figures, tables, and charts must be submitted as separate files.
- Authors must submit a cover letter including the author's name, address, e-mail address, daytime phone number, and a brief biography.
- Authors are required to cooperate with editing and fact-checking and to comply with journal-mandated deadlines. Authors who fail to meet these requirements may not be published.

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LGBTQ POLICY JOURNAL

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LGBTQ POLICY JOURNAL ANNOUNCES THE RELEASE OF **VOLUME I**

The 2011 *LGBTQ Policy Journal* staff is proud to present our inaugural issue. This first volume features timely essays, candid and engaging interviews, and cutting-edge commentaries, including:

- An explanation from the policy counsel of the National Center for Transgender Equality of the need for fair and accurate identification for transgender people.
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- An inquiry into anti-LGBT bias in Chinese-speaking Americans in Southern California.
- A roundtable discussion moderated by Timothy Patrick McCarthy and including commentaries from Desiree Flores, Arthur Lipkin, Rev. Irene Monroe, and Glenda Testone on the health and safety of LGBTQ youth.

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EDITOR'S REMARKS

"They always say time changes things, but you actually have to change them yourself."
— Andy Warhol, 1975

You hold in your hands a journal that began as a scribbled note on a scrap of paper. It was a note I made to myself after having had countless conversations about the lack of a forum in which public policy could be discussed in regards to lesbian, gay, bisexual, transgender, and queer (LGBTQ) issues. It is true that the beginning of any real societal change has to start with a conversation, and now seemed like a good time to reach out and ask what others had on their minds.

You see, public policy is not some abstract set of rules made by invisible people. Real people make policies. So the first step of course is to talk about these problems and get them out into the open.

My hope is that this journal can be a point of departure for discussion about policies that affect LGBTQ communities. This is a modest beginning, and we are not foolish or naïve enough to believe that this is a be-all and end-all, but someone had to act, and perhaps this will be one of many sparks.

In this journal we have invited a variety of voices from religious leaders to policy makers to academics to discuss things beyond the mainstream conversation. A few of the thought-provoking topics explored include a discussion about fair and accurate identification for transgender people, an analysis of HIV and its effect on the elderly, and a commentary on the need for LGBT resource and research centers at Historically Black Colleges and Universities.

This past year could not have been a more appropriate time to institutionalize this discussion and help people pay attention. It has been a year of promise, with the repeal of "Don't Ask, Don't Tell," an event we celebrate in the journal through an interview with Anthony Woods, but also a year of intense sorrow. We have lost far too many young people to intolerance and lack of policy to protect our youth. As such, we conclude the journal with a roundtable discussion on the health and safety of LGBTQ youth, moderated by historian and activist Timothy Patrick McCarthy.

As I write this, the results of bigotry and hatred were seen in Uganda with the senseless and barbaric murder of David Kato, a Ugandan gay activist and a man who many credit as the father of the Ugandan LGBTQ movement. He was a man who had the courage to not run or hide. Instead he chose to stay and be a visible opponent of an unjust system he knew might kill him. Perhaps his life will inspire us to act and make it better, and his death will make us question intolerance in our own country.

It is with great sorrow that we dedicate this inaugural issue to David Kato, Raymond Chase, Tyler Clementi, Corey Jackson, Billy Lucas, Asher Brown, Seth Walsh, and all those we lost in 2010.

Sorbrique "Sorby" Grant
Editor-in-Chief

HARVARD JOURNAL OF AFRICAN AMERICAN PUBLIC POLICY

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We Asked, He Told: An Interview with Anthony Woods

Interviewed by Sorbrique “Sorby” Grant



A distinguished graduate of the U.S. Military Academy at West Point and the John F. Kennedy School of Government at Harvard University, Anthony Woods is currently the manager of ServiceNation’s “Service as a Strategy” initiative, which works to help mayors develop volunteer service initiatives to solve pressing local challenges.

Sorbrique “Sorby” Grant is a candidate for a dual master’s degree in Public Policy and Urban Planning at the John F. Kennedy School of Government at Harvard University and the Harvard University Graduate School of Design where she is finding new and

exciting ways to combine all of her social justice and public policy interests. She previously taught fourth-grade, self-contained English as a Second Language in the South Bronx with Teach For America. In addition to teaching she worked with various nonprofit youth social services agencies. One such organization was the Ya-Ya Network, a counter military recruitment organization that advocated for more robust legislation and accountability surrounding New York City’s Opt-Out policies and also provided accurate and feasible postgraduation nonmilitary options for low-income minority students. She has worked closely with two youth organizations that cater to the needs of LGBTQ youth: Project Reach, a youth drop-in center, and Sylvia’s Place, a LGBTQ homeless shelter.

Sorbrique “Sorby” Grant, Editor-in-Chief of the LGBTQ Policy Journal at the Harvard Kennedy School, interviewed Anthony Woods via telephone on January 12, 2011.

BACKGROUND

Anthony Woods was born on Travis Air Force Base in Fairfield, CA, the son of an Air Force veteran and grandson of an Air Force retiree. Raised by his single mother, he was honored to follow in his family’s footsteps of military service and attend West Point, where he was a standout scholar-athlete and student leader.

In 2003, following his graduation and commissioning as an officer in the U.S. Army, Woods served two tours of duty as a platoon leader in Iraq, earning the Bronze Star for his service. Following his second tour of duty, he was awarded a Public Service Fellowship to attend the John F. Kennedy School of Government at Harvard University where he earned his master’s in public policy in June 2008. At Harvard’s 357th Commencement, he was selected to deliver the Graduate English

Oration, in which he challenged his generation to answer the call to service.

Woods was discharged from the military under “Don’t Ask, Don’t Tell” in December 2008 after speaking honestly about his orientation with his commander. He was, however, equally dedicated to continuing in public service.

Following a job working in New York State government, Woods returned to his hometown of Fairfield in March 2009 and launched his campaign to replace Democratic Congresswoman Ellen Tauscher in California’s 10th Congressional District. Though he ultimately lost this crowded election, Woods garnered significant media attention, fueling speculation that this would not be the last time we heard the name “Tony Woods” in American politics. In 2009, Woods appeared on *Real Time with Bill Maher*, was named *Esquire* magazine’s candidate of the year in its best and brightest issue, and was named one of *Out* magazine’s 100 Newsmakers of the Year.

Since his run for Congress, Woods continues to pursue his passion for public service in his job with ServiceNation, a campaign dedicated to increasing the number of Americans who engage in national and volunteer service. He’s also participated in multiple service trips to Haiti and is an active volunteer in his community.

LGBTQ

Were you surprised when the notoriously unproductive end of the year lame duck Congress made repealing Don’t Ask, Don’t Tell (DADT) a priority?

WOODS

I was absolutely surprised. Working with the Servicemembers Legal Defense Network allowed me to see behind-the-

scenes work. The second time the repeal failed, most people were privately saying that the repeal was dead. We thought we missed the opportunity, and I thought it would be at least two more years before we saw any movement.

When Senator Susan Collins decided to do a stand-alone bill, the mere idea of it seemed unlikely. I’m an optimistic person, but I was skeptical. It’s very rare that we do legislation concerning LGBT [lesbian, gay, bisexual, and transgender] rights as a stand-alone bill—so the mere idea was surprising.

LGBTQ

What do you think was the impetus behind the repeal?

WOODS

I think it was absolutely critical that the Pentagon study came out. It gave those who were on the fence about the repeal the coverage they needed to support it.

You also couldn’t ask for two better and more influential supporters than Secretary of Defense Robert Gates and Admiral Michael Mullen. They were the game changers. They made their position crystal clear. Saying that they had served with gay soldiers and it went fine . . . was the final nail in the coffin and it was just a matter of time.

LGBTQ

What do you think are the major implementation issues?

WOODS

Since the law just passed [on December 18, 2010], we don’t really know when the repeal will happen. Gates, Mullen, and Obama need to certify the law, and sixty days after that DADT goes away. It will be three to six months before the policy is actually repealed.

Currently I think they are doing the right thing; they are studying how they can be equitable with benefits, thinking seriously about the pockets of resistance that exist especially in the combat arms units, and considering the various things they need to do to make it all go smoothly.

The next steps and challenges are important to consider, but they are not insurmountable. I am the type of person who believes that you should take the necessary steps and the necessary time so they are prepared to address the challenges that arise.

Something that I think people need to understand is that gays and lesbians are going to continue to serve in the closet, even after the repeal, just like in the private sector. It's not like the 60,000 gays and lesbians in the military are just going to come out, so I honestly don't think there is going to be much change. Will one or two situations that need accommodation such as someone needing to switch roommates happen? Yes, and I believe it can be handled at the lowest unit level. I'm looking forward to being proven right.

LGBTQ

How do you feel about President Barack Obama's leadership on advancing LGBTQ equality?

WOODS

I've thought about this question a lot. Obama came into this office on this huge wave of hope and optimism. Now he has to deal with the backlash of all of the promises not being met. Don't get me wrong, he has been phenomenal and made a lot of challenging decisions that I agree with. The challenge now is that what we were promised was a utopia. I

think this is true in a lot of areas but especially in terms of LGBT equality.

We certainly had very high hopes, and people are frustrated, but we need to look at what has happened over the past two years: hate crimes legislation, repeal of DADT, significant changes with regard to regulatory and statutory power. There have been a lot of really great gains for gays and lesbians across the country such as making hospitals that receive Medicare and Medicaid funding allow their partners and loved ones to visit them inside the hospital. These are really important changes that we don't give Obama enough credit [for].

With all of that said, we need to be careful. If you look at DADT, we were at a really great risk of losing that fight because there wasn't enough public action and support pushing for the key votes in the Senate. There weren't large amounts of phone calls being made; we needed to do some of the heavy lifting. Yes, Obama mentioned the repeal during the State of the Union address, but we can't stay silent. We were too close to losing it. Regardless, when it came to the wire, I was proud to see him step up.

LGBTQ

LGBTQ activists and their advocates in Congress have spent a lot of time and political capital on repealing DADT. Given that there is no federal nondiscrimination law for LGBT people and no recognition of their relationships at the federal level, do you think DADT was the correct issue for LGBTQ advocates to focus on?

WOODS

All of these issues are important and significant. All have equal value. I think we should focus on hearts and minds in addition to fighting on multiple fronts.

The repeal was a strategic decision. It makes it difficult to say you can fight abroad but when you come home you won't be treated as an equal citizen. Whether or not someone agrees this is the best first step, it will help us lay a foundation for future fights.

LGBTQ

What do you see as a next step?

WOODS

One of the reasons I supported the DADT repeal wasn't because I was forced to leave the military, it was because I felt that once the military allowed for gays and lesbians to serve openly it would be difficult to make a case for gays and lesbians to not get rights outside of the military. You see this as the case with African Americans and World War II. I truly believe that the repeal will result in our country allowing for soldiers coming home to marry those they love, adopt children, and recognize them as equal in terms of civil rights.

As far as what is next, it's challenging to say. I personally believe the next step should be marriage equality, but you know Timothy McCarthy [Director of Human Rights and Social Movements Program at the Carr Center for Human Rights Policy at the Harvard Kennedy School as well as a lecturer and core faculty member at Harvard University], and I refer to his thoughts on social movements. He would have us be cautious on big-ticket legislative items and say that we need to push on all fronts. We constantly need to be thinking if we are changing people's hearts and minds, if we are doing enough to change the general understanding of the challenges of gays and lesbians, and if we are doing enough to help people overcome their prejudices. We need to focus on the cultural change,

and we shouldn't focus solely on DADT or any other single policy.

As far as the president, I'm excited to see Obama's evolution on the issue of marriage equality. His stated position is that he supports civil unions and is coming around on same-sex marriage. His acknowledgement and support of same-sex-marriage is important, and I think he is for marriage equality but politically he is thinking we are a couple of years away from that. In his second term, I see him coming out in support for same-sex marriage, and I'm excited to see that progress.

LGBTQ

You talk about changing hearts and minds. What can we do to change hearts and minds?

WOODS

The only tool in my arsenal in the fight against DADT was being open and honest about who I was and being open about my experience. I would suggest that other people do the same—to be open and honest to friends and family. This is a very powerful weapon that kills stereotypes, biases, and misinformation. It's a powerful starting point. You can try other ways, but it's more difficult to make an impassioned stand-alone argument; it's a much more powerful argument if it's close to you, if it's your son, daughter, mother, father, or friend. I have a number of conservative friends, and I have found this strategy to be the most effective. One of my best friends to this day is a devout Mormon and voted against marriage equality. We don't agree on everything, but I've gotten him to change on some things such as DADT. It's been interesting to see him change his views, and I am looking forward to seeing those views continue to evolve in the future.

LGBTQ

Many progressive activists did not rejoice in the repeal of DADT because they felt even with the ending of the policy that the harassment of gays will continue, so, therefore, it doesn't really change the big picture. What's your reaction to that sentiment?

WOODS

The picture they paint of the military isn't consistent with my experience and doesn't seem to be accurate. I challenge someone who says that; I wonder if they have had experience in the military.

Personally, I never chose to be open and out about my sexuality [in the military]. In my experience, I also never experienced any intense homophobia. I heard ignorant comments but I also experienced that on my high school football team. Having DADT made it so that homophobic views and jokes existed where other jokes of race and gender would have been shut down. Gender- and racial-based jokes were not tolerated but jokes about sexuality were tolerated because to stand up against one would put your career at risk. Straight and gay people use terms inappropriately all the time, and I don't feel that the military is any worse.

I would never say that extreme examples and cases don't exist, but I never characterized the military as a uniquely hostile, negative, or unprofessional environment towards gays and lesbians.

LGBTQ

On a more personal note, how has your attitude about having a military career changed? Are you still interested in one?

WOODS

I absolutely want to go back. As much as I hated the fact that I had to end my career,

I was never bitter towards the military. My proudest achievement was bringing eighty-one soldiers back home. Now that the policy is going away I'm looking forward to rejoining. But I'm still not sure in what capacity.

LGBTQ

After running for the 10th District in California do you foresee another campaign in the future?

WOODS

Yes. I was fortunate and humbled by all the support that I got—from my friends in the Army and my classmates at the Kennedy School and at West Point. Throughout the campaign I made amazing friends. I realized that when you are a first-time candidate people will invest in you even if they know you won't win. The classes at the Kennedy School can only teach you so much and can't teach you everything you need to know about being an actual candidate. You have to learn it by doing it . . . so yes, I'm going to run again but I haven't decided on when or where.

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Shifting Global Health Landscapes: An Interview with amFAR's Jirair Ratevosian, Chris Collins, and Kent Klindera

Interviewed by Sarah Bouchat

Jirair Ratevosian is Deputy Director of Public Policy at amFAR. A human rights activist specializing in government relations, building strategic coalitions, and implementing innovative grassroots and advocacy strategies, he serves on the board of directors for Circle of Health International and is chair of the American Public Health Association International Health Section's Advocacy and Policy Committee.

Chris Collins is Vice President and Director of Public Policy at amFAR. Collins has spent more than eighteen years in HIV/AIDS policy and advocacy. He spearheaded the movement for the development of a national HIV/AIDS strategy for the United States, a goal that came to fruition in July 2010.

Kent Klindera serves as the Director of the MSM Initiative at amFAR. His expertise lies in community participation on HIV/AIDS prevention, behavior change communication, and access to treatment strategies, with an emphasis on organizational development, gender, youth leadership, and lesbian, gay, bisexual, and transgender issues in Sub-Saharan Africa, Southeast Asia, Eastern Europe, and the United States.

Sarah Bouchat is a master in public policy ('11) candidate at the John F. Kennedy School of Government at Harvard University, concentrating on democracy, politics, and institutions. Having completed an undergraduate degree in international studies at the University of Chicago in 2008, as well as having worked and volunteered in LGBTQ services and activism, she is interested in LGBTQ issues in international and developing contexts.

Sarah Bouchat interviewed Jirair Ratevosian, Chris Collins, and Kent Klindera in December 2010 and January 2011.

Founded in 1985, amFAR, The Foundation for AIDS Research, is dedicated to ending the global AIDS epidemic through innovative research. With the freedom and flexibility to respond quickly to emerging areas of scientific promise, amFAR plays a catalytic role in accelerating the pace of HIV/AIDS research and achieving real breakthroughs. amFAR-funded research has increased our understanding of HIV and has helped lay the groundwork for major advances in the study and treatment of HIV/AIDS. Since 1985, amFAR has invested nearly \$325 million in its mission and has awarded grants to more than 2,200 research teams worldwide. amFAR's MSM Initiative, established in 2007, provides financial and technical support to community organizations working to reduce the spread and impact of HIV among men who have sex with men (MSM) in low- and middle-income countries. Utilizing a peer review process, the MSM Initiative offers annual small grants and capacity-building assistance to more than forty frontline organizations in the Global South engaged in efforts to reduce the spread and impact of HIV among MSM and transgender individuals. Since its launch in July 2007, amFAR's MSM Initiative has made 115 community awards totaling more than \$2.2 million to support ninety-two frontline organizations serving MSM in

fifty-nine countries. Awards have been made in low- and middle-income countries in five regions of the world: Africa, Asia-Pacific, the Caribbean, Eastern Europe/Central Asia, and Latin America.

LGBTQ

How would you describe the recent history of global AIDS relief work?

AMFAR

Less than a decade ago, Western donors, spurred by the global devastation of HIV/AIDS, established an ambitious international campaign to fight the epidemic. Spearheaded by the Global Fund to Fight AIDS, Tuberculosis and Malaria (Global Fund, founded in 2002) and PEPFAR (the U.S. President's Emergency Plan for AIDS Relief, launched in 2004), international donors, led by the U.S., have spent some U.S. \$16 billion through 2009 on prevention and treatment programs, aggressively and effectively targeting a disease that claims millions of lives each year.

Global development funding, like so much else, is vulnerable to the sway of shifting political and economic trends. By 2009, funders and donor governments, including the U.S., had revised their approach to global health and announced plans to de-emphasize the vertical, disease-specific programs that defined the last decade. They resolved to target resources toward strengthening broader health systems and addressing a wider range of development priorities, chief among them the health of women and girls, who are widely neglected in many regions of the world.

LGBTQ

What do you think underlies this transition in the focus of global development funding you describe? What effects do you think the shift has for HIV/AIDS work?

AMFAR

Behind this paradigm shift lies the hope that building sustainable health systems in resource-limited countries could save more lives by more efficiently using the capital of increasingly cash-strapped donor nations. It is a direction with great promise. But by directing funds away from HIV/AIDS—the single largest cause of death among women of reproductive age—and emphasizing “country ownership” of health programming, the lives of men who have sex with men (MSM) and other marginalized populations are being placed in great jeopardy.

LGBTQ

Specifically what kinds of challenges do MSM face with respect to HIV/AIDS in development contexts? How do the funding priorities impact MSM in particular?

AMFAR

Gay, bisexual, and other MSM have stood at the center of the HIV/AIDS epidemic since its beginning. Global programs aimed at prevention and treatment, however, have consistently overlooked this highly vulnerable group, likewise marginalizing transgender people, injecting drug users, and sex workers. A series of revealing studies in low- and middle-income countries have documented the disproportionate burden of HIV among MSM. This research, including significant contributions by the Johns Hopkins University School of Public Health, has shown that HIV prevalence is higher in MSM than in other groups in almost all countries.

In spite of this growing body of evidence, funding through bilateral and multilateral mechanisms has been in no way commensurate with the impact of HIV/AIDS on MSM. For example, UNAIDS's 2010 report on the epidemic highlights the failure of donors and governments to adequately address key populations at highest risk for HIV infection. This view is consistent with a recent analysis of the Global Fund Round 8 HIV budgets, which revealed that only 2 percent of its grants—\$19 million—targeted MSM, with just 6 percent aimed at programs for most-at-risk populations. PEPFAR's 2008 reauthorization brought with it a new five-year strategy and important commitments to directing HIV services toward vulnerable groups. Yet support for MSM programming remains woefully inadequate and out of reach for millions in nearly all countries that receive U.S. assistance to fight HIV/AIDS. So the inclination of governments and donor agencies to favor general population strategies over targeted interventions has exacerbated the severity of the HIV/AIDS epidemic among MSM.

LGBTQ

Beyond the paradigm shift you describe toward holistic strategies, why do you think recent HIV/AIDS prevention efforts fail to target MSM? What are the ultimate effects?

AMFAR

The dearth of funding for MSM programming can be attributed in part to a lack of epidemiological data. Few countries have solid information about the extent of the epidemic among MSM, which allows governments to turn a blind eye to the problem. At the same time, many governments block efforts to collect data on HIV prevalence among MSM because they claim to believe such

populations do not exist. That refusal creates a deadly cycle in which ignorance leads to more ignorance. In many countries, homophobia, social exclusion, and discrimination also play a significant role.

Globally, 76 nations criminalize same-sex sexual activity, including many with the highest rates of HIV infection. Seven of the top ten countries supported by the Global Fund criminalize homosexual acts. Of the 88 countries receiving funding through PEPFAR, more than half have similar laws, and three treat same-sex behavior as a capital crime. Enshrining into law the denial of full and equal rights for sexual minorities fuels stigma and discrimination and impedes access to health services for MSM, who are driven underground, beyond the reach of service providers.

Even in countries that do not have discriminatory laws, the lack of rights protection and gender equality, coupled with social marginalization and homophobia, block advances in the HIV response. As a result, only around one in ten MSM worldwide has access to HIV services.

LGBTQ

What are the implications of this new approach to development for efforts to fight HIV/AIDS among MSM?

AMFAR

The Obama administration's philosophy of development holds a lot of promise for global health. In practice it could present opportunities for HIV/AIDS programs as well, by integrating them into related health services such as tuberculosis, malaria, and family planning; by reducing stigma around the disease; and by expediting the scale-up of treatment programs.

Even with the promise of those policies, though, two troubling realities cannot be ignored. First, HIV/AIDS and broad health care are not competing concerns; the latter cannot progress at the expense of the former. If already limited funding is further diluted for populations at high risk, including MSM and transgender people, mainstreaming HIV services into broader health systems could drive these populations further underground and away from life-saving prevention and care programs.

Second, donors are increasingly empowering recipient governments to set HIV priorities. While asking countries to take greater ownership of health is good in principle, it places HIV and other health programs under the aegis of health systems that are not always willing or capable of providing nonjudgmental, high-quality services to the most vulnerable communities. Stigma and discrimination against MSM pervade the health systems of many countries, and decisions about HIV/AIDS programming routinely ignore the needs of MSM communities.

Similarly, when country ownership initiatives leave the fate of vulnerable populations in the hands of governments—many of which do not even acknowledge their existence—it is even more difficult to ensure high-quality, nonjudgmental services. The challenge of delivering nondiscriminatory services is particularly daunting in environments that perpetuate homophobic rhetoric, harassment, and violence towards both MSM HIV service providers and their constituents.

LGBTQ

What policy changes would help remedy this situation for MSM? Are any development groups or governments making positive strides?

AMFAR

Leading health experts and researchers have made a clear case for investing in HIV/AIDS programs and services that directly address vulnerable populations and fight stigma and discrimination. General health systems can and should be strengthened, but in doing so donors cannot ignore the needs of those at greatest risk for HIV infection. While PEPFAR and the Global Fund have recently made promising steps toward addressing HIV among MSM, they must recognize that strengthening health systems can only be effective if systems are equipped to respond to every member of their constituencies. Because MSM are already marginalized, creating environments that are safe, accessible, and equitable and developing targeted interventions designed specifically for these communities are extremely important.

Also, strengthening the public sector must be coupled with recognizing the importance of community-based organizations in development. This means that substantial financial and developmental support should be made available for community-based MSM groups that provide HIV services as well as other NGOs (nongovernmental organizations) that advance the human rights of LGBT (lesbian, gay, bisexual, and transgender) populations. Health systems and local NGOs will need financial and capacity-building support to ensure that they are equipped to incorporate advances in science such as microbicides and pre-exposure prophylaxis (PrEP).

Another fundamental change that would make a significant difference for MSM would be for HIV programs to require that providers meet minimal standards for confidentiality, sensitivity, safety, and nondiscrimination regardless of sexual orientation and gender identity. Linking HIV programs with legal services and human rights defenders who specialize in LGBT issues would also improve the effectiveness of the programs.

At the governmental level, donor governments must use diplomatic and financial leverage to encourage recipient countries to reform policies and repeal laws that criminalize same-sex sexual practice; fuel stigma and discrimination; impede effective HIV programs; or limit the ability of LGBT groups to provide services to their communities.

Together, these efforts—on international, national, and local levels—hold the promise of changing the trajectory of the AIDS epidemic and achieving significant progress towards broader global health goals.

LGBTQ

What evolution do you see in the relationship between global HIV/AIDS funders and MSM populations? What is the bottom line for governments and other donors in regards to HIV/AIDS?

AMFAR

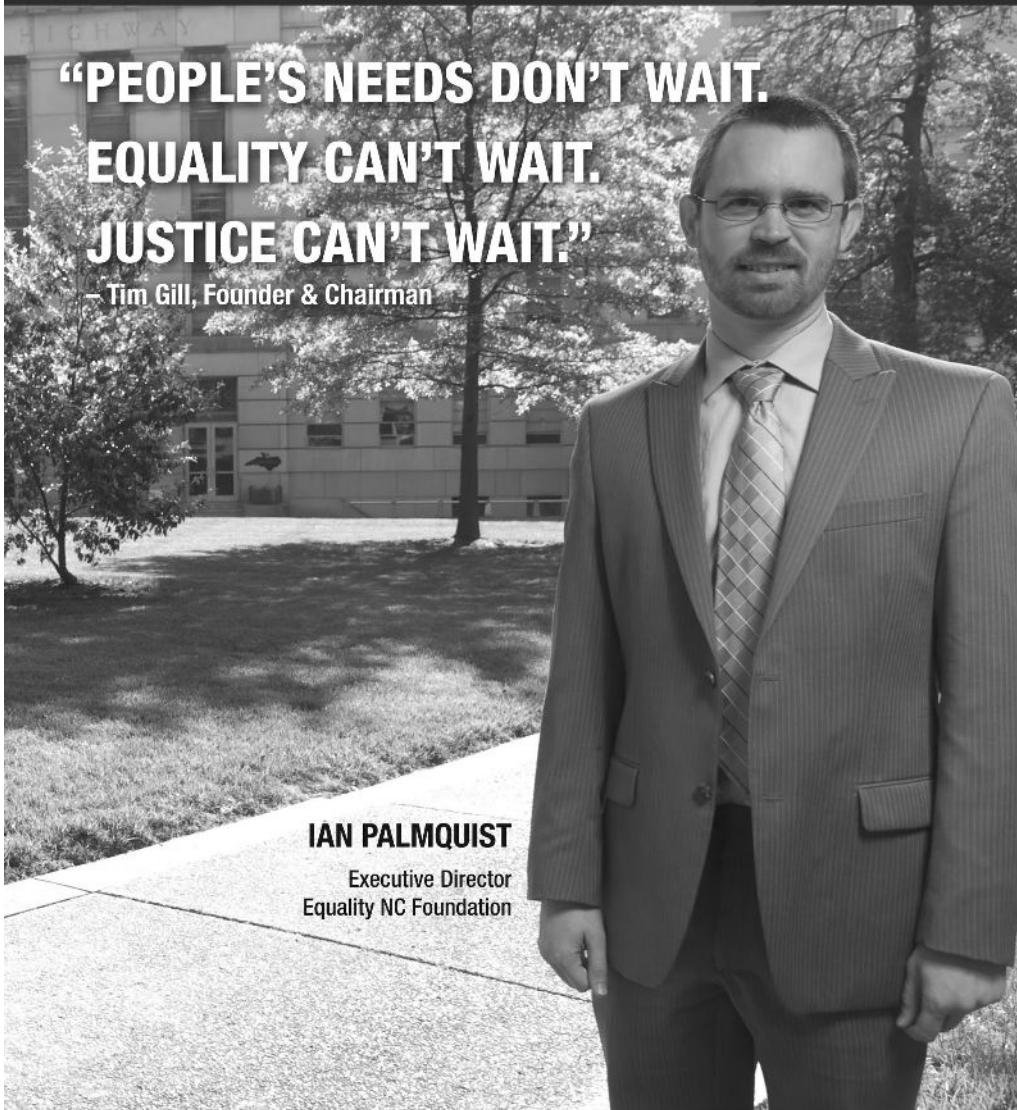
Discrimination against MSM and other most-at-risk groups undermines the entire HIV/AIDS response, which in turn will destabilize efforts to improve the larger landscape of global public health and advance diplomatic and development goals. By reassessing and scaling back their commitments to HIV/AIDS in favor of strengthening health systems, donors are jeopardizing years of hard-won progress, not to mention countless lives. Ultimately, MSM need tangible increases in long-term investments and support for service channels that specifically address their health needs as HIV programs face major financial pressures. As the U.S. government and other donors move towards broader health goals, ignoring the evidence of the disproportionate burden placed on MSM by HIV/AIDS would be a significant missed opportunity—and a public health disaster.

❖❖❖ *Discrimination against MSM and other most-at-risk groups undermines the entire HIV/AIDS response.*



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“I Was Born this Way”: Is Sexuality Innate, and Should It Matter?

by Joseph Osmundson

Joseph Osmundson is currently a graduate student in biophysics at the Rockefeller University in New York City where he studies protein structure and function. He has also taught students at the middle school, high school, and college levels and is currently an Adjunct Professor of biology at The New School where he is teaching a course examining the use of imaging in biology.

ABSTRACT:

The biological understanding of sexuality is important in policy and law. This article reviews the evidence that sexuality is biologically based and finds it inconclusive. It then examines the ramifications of a case where a well-studied gene is associated with gender nonconformity and lesbianism, which are treated as part of the pathology of the disorder. The article assesses the legal importance of the immutability of sexuality and considers examples where courts have conferred or denied lesbian, gay, bisexual, and transgender rights based upon scientific data. Lastly, the article argues that, given the evidence presented, rights for minorities should not rely on biological definitions.

The idea that sexuality is innate—that one is “born gay”—has long existed in the lesbian, gay, bisexual, and transgender (LGBT) community. For many, it speaks directly to their own personal understanding of queerness and their knowing from a very young age that their sexuality was different from that of the majority of the population. However, this is an issue that is inherently linked to policy. If sexuality is innate, one can argue that it should be illegal to craft policy that is discriminatory toward LGBT individuals. Conclusive evidence of a genetic or hormonal basis of human sexuality may combat the still widespread belief that being LGBT is a choice that can be cured through therapy or prayer. However, the same understanding could also lead to the reclassification of homosexuality as a medical disorder and redefine queerness as biology gone wrong.

In October 2010, U.S. President Barack Obama stated that he believed sexual orientation was innate and that this understanding formed the basis for why he “think[s] discrimination on the basis of sexual orientation is wrong” (CNN Wire Staff 2010). If the president of the United States is constructing his position on a minority group based upon an assertion of a biological link, it is increasingly necessary to assess both the scientific basis for such a link and its relevance in informing public policy. This article will critically review our scientific understanding of sexuality and attempt to address the proper role biology should play in policy and law.

SCIENCE OF SEXUALITY

Complex behavioral traits are notoriously difficult to study using biological techniques. When attempting to understand if a trait is caused by biological or environ-

mental factors, researchers traditionally employ twin studies (Loehlin et al. 1990; Powell and Royce 1981). Identical, or monozygotic, twins share 100 percent of their genetic material whereas fraternal, or dizygotic, twins and siblings share 50 percent of their genetic material. Traits that are genetically encoded, therefore, should be shared more often in monozygotic twins than dizygotic twins or siblings. Twin studies have long shown a genetic basis for sexuality (Kallmann 1952; Bailey et al. 1993; Kendler et al. 2000). Further analysis of family relationships has attempted to locate specific genes that may determine sexuality; one study claims to show that male homosexuality is partially caused by a putative gene in a relatively small region on the X chromosome, which is inherited only from the mother (Hamer et al. 1993; Hu et al. 1995; Hamer 1999). Subsequent work has failed to reproduce the original results, and geneticists have questioned the validity of many of the assumptions required to show the genetic linkage. Therefore the role of the X chromosome in sexuality is still highly debated (Diamond 1993; Fausto-Sterling and Balaban 1993; Risch et al. 1993; Rice et al. 1999a; Rice et al. 1999b).

There are caveats, however, to even the most straightforward behavioral genetics research. Because of the assumed low frequency of homosexuality in the general population, much of the twin research suffers from low sample sizes and population biases (Kendler et al. 2000). Even when a large, unbiased twin database was used (Kendler et al. 2000), families that were more accepting could certainly have been more likely to respond to questions, therefore creating a self-selection bias. More recent work has also thrown the entire enterprise of

twin-based genetic studies into question (Schönemann 1997).

Caveats notwithstanding, there is a loose consensus among geneticists, if not social scientists (Butler 1990; Kitzinger 1995), that there is some evidence for a genetic predisposition to homosexuality (Kallmann 1952; Bailey et al. 1993; Risch et al. 1993; Ferveur et al. 1995; Hamer 1999; Rice et al. 1999a). There certainly is no single “gay gene”; the relative weak values for the heritability of sexuality clearly illustrate that if sexuality is indeed genetic, it depends on at least several genes and that these genes are not deterministic. Additionally, the low values for heritability imply the importance of societal factors and socialization that are often ignored in much of the scientific literature.

Although many researchers claim that sexuality has a genetic basis, others have argued that prenatal hormones and brain development play a more crucial role. Differences in brain morphology and function between men and women are thought to arise prenatally. Research has shown that homosexuality in males correlates weakly to birth order; men with several older brothers are more likely to be gay, implicating that different hormonal environments in the womb may lead to different sexualities in adults (Bogaert 2006). Morphological differences were also seen between the brains of straight and gay men upon autopsy (Swaab and Hofman 1990). More recently, studies on adult men and women have shown that gay men have brain responses more like straight females and lesbian women have brain responses similar to those of straight men (Savic and Lindström 2008). These authors point to a biological basis for sexuality rooted not necessarily in genetics but

rather in brain functionality, as programmed by responses to maternal hormones during early development.

Issues of sample size and selection bias, however, also plague these studies. Those who are willing to undergo brain scans, or have their brain examined upon autopsy (Swaab and Hofman 1990), may have a special and unique relationship with their sexuality. It would be more informative to study individuals across a range of sexualities and gender identities. While such studies would be unlikely to produce the striking results we currently see in the literature, they would better reflect the diversity of the human population and shed light on what differences may actually exist between people who identify as LGBT and those who do not.

EXAMPLE OF GENETIC LINK TO ADULT HOMOSEXUALITY

In light of the ambiguity of the scientific research on sexuality, I will present a brief example where there is a clear genetic link to adult homosexuality. Congenital adrenal hyperplasia (CAH) is a hormonal disorder that causes an excess of male-specific hormones, known as androgens, while the fetus is developing in the womb (Pang et al. 1985; Witchel and Azziz 2010). CAH is most often caused by a mutation in a single gene, and genetic tests have existed for well over a decade (Van Ryzin 2009).

Girls born with CAH can have an enlargement of the clitoris so severe that their sex is misassigned at birth (Pang et al. 1985) although routine newborn screening has largely alleviated this problem (Speiser et al. 2010). According to current clinical practice guidelines, surgery to restore female-like genitalia is still recommended (Speiser et al. 2010). A link between CAH and lesbianism has

long been suspected due to the increased level of prenatal male hormones and the assumption that these hormones may program brain development and sexuality. Research has in fact shown that higher rates of lesbianism and gender nonconformity do correlate with severity of prenatal exposure to male hormones due to CAH (Meyer-Bahlburg et al. 2008).

Over the last two decades, doctors have studied the use of prenatal treatment for CAH. Families known to be carriers for CAH begin treatment with a steroid drug, dexamethasone (dex), upon confirmation of a pregnancy. If treated with dex throughout pregnancy, females are not born with enlarged genitalia. However, research has also focused on dex as a treatment for nonconforming gender and sexual identity. A review from 1999 discusses the gender identity of women with CAH:

CAH women as a group have a lower interest than controls in getting married and performing the traditional child-care/housewife role. As children, they show an unusually low interest in engaging in maternal play with baby dolls. . . .

[M]aternalism appears to be one facet of a broad spectrum of sex dimorphic behaviors that appear *masculinized* in females with classical CAH, in parallel with the findings on prenatal sex hormone influences on sex dimorphic behaviors in other mammals. . . .

The lower rate of heterosexual involvement is probably related to the postoperative status of the genitalia and possibly also to prenatal androgen effects on the brain. The lower interest in having children seems to be part of the overall *masculinization* of childhood behavior in girls with classical

CAH; in adolescent and adult CAH women, the various problems with heterosexuality may further contribute [emphasis added]. (Meyer-Bahlburg 1999)

The author of the above article views the higher rates of gender nonconformity and lesbianism in women with CAH as a part of the pathology of the disorder. He later describes prenatal dex as a treatment for the effects of “prenatal androgens on brain and behavior” (Meyer-Bahlburg 1999). Other articles further clarify the role of prenatal dex for “treating” gender nonconformity later in life. Dr. Saroj Nimkarn and Dr. Maria I. New write, “[w]e anticipate that prenatal dexamethasone therapy will reduce the well-documented behavioral masculinization and difficulties related to reconstructive surgery” (2010).

Recently, prenatal CAH treatment with dex has come under scrutiny from the medical and bioethical communities. An article in Time magazine examined the dubious methods through which Dr. New recruits her study participants (Elton 2010), and an ethical remonstrance was posted online by the Hastings Center (Dreger et al. 2010). A small group of doctors sent letters to the agencies funding research by Dr. New and others as well as their universities, citing serious ethical issues in studying the prenatal treatment of CAH (Dreger 2010). In responding to the criticism, Dr. New and others only further highlighted the role of dex in treating gender nonconformity and lesbianism. An official response (McCullough et al. 2010) to the criticism that prenatal dex treats only cosmetic issues cites an article from 1999 stating that “[t]he genitalia of virilized females can be repaired surgically but the

adrenogenization of the brain is irreversible; hence, prenatal dexamethasone treatment may offer unique advantages” (Miller 1999). The claim is that surgery can “fix” the cosmetic issues associated with CAH, but the masculinization and lesbianism can only be treated prenatally. In a video cited by the Hastings institute, Dr. New is quoted as saying:

The challenge here is . . . to see what could be done to restore this baby to the normal female appearance which would be compatible with her parents presenting her as a girl, with her eventually becoming somebody’s wife, and having normal sexual development, and becoming a mother. And she has all the machinery for motherhood, and therefore nothing should stop that, if we can repair her surgically and help her psychologically to continue to grow and develop as a girl.” (Dreger et al. 2010)

One may question the reasons for altering “masculinized” genitalia given the potentially devastating effects of surgery and the largely unknown ramifications of prenatal dex therapy. However, it is clear that the use of prenatal dex is being justified because it may prevent the permanent “masculinization” of the brain and gender nonconformity and homosexuality later in life.

Here we have a known case of a genetic and hormonal basis for gender nonconformity and lesbianism. The ramifications, however, are certainly not acceptance of the individual but quite the opposite: women are subject to hormonal therapy while developing in the womb. This “treatment” has the high hopes of restoring normative sexual and gender identity and behavior. While this particular case may not be generalizable, it

should at the very least give pause to the LGBT activists arguing that if sexuality is biologically determined it would lead directly to acceptance and equal protection under the law.

POLICY AND LAW IMPLICATIONS

The question of whether sexuality is genetically or hormonally induced has direct ramifications not only in the medically oriented case described above. Legal decisions regarding the rights of LGBT individuals have also relied heavily on our understanding of the cause of sexuality. This gives an unambiguous example of how the science of sexuality has an impact on the rights of the LGBT community.

In public policy at many levels, government still discriminates against the LGBT community. Current laws, such as the Defense of Marriage Act (DOMA), deny access to the institution of marriage to the LGBT community. Additionally, LGBT workers in many states may legally be fired simply due to their sexuality (Eyer 2006). Many state governments prohibit gay marriage outright, including those where the constitutions have been amended to redefine marriage as an institution consisting of one man and one woman (Vestal 2009). This discrimination has been challenged through the judicial system on both the state and the federal level.

One fundamental question of constitutional law is the murky issue of a protected status for LGBT individuals. The Civil Rights Act of 1964 defines sex, race, and ethnicity as specifically protected under law but leaves issues of sexuality vague (Civil Rights Act 1964). Laws affecting a suspect or protected class are subject to the highest level of scrutiny, labeled strict scrutiny, where they are

deemed unconstitutional unless the government has compelling interest in discriminating against the protected class and the policy has been “narrowly drawn to avoid unnecessary abridgments of constitutional rights” (Baehr v. Lewin 1993). If a class is not given special protection, then a rational basis test is used; any reasonable rationale that the policy furthers state interests is sufficient to deem the law constitutional. The determination of a protected class relies, characteristically, on four principles: a history of discrimination against the class, whether the characteristics of the class affect its ability to contribute to society, whether distinguishing characteristics of the class are immutable, and the lack of political power of the class (Varnum v. Brien 2009). The question of immutability directly relates to whether one’s sexual orientation is a choice or is somehow preordained by one’s biology.

Courts have interpreted the concept of immutability differently, with some decisions weighing heavily on the genetic basis of sexuality. Early cases in federal courts denied that sexuality was immutable. In *High Tech Gays v. Defense Industrial Security Clearance Office* (1990), for example, a federal court of appeals puts its findings on immutability bluntly:

Homosexuality is not an immutable characteristic; it is behavioral and hence is fundamentally different from traits such as race, gender, or alienage, which define already existing suspect and quasi-suspect classes. The behavior or conduct of such already recognized classes is irrelevant to their identification. (*High Tech Gays v. Defense Industrial Security Clearance Office* 1990)

Such decisions perhaps fueled the argument that if a biological basis for sexuality were found, it would help fight against discrimination (Associated Press 2007). Courts, at least, would be forced to consider sexuality as an immutable characteristic, which would be a step toward the legal understanding of gays and lesbians as a protected class.

Federal courts have done little to reverse the precedent set by this and earlier decisions that the LGBT community does not constitute a protected class, however, several states have tested the constitutionality of bans on gay marriage and addressed the issue of protected status directly. The first state to successfully challenge the constitutionality of a ban on gay marriage was Hawaii where, in *Baehr v. Lewin* (1993), the state's highest court found that the prohibition on gay marriage violated the equal protection clause of the state constitution. Importantly, the court found that strict scrutiny must be applied because the law discriminated based upon a previously defined protected status: sex. In a concurring opinion, Justice Burns described how sexuality was related to sex:

As used in the Hawaii Constitution, to what does the word "sex" refer? In my view, the Hawaii Constitution's reference to "sex" includes all aspects of each person's "sex" that are "biologically fated." (Baehr v. Lewin 1993)

He goes on to cite reports that sexuality is indeed biologically fated, ending with:

If heterosexuality, homosexuality, bisexuality, and asexuality are "biologically fated," then the word "sex" also includes those differences. Therefore, the questions whether heterosexuality,

homosexuality, bisexuality, and asexuality are "biologically fated" are relevant questions of fact which must be determined before the issue presented in this case can be answered. If the answers are yes, then each person's "sex" includes both the "biologically fated" male-female difference and the "biologically fated" sexual orientation difference, and the Hawaii Constitution probably bars the State from discriminating against the sexual orientation difference by permitting opposite-sex Hawaii Civil Law Marriages and not permitting same-sex Hawaii Civil Law Marriages. If the answers are no, then each person's "sex" does not include the sexual orientation difference, and the Hawaii Constitution may permit the State to encourage heterosexuality and discourage homosexuality, bisexuality, and asexuality by permitting opposite-sex Hawaii Civil Law Marriages and not permitting same-sex Hawaii Civil Law Marriages. (Baehr v. Lewin 1993)

Justice Burns therefore relates the constitutionality of Hawaii's ban on gay marriage directly to a biological basis for sexuality; the science, he claims, cannot be separated from the legality of discrimination against the class. Unfortunately, as we learned in the first section of this article, the biological underpinnings of sexuality are far from well-described. After this ruling found that gays and lesbians have the right to marry under Hawaii state law, voters in that state passed a constitutional amendment defining marriage as one man and one woman, thus rendering the findings of the court moot (Baehr v. Miike 1999).

Subsequent court decisions in other states have disagreed with the analysis in *Baehr*

as to whether LGBT individuals constitute a protected class. Courts have tended to reject the logic used in *Baehr* that discrimination against gays and lesbians could be considered sex-based, claiming that “regardless of sexual orientation, any person can marry a person of the opposite sex” (*Hernández v. Robles* 2006). These decisions tend to create or deny a new protected class uniquely for the LGBT community. Yet, many of these cases still debate the immutability of sexuality. While Massachusetts was the first state to gain full marriage equality through the judicial process, the court used a rational basis test and found that homosexuals did not constitute a protected class (*Goodridge v. Department of Public Health* 2003).

Other state Supreme Courts including Washington (*Anderson v. King County* 2006) and New York (*Hernández v. Robles* 2006) found that gays and lesbians did not merit strict scrutiny and that the government made rational arguments to deny marriage rights. Again, these decisions rested on the notion of the innateness of human sexuality, referencing *High Tech Gays* and other cases. In *Anderson v. King County* (2006) the court states:

The plaintiffs do not cite other authority or any secondary authority or studies in support of the conclusion that homosexuality is an immutable characteristic. They focus instead on the lack of any relation between homosexuality and ability to perform or contribute to society. *But plaintiffs must make a showing of immutability, and they have not done so in this case* [emphasis added]. (*Anderson v. King County* 2006)

These decisions are extremely clear in their desire to see evidence relating to the biological, as opposed to “behavioral,” causes of LGBT identities.

Other state courts have conflicted with this view on strict scrutiny and especially on the stringent definition of immutability applied. In California, the Supreme Court specifically overturned the decision of the court of appeals that homosexuals do not constitute a suspect class. Rather, the court found, “Although we noted . . . that generally a person’s gender is viewed as an immutable trait, immutability is not invariably required in order for a characteristic to be considered a suspect classification for equal protection purposes,” citing specifically the fact that religion is both a protected class and an individual’s choice (*In re Marriage Cases* 2008). The justices add, “because a person’s sexual orientation is so integral an aspect of one’s identity, it is not appropriate to require a person to repudiate or change his or her sexual orientation in order to avoid discriminatory treatment” (*In re Marriage Cases* 2008).

Decisions in Connecticut and Iowa further this line of reasoning. Citing an earlier decision relating to LGBT individuals in the military (*Watkins v. Unites States Army* 1983), the court in Connecticut finds that “because sexual orientation is such an essential component of personhood, even if there is some possibility that a person’s sexual preference can be altered, it would be wholly unacceptable for the state to require anyone to do so.” The court calls into question the importance of scientific data altogether, arguing that “scientific proof aside, it seems appropriate to ask whether heterosexuals feel capable of changing their sexual orientation” (*Kerrigan v.*

Commissioner of Public Health 2008). The strength of this reasoning resonated with the Supreme Court of Iowa (Varnum v. Brien 2009), which cites the Connecticut decision, as it rules both that gays and lesbians constitute a protected class and that laws excluding them from marriage are unconstitutional. The Iowa decision states that:

Courts need not definitively resolve the nature-versus-nurture debate currently raging over the origin of sexual orientation in order to decide plaintiffs' equal protection claims. The constitutional relevance of the immutability factor is not reserved to those instances in which the trait defining the burdened class is absolutely impossible to change. (Varnum v. Brien 2009)

Through judicial decisions, many of which rely on gays and lesbians constituting a protected class, gay marriage is now legal in four states: Connecticut (Kerrigan v. Commissioner of Public Health 2008), Iowa (Varnum v. Brien 2009), Vermont, and Massachusetts (Goodridge v. Department of Public Health 2003). Legislation legalized full marriage equality in Vermont (Goodnough 2009a), where the judicial decision accepted civil unions as a substitute for marriage (Baker v. Vermont 1999), New Hampshire (Goodnough 2009b), and Washington, DC (Urbina 2010). The decisions cited above show that some state courts are moving away from a definition of immutability that requires a biological basis for sexuality. They rely instead on the fact that one's sexuality is a central component of one's identity and therefore should not be infringed upon. While the biological argument may be difficult or impossible to prove, especially within this generation, this newly applied

view of immutability can be understood without the scientific consensus that may take years to develop.

California's constitutional amendment that defines marriage as between one man and one woman is currently being challenged in federal court, offering an opportunity for a new precedent that may redefine the LGBT community as a protected class on the federal level. In a recent decision, Judge Vaughn Walker found that Proposition 8 clearly violated the U.S. Constitution based both upon the due process and the equal protection clauses of the Fourteenth Amendment (Perry v. Schwarzenegger 2010). Judge Walker found that gays and lesbians do constitute a protected class under constitutional law but did not rely heavily on the immutability of sexuality. Further, he found that Proposition 8 did not stand up to even a rational basis review, thus arguing that whether or not appeals courts agreed with his analysis as to strict scrutiny, Proposition 8 should be found unconstitutional.

Judge Walker does briefly allude to the immutability of sexuality but largely cites psychological and not biological data. He states, "individuals do not generally choose their sexual orientation. No credible evidence supports a finding that an individual may, through conscious decision, therapeutic intervention or any other method, change his or her sexual orientation" (Perry v. Schwarzenegger 2010). With no direct discussion of immutability, Judge Walker goes on to claim that, "although Proposition 8 fails to possess even a rational basis, the evidence presented at trial shows that gays and lesbians are the type of minority strict scrutiny was designed to protect." Importantly, Judge Walker places discrimination against gays and lesbians in a

larger societal context of historical gender and sex discrimination and the ways in which that discrimination was related to marriage:

The evidence did not show any historical purpose for excluding same-sex couples from marriage, as states have never required spouses to have an ability or willingness to procreate in order to marry. Rather, the exclusion exists as an artifact of a time when the genders were seen as having distinct roles in society and in marriage. That time has passed. (Perry v. Schwarzenegger 2010)

relative ease, populations and race are certainly not synonymous (Jorde and Wooding 2004). A biological definition of race, therefore, remains rooted in cultural understanding and historical context. Religions may also be suspect classes, and courts have been quite right to point out that religious beliefs can be considered a choice (In re Marriage Cases 2008). Therefore, the fact that there is no consensus on a scientific basis of sexuality should not stop the enactment of laws and policies that protect gays and lesbians against government or private infringement on their right to equal protection under the Fourteenth Amendment.

...the fact that there is no consensus on a scientific basis of sexuality should not stop the enactment of laws and policies that protect gays and lesbians against government or private infringement on their right to equal protection under the Fourteenth Amendment.

This decision, if it is upheld, may create a new protected class, under federal law, for gays and lesbians. Further, it does so with little regard to immutability. Whether federal appeals courts will agree remains uncertain.

To argue that biology ought to be unimportant when crafting law and policy concerning minorities, we should consider how murky the biology of race remains. Race is clearly defined as a protected class, and laws that discriminate based upon race must withstand strict scrutiny. However, a biological or genetic definition of race has been incredibly difficult to identify (Jorde and Wooding 2004; Kittles and Weiss 2003; Serre and Pääbo 2004). While genetics can describe differences between populations with

U.S. Department of Education Secretary Arne Duncan attempted to broaden current law to be more protective of LGBT youth by sending a letter to more than 15,000 school districts across the country (Cohen 2010). As a response to the highly publicized suicides of LGBT youth in the United States in recent months, Assistant Secretary for Civil Rights Russlynn Ali encouraged all schools receiving federal education funding to enact policies that prohibited bullying of LGBT students (Ali 2010). Ali's letter places bullying of gays and lesbians in the context of existing Title IX law prohibiting government-funded institutions from discriminating based upon sex. It states that Title IX:

Prohibits gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex stereotyping.

Although Title IX does not prohibit discrimination based solely on sexual orientation, Title IX does protect all students, including lesbian, gay, bisexual, and transgender (LGBT) students, from sex discrimination. When students are subjected to harassment on the basis of their LGBT status, they may also . . . be subjected to forms of sex discrimination prohibited under Title IX. (Ali 2010)

Yet, as we have seen, courts have disagreed with the extension of rights based upon sex to the LGBT community; therefore it is unclear whether the federal government could financially penalize schools that fail to adhere to its new guidelines.

This letter highlights the clear and urgent need for legislation that grants the LGBT community special protection under federal law, in a similar fashion to sex and race as protected by the Civil Rights Act. The U.S. Supreme Court has not overturned previous decisions that failed to grant the LGBT community special status, most recently ruling that laws preventing sodomy were illegal based upon infringement of individual privacy, and not by using strict scrutiny (*Lawrence v. Texas* 2003). As we have seen, state Supreme Courts continue to disagree about the importance of the immutability of sexuality in deciding the level of scrutiny required for cases pertaining to LGBT rights. It could take years for the Supreme Court to grant LGBT individuals special protection under the law and therefore end the legal sanctioning of anti-LGBT legislation. In the meantime, it seems

likely that courts will continue to disagree over both whether different forms of discrimination against LGBT individuals are legal and whether these cases require strict scrutiny. Federal legislation that grants, unequivocally, the LGBT community special protection under the law and labels discrimination based upon gender or sexual orientation illegal would remove the thorny question of immutability from the debate entirely. Courts would no longer be required to evaluate the scientific evidence on the innateness of sexuality, the relationship between sexuality and sex, or the relative importance of immutability and identity. With such legislation, scientists, social scientists, and ethicists could continue the debate over the origins of gender identity and sexuality without unduly, and often inadvertently, influencing the rights of LGBT individuals.

CONCLUSION

In this article, I have shown that the science of human sexuality is in its infancy and that there is currently little conclusive evidence that sexuality is genetically or hormonally induced. Further, by examining CAH, where a known genetic mutation can lead to lesbianism, we find that the identity of women is not protected. Girls are currently subject to hormonal treatment while developing in the womb to prevent masculinization of the brain and subsequent lesbianism. A review of legal cases pertaining to the rights of LGBT individuals to marry a partner of the same sex shows that the concept of innateness of sexuality, as it is currently understood, has serious ramifications for the rights of the LGBT community. I argue that the court cases that have rejected a narrow definition of immutability present a step forward in the fight for LGBT equal

protection. Further, specific legislation that would unambiguously define the LGBT community as deserving protection under federal law would present a major breakthrough, removing the question of innateness or immutability from legal debates altogether.

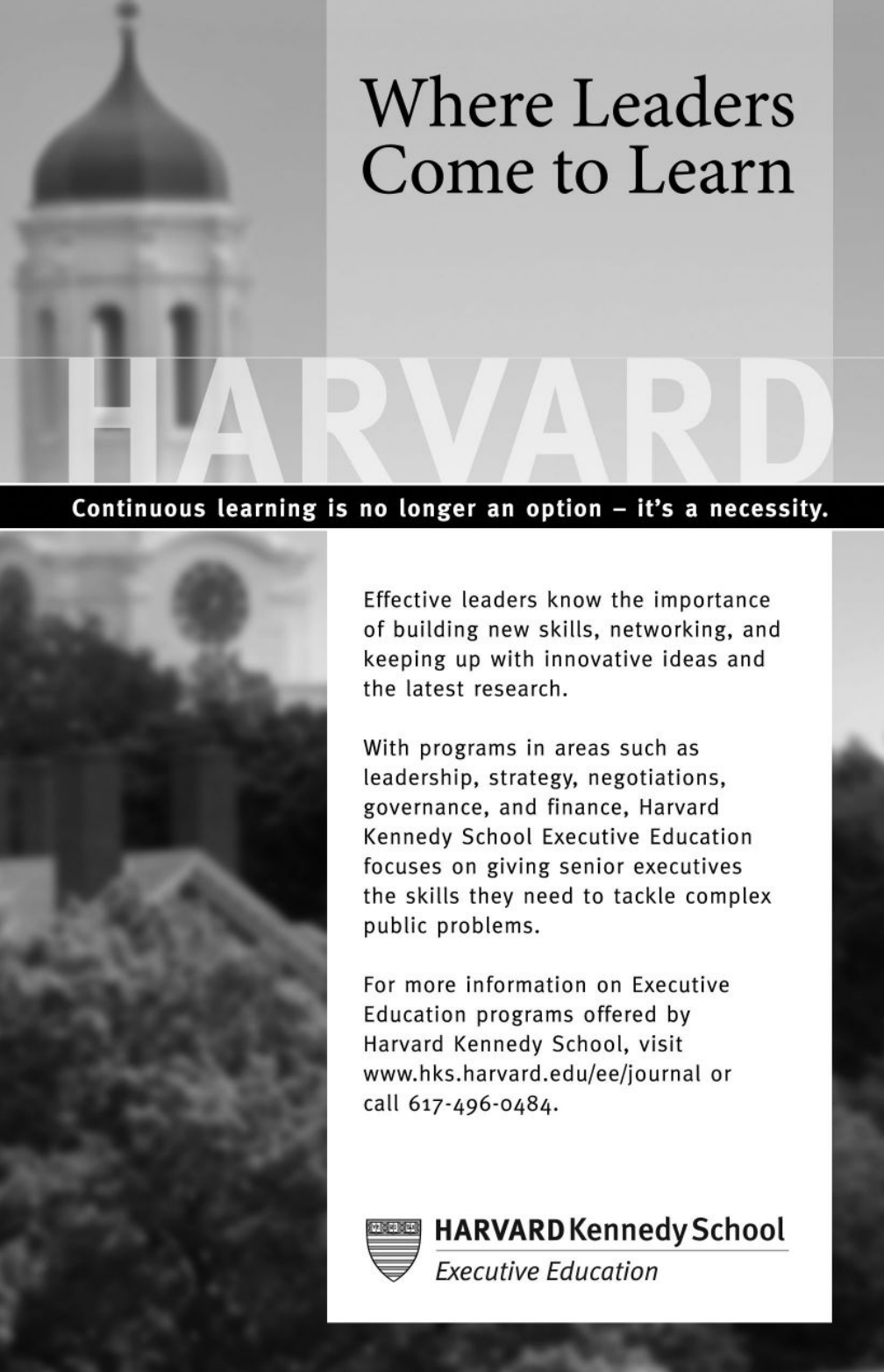
Given the mixed empirical evidence and dubious bioethical nature of the science of sexuality, the innateness of sexual orientation is a poor metric upon which to formulate policy or law. Indeed, arguments for policies that affirm equal rights for all citizens, regardless of sexuality, need not rely on questions of origin. A biological understanding of sexuality may actually serve to further marginalize groups for which sexuality contains some aspects of choice and lead to reclassification of different identities as diseases. Sexuality is an integral part of human identity and should not be the basis for discrimination, its origins notwithstanding. Fundamental rights of minority groups should simply not rely on a scientific classification. Race and religion are given special protection under the law and yet remain perilous to define biologically. Sexuality should be treated no differently.

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Revolving Doors: LGBTQ Youth at the Interface of the Child Welfare and Juvenile Justice Systems

by Sarah Mountz

Sarah Mountz received her MSW from Columbia University in 2003. She worked in various aspects of the child welfare system in New York City before returning to school to get her doctorate. She has been an instructor in the University of Washington's BSW and MSW programs where she teaches from an anti-oppression, critical social justice framework. She created and taught "Enhancing Outcomes for LGBTQ Youth," a ten-week skills lab for child welfare practitioners. Her research interests include evaluating and strengthening services to LGBTQ youth in out-of-home care through cross-systems collaboration; queer and trans youth community organizing; and community-based participatory research.

ABSTRACT:

Given their capacity to mask, mute, and bureaucratize the human voice, institutional settings remain particularly potent spaces for the interpersonal and systemic enactment of homophobia and transphobia. Tremendous obstacles exist in providing effective, high-quality services to lesbian, gay, bisexual, transgender, and queer (LGBTQ) adolescents in the child welfare and juvenile justice systems. This

article reviews and critically analyzes the small body of literature pertaining to LGBTQ youth in the foster care system in the United States. It identifies systemic biases shared between the child welfare and juvenile justice systems and argues that they have jointly become warehouses for LGBTQ youth trapped within their midst. The article concludes with suggestions for policy reform and argues for the need to embrace an intersectional lens in child welfare and juvenile justice research, policy, and practice.

Unlike adults, who are relatively capable of protecting themselves, queer youth, based on their legal age and status, are often effectively silenced. In the introduction to "Queer Kids: A Comprehensive Annotated Legal Bibliography," Sarah Valentine argues that queer youth "can face every sort of legal or non-legal problem that a queer adult may face while operating under the distinct handicap of their age" particularly with respect to dealing with verbal harassment and physical or sexual assault (2008). A recent cluster of suicides by lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth and the surrounding media attention have illuminated what academic research, community testimony, and other anecdotal evidence collectively asserted since the mid-1990s: school bullying and harassment remain chronic and pervasive problems for LGBTQ youth, and the public health implications are dire (Birkett et al. 2009; Wright 2008; Grossman and D'Augelli 2007; Wyss 2004; D'Augelli et al. 2002).

The tragic death of Rutgers University student Tyler Clementi in September 2010 following a particularly heinous case of cyberbullying drew a media storm of attention to the issue of LGBTQ youth bullying and suicide, igniting a national

discourse. Absent from this conversation thus far has been the recognition that increased risk for suicide is but one of many poor outcomes of relentless and uninterrupted bullying for this community of young people. Other issues include increased risk for substance abuse and HIV/STD infection (Garofalo et al. 1998; Hanlon 2004; Saewyc et al. 2006) as well as school truancy and worse academic outcomes (Kosciw and Diaz 2006; O’Shaughnessy et al. 2004; Ryan and Rivers 2003; Savin-Williams 1994). As this piecemeal understanding of the risks to LGBTQ youth indicates, structural analyses of the systems of oppression that create the conditions for homophobic and transphobic bullying are lacking.

While the capacity of institutional settings like schools to mask, mute, and bureaucratize the human voice increases their salience as spaces fostering the systematic enactment of interpersonal homophobia and transphobia that silence LGBTQ youth voices, this phenomenon is not unique to schools. Recent research reveals that queer and transgender (trans) youth are disproportionately represented among homeless youth populations (Cochran et al. 2002; Van Leeuwen et al. 2006) as well as in the child welfare and juvenile justice systems (Wilber et al. 2006; Majd et al. 2009). Although the pathways onto the streets and into the child welfare and juvenile justice systems are complex, a lack of queer- and trans-affirming social services as well as a multitude of rejections by hostile family environments and peer networks substantially influence the entry of LGBTQ youth into these systems.

Moreover, the conflation of homosexuality and gender nonconformity with social deviance is a contributing factor to the institutional criminalization and

community-level profiling of LGBTQ youth—particularly LGBTQ youth of color—that results in their disproportionate representation in the very institutions and child “protective” systems that are the least affirming of their lives and identities (Majd et al. 2009; Mogul et al. 2011). In navigating their environments, state-involved LGBTQ youth face the daily dialectic of being shut out or unsafe within the context of family life, social and spiritual enclaves, and educational environments (Ragg et al. 2006; Mallon 1998) even as the capacity of youths to actualize their voices and identities in these systems is a testament to their fortitude (Gwadz et al. 2006; Lanckenau et al. 2005).

Despite these dire conditions, this article will indicate the possibilities for change through an examination of the extant literature, an identification of shared systemic biases between the child welfare and juvenile justice systems, and an assessment of policy options. Specifically, I argue that efforts toward change should always include supporting the considerable local and national organizing efforts of LGBTQ youths themselves (e.g., FIERCE at www.fiercencyc.org and Queer Youth Space at www.queeryouthspace.com) and honoring the fire behind the voices they sustain (Johnson 2007). I also contend that, on a systemic level, services need to be revamped in order to accommodate the unique risk and resiliency factors of LGBTQ youth and their families, creating programs to identify and train LGBTQ-affirming foster parents and refining the ability of social workers and attorneys to engage families of origin around issues of sexual orientation and gender identity. Additionally, institutional responses should tailor programming to promote family reunification when

appropriate and honor a vast array of family and kinship configurations. Finally, developing culturally responsive interventions demands that we identify and utilize research methodologies that honor listening and striving to level the power imbalances that characterize research processes, while simultaneously honoring LGBTQ youth and their families and support networks as experts in their own rights (Harper et al. 2007; Clatts et al. 2005).

PART I: LGBTQ YOUTH IN THE FOSTER CARE SYSTEM

As explored in this section, tremendous obstacles exist in providing effective, high-quality services to LGBTQ adolescents in the child welfare system.

LGBTQ Pathways to the Child Welfare System

Older children in foster care, such as many queer adolescents, face barriers like mitigated success in being placed in a permanent setting or with a family; the stigma of child welfare involvement; and the increased risk for substance abuse and mental health issues that are connected to long-term out-of-home placement (Jacobs and Freundlich 2006). LGBTQ youth in care cope with additional discrimination and safety issues in and out of care, including disruption of foster

violence within congregate care facilities (Mallon 1998; Mallon et al. 2002).

Service providers, moreover, frequently lack sensitivity to the unique needs and aspirations of LGBTQ youth, making collaboration within and across systems challenging. This insensitivity also diminishes the capacity for the provision of safe, sensitive, and efficacious mental health, medical, and educational services. LGBTQ youth in care face multiple layers of discrimination and stigmatization, the psychosocial stress from which may place them at increased risk for substance use, sex work, and other activities related to daily survival and may make the quest for an integrated identity and sense of home difficult to fulfill (Ragg et al. 2006).

Underlying Bias and Barriers in Child Welfare System

Safety, Visibility, and Stigma

Gerald Mallon (1998) describes three categories of child welfare-involved LGBTQ youth: (1) youths who are forced from their homes because of family of origin issues related to the discovery or disclosure of their sexual orientation or gender identity and who consequently enter the foster care system; (2) youths who leave, or are rejected or removed from, the homes of their family of origin for reasons that appear unrelated to their

❖❖❖ *Heterosexism, homophobia, and transphobia pervade child welfare service provision and policy.*

family placements and increased distancing or conflict with families of origin related to their sexual orientation and/or gender identity as well as harassment and

sexual orientation or gender identity (e.g., sexual abuse, educational neglect, etc.) and that may or may not reveal themselves to be a by-product of sexual

orientation or gender identity; and (3) youths who come of age and become aware of their sexual orientation or gender identity while in the foster care system.

Heterosexism, homophobia, and transphobia pervade child welfare service provision and policy, resulting in a consequent invisibility of LGBTQ youth and, not uncommonly, a lack of acknowledgement by agencies and workers that there are, in fact, LGBTQ youth in their care (Mallon 1998). Visibility, however, often results in outright hostility and discrimination by both workers and other youth (Berberet 2006). The disproportionate rates at which LGBTQ youth in care are subjected to verbal and physical harassment as a result of their sexual orientation and/or gender identity have been well-documented (Mallon 1998; Jacobs and Freundlich 2006; Saewyc et al. 2006). Significant attention has also been afforded to the many ways in which child welfare settings are structurally unsupportive or poorly equipped to meet the developmental needs of LGBTQ young people (Wilber et al. 2006; Van Leeuwen et al. 2006). By virtue of their sexual orientation and/or gender identity (Mallon 1998), LGBTQ youth in foster care experience stigma on many different levels, including because they are youth in care (Hochman et al. n.d.); because they are frequently survivors of trauma (Ragg et al. 2006); and because their lives are commonly shaped by interlocking forms of oppression and multiple marginalized identities (Estrada and Marksamer 2006; Mallon and Woronoff 2006; Mallon et al. 2002). Mark Ragg, Dennis Patrick, and Marjorie Ziefert (2006) note that for LGBTQ youth in foster care, integrating multiple layers of stigma into the already complicated task of adolescent identity

formation is a process that is shaped by interactions with workers, other youth in care, foster parents, members of their families of origin, and the juvenile justice system. All of these players hold the capacity either to foster wellness and resiliency or to exacerbate the capacity for internalizing social attitudes toward delegitimized and denigrated aspects of their being (Ragg et al. 2006).

Heteronormativity of Child Welfare System

In the introduction to a volume of *Child Welfare* dedicated to LGBTQ youth and adults involved with the child welfare system, Gerald Mallon and Rob Woronoff note that “the affirmation and protection automatically afforded to most children, youth, and families are rights not guaranteed by child welfare agencies to most gay and lesbian children, youth, and families” (2006). Existing literature documents that LGBTQ populations have been acknowledged to a greater extent by social services directed toward runaway and homeless youth than within child welfare settings (Mallon and Woronoff 2006). Many youth who receive services within the spectrum of care of providers who work with the homeless have child welfare histories, and many are living on the street because they deem this to be a safer environment than child welfare settings where they have been subjected to verbal or physical harassment and a general atmosphere of insensitivity (Van Leeuwen et al. 2006; Woronoff and Estrada 2006).

Child welfare systems have an extensive history of regulating the lives of families and communities, particularly those that are marginalized within the United States by virtue of race, class, citizenship, and family structure. In a society in which the

male-headed, heterosexually grounded nuclear family is held as the gold standard, child welfare environments stand out among social services as sites where the enforcement and reproduction of heterosexism, homophobia, transphobia, and the hegemonic system of gender binaries lead to LGBTQ invisibility and negative outcomes for LGBTQ youth. In Mallon's sample of child welfare workers, for example, the majority of those interviewed insisted that they had no LGBTQ youth in their care (Mallon 1998).

Similarly, while many studies document negative foster parent attitudes and their impact upon LGBTQ youth placement options, permanency, and well-being, only one empirical study has focused on these attitudes (Clements and Rosenwald 2007). By analyzing focus group data from twenty-five foster parents at a private foster care agency, Jennifer Clements and Mitchell Rosenwald (2007) identified the following four central themes: (1) misconceptions about LGBTQ youth; (2) fears of gay children molesting the parents' own children; (3) large perception differences regarding lesbian or bisexual children in comparison to gay children; and (4) religious beliefs that neither accept nor tolerate nonheterosexual identities or gender nonconformities. For example, misconceptions included beliefs that a youth's sexual orientation could be "cured" through social worker activity; beliefs conflating gender identity and/or gender nonconformity with sexual orientation; and the belief that children are gay because they have been sexually abused. While seven of the twenty-five foster parents had had a gay child placed in their home, six of these requested that the child be removed from their home upon

learning of their sexual orientation. The study also notes the linkage between implicit case worker bias and foster parent bias; it reveals that social workers placed LGBTQ youth in the homes of foster parents whose bias was known beforehand, essentially placing gay children with parents known to be homophobic, which indicates either some bias or apathy on the part of case workers. Such a practice all but ensures failed placement (Clements and Rosenwald 2007).

Creating and providing safer and more inclusive services therefore necessitates understanding and changing not only the attitudes of workers and others who interact with the individuals and families that the child welfare system services, but also the mechanisms by which social attitudes and systems of oppression become institutionalized via social welfare policy.

Family connection and support, when achievable, can be protective against many health risk behaviors and may help combat some of the consequences of psychosocial stress experienced by LGBTQ youth. Engagement with families of LGBTQ youth—families of origin, foster and adoptive families, and extended family kinship networks—should be meaningfully offered at every stage and level of care and in every social service setting. Youths' own perceptions of their safety need to be centered and to guide this process. The model based upon the results of the Family Acceptance Project (FAP), a mixed methods participatory research project, is a strong example of family engagement that takes into consideration family attitudes toward youth sexual orientation and gender identity across cultures (Ryan 2010). Conducted in both Spanish and English

and using a design that included families, youths, pediatricians, nurses, social workers, teachers, and community advocates across multiple geographies and from an array of experiences, FAP's research and counseling model focuses on family adaptation, risks, strengths, and resiliency. It synthesized family responses and behaviors, classified them as either accepting or rejecting, and then explored their correlation with measures of adolescent well-being (Ryan 2010). Based on these findings, interventions were developed to facilitate family support and child well-being among ethnically, religiously, and socially diverse families. With its proven impact on significantly enhancing LGBTQ youth well-being, these services need to be implemented in every setting that services LGBTQ youth and their families, including the child welfare and juvenile justice systems.

Lack of Permanency Resources

While recent foci independently emphasize creating permanency for youth in the foster care system and enhancing services to LGBTQ youth in care, these currents have enjoyed few points of confluence (Jacobs and Freundlich 2006). The passage of the U.S. Adoption and Safe Families Act in 1997 established stricter mandates for states to assure permanency and safety for all youth in the foster care system, but LGBTQ youth have largely been left out of initiatives for identifying permanency resources for older youth in care, and the issue of permanency tends to lack rigor within agendas established to improve services for LGBTQ youth in care (Jacobs and Freundlich 2006). Leaving the foster care system without having established trusting and sustainable relationships with family or committed adults, meanwhile, puts youth at increased risk for poverty, homelessness,

and victimization. As Jill Jacobs and Madelyn Freundlich (2006) have noted, "for LGBTQ youth, the failure to achieve permanence also heightens the risk of social isolation, loneliness, discriminatory treatment and harassment, and physical and sexual abuse."

Attempts to Address Problems for LGBTQ Youth in Child Welfare Systems

Queer Congregate Care

While researchers and advocates have begun to explore the merits of broad shifts in the culture of agencies versus specialized services for LGBTQ youth residing in out-of-home care (Wilber et al 2006), since 2000 specialized services have been created in a handful of metropolises. Youth accounts indicate that these young people feel safer and more affirmed after moving into these environments following harassment or violence enacted against them in previous settings as a result of their sexual orientation (Mallon et al. 2002). The facilities, however, are all congregate settings, which are among the most restrictive, least family-like environments and have been associated with the lowest levels of contact with family of origin and higher levels of homelessness for youth who come of age within them (U.S. Department of Health and Human Services 2006).

LGBTQ youth are frequently placed within these settings despite an accepted child welfare practice that youth be placed in the least restrictive environment possible, which raises questions about what barriers may exist in the process of placing LGBTQ youth with foster families (Wilber et al. 2006; Jacobs and Freundlich 2006). Moreover, there is a large-scale "outing" to service providers, schools, peers, and families that occurs for youth

who reside in these settings, which may have an impact upon youths' safety within the community and at school (Jacobs and Freundlich 2006). Finally, it remains unclear whether the presence of these facilities results in a paradigm shift within the agencies that house them or create a safe, but separate, enclave for LGBTQ youth while leaving interpersonal and systemic agency bias unchallenged.

Extant literature explores alternatives to current practice that hold the potential to enhance permanency outcomes for child welfare-involved LGBTQ youth. Jacobs and Freundlich (2006), for example, highlight efforts for reunification with families of origin that are specific to LGBTQ youth, as well as culturally specific practices relevant in connecting youth to extended family members as viable permanency resources. Current efforts also target unique issues that arise for LGBTQ youth as they transition to adulthood or independent living, such as LGBTQ adult mentors or affirmative allies, noting that LGBTQ youth in care are also older youth, requiring specific sensitivities to facilitate permanency.

Queer Parent Foster Care Adoption and Mentorship

In their review of the Model Standards Project, Shannan Wilber, Carolyn Reyes, and Jody Marksamer (2006) make recommendations for remedying LGBTQ youths' fragile placement context, including enlarging the pool of potential staff, caregivers, and providers by increasing the number and retention of both LGBTQ-identified and LGBTQ-affirming, competent caregivers. The authors additionally recommend providing ongoing support and training regarding the needs and care of this community of young people and empha-

size prompt and constructive response to problems that arise within placements through a dispute resolution process. This can only be achieved, they argue, through the implementation and enforcement of nondiscrimination policies, including sanctioning and/or providing follow-up training, supervision, and technical assistance to staff members who violate the policies. Finally, they note that ensuring placement staff awareness and provision of the least restrictive, most family-like range of placement options, including LGBTQ-affirming foster families, is of paramount importance in determining positive LGBTQ youth outcomes.

“Goodness of Fit”: Unstable Housing and Homelessness

Multiple Placements

LGBTQ youth are particularly vulnerable to repeated movement and unstable placements within child welfare and juvenile justice systems that are overburdened, under-resourced, and suffer from a chronic shortage of competent staff, caregivers, and service providers to care for the more than 500,000 young people who are residing outside of the homes of their birth families (Wilber et al. 2006). In a sample of forty-five LGBTQ youth, Gerald Mallon, Nina Aledort, and Michael Ferrera (2002) found that the average number of placements for LGBTQ youth was 6.35, a result the researchers associate with nonaffirming placements that either passively encourage LGBTQ youth to leave their placements by neglecting their needs or actively discriminate against them, resulting in premature ejection or departure. Addressing their heightened risk for multiple, unstable placements, Mallon, Aledort, and Ferrera attribute the

frequent moves for LGBTQ youth to four factors: (1) staff members not accepting or not affirming youths' sexual orientation; (2) youths feeling unsafe because of their sexual orientation; (3) youths' sexual orientation being seen as a "management problem"; and (4) youths not being accepted by peers because of their sexual orientation (2002).

LGBTQ Youth Homelessness

Research indicates that 52 percent of homeless youth have had some involvement with the foster care system at some point in their lives (Byrne et al. 2005). Multiple studies have also found that LGBTQ youth are disproportionately represented among homeless youth populations and face additional risks as a result of individual and institutional homophobia (Ray 2006; Van Leeuwen et al. 2006). Les B. Whitbeck et al. (2004) estimate that LGBTQ youth make up approximately 20 percent on average of homeless youth in urban areas, with slightly lower representation in non-urban areas. In another eight-city public health survey of homeless youth, 22.4 percent of 670 youth participants identified as lesbian, gay, or bisexual (Van Leeuwen et al. 2006).

In a sample of homeless youth, 58 percent of LGBTQ youth reported having been sexually assaulted compared to 33 percent of heterosexual homeless youth (Whitbeck et al. 2004). Elsewhere, 44 percent of LGBTQ youth reported being asked by someone on the street to exchange sex for money, food, drugs, shelter, or clothing as compared to 26 percent of straight homeless youth (Van Leeuwen et al. 2006).

These characteristics, alongside LGBTQ youths' higher likelihood of having attempted suicide, having at one time

been enrolled in a substance abuse program, and having been in the child welfare system, as well as being significantly more likely to have been tested for HIV and hepatitis C, highlight the exacerbated public health risks associated with homelessness for LGBTQ youth (Van Leeuwen et al. 2006). These findings, furthermore, support earlier claims that LGBTQ youth move frequently between their families of origin, child welfare placements, the street, residential treatment programs, shelters, and other informal living arrangements as they seek out a good support system and living situation among persistently hostile social service systems that fail to understand their experiences and are ill-equipped to meet their needs.

PART II: THE REVOLVING DOOR: ONTO THE STREETS AND INTO THE JUVENILE JUSTICE SYSTEM

Strong parallels between the child welfare system and the juvenile justice system indicate that many of the stereotypes, biases, discriminatory practices, and structural barriers that shape the lives and experiences of LGBTQ youth are shared across both systems, with projections indicating the likelihood that LGBTQ youth are overrepresented in both (Estrada and Marksamer 2006; Majd et al. 2009; Sullivan et al. 2001).

Juvenile Justice Systems and LGBTQ Youth

Specific manifestations of the criminalization of LGBTQ youth within the juvenile justice system include the increased likelihood that youth will be detained prior to sentencing and a pathologizing of their sexuality that at times results in inappropriate "sex offense" (e.g., lewd conduct) charges. These charges then impact not only

❖❖❖ *...juvenile detention facilities have become spaces where LGBTQ youth, undervalued as they are by society, are warehoused out of sight of the public eye...*

hearings and sentencing but also eventual disproportionate placement of LGBTQ youth in juvenile justice systems (Estrada and Marksamer 2006; Majd et al. 2009; Sullivan et al. 2001; Laver and Khoury 2008).

The Equity Project (Majd et al. 2009) has conducted 414 surveys as well as sixty-five interviews with juvenile justice professionals and fifty-five LGBTQ youth currently or previously involved in the juvenile justice system. LGBTQ youth were found to have been overcharged with sex offenses related to age-of-consent laws when compared to their heterosexual counterparts, an occurrence that paves the way for further potential systemic abuses, including unnecessary sex offender treatment. Consequences sometimes include court-ordered reparative or, in more extreme cases, conversion therapy, which has been condemned by every major health and mental health organization, including the American Medical Association, American Psychological Association, and the American Academy of Child and Adolescent Psychiatry (Jenkins and Johnston 2004; Majd et al. 2009). Additionally, findings from research conducted by both Amnesty International (2005) and the Equity Project (Majd et al. 2009) indicate large-scale profiling of LGBTQ youth, particularly youth of color, who are disproportionately targeted and apprehended for “quality of life” offenses (e.g., loitering, littering, public drunkenness) when compared to their heterosexual counterparts. Institutional

mistreatment and abuse within the systems are reflected in the findings that nearly 70 percent of Equity Project survey respondents indicated that police mistreatment was a “very serious” or “somewhat serious” problem for LGBTQ youth (Majd et al. 2009).

These findings illustrate the conflation of homosexuality and gender nonconformity with deviance, which is a contributing factor to the criminalization of LGBTQ youth, as is school bullying, family rejection, lack of social services, the hostility of the child welfare system, and LGBTQ youths’ disproportionate representation and increased vulnerability among homeless youth populations. All of these challenges land LGBTQ youth in public spaces where they are likely to be targeted by police and ensnared in a juvenile justice system whose structural and explicit homophobia and discrimination based upon gender identity subject LGBTQ youth to further violence and victimization while mitigating access to opportunity and creating pathways with poor outcomes (Estrada and Marksamer 2006; Majd et al. 2009; Hanhardt 2008; Agathangelou et al. 2008). Essentially, as with the mental health institutions of the 1970s, juvenile detention facilities have become spaces where LGBTQ youth, undervalued as they are by society, are warehoused out of sight of the public eye and to the benefit of an increasingly privatized youth and adult prison system.

It should be noted that scholarly attention has recently been given to the overrepresentation of lesbian and bisexual girls

within the juvenile justice system (Himmelstein and Bruckner 2011). Seeking to shed light on this phenomenon, Kathryn Himmelstein and Hannah Bruckner utilized the National Longitudinal Study of Adolescent Health, a nationally representative, population-based sample, to demonstrate that nonheterosexual adolescents, particularly girls, are disproportionately sanctioned by schools and criminal justice authorities, despite the fact that they are not engaging in more lawbreaking or transgressive behavior than their heterosexual peers. Noting the paucity of research in this area, Himmelstein and Bruckner argue that understanding and addressing these disparities is essential to ameliorating the social and health consequences associated with excessive school expulsions, arrests, and incarceration.

Transgender and Gender Nonconforming Youth and Juvenile Justice Systems

In particular, as with school settings and the child welfare system, juvenile justice systems are sites of particular hostility and vulnerability for transgender and gender nonconforming youth (Marksamer 2008; Grossman and D'Augelli 2006). Jody Marksamer (2008) highlights the criminalizing and abusive pathways for transgender youth who come to the attention of the law, noting that their reasons for involvement in juvenile justice systems frequently have to do with petty crimes related to efforts to try and live out their felt gender (e.g., shoplifting women's clothing, engaging in survival sex in order to afford street hormones) or are a result of the discrimination and abuse that they experience within their families, schools, foster care facilities, homeless shelters, and places of employment.

Once involved in the juvenile justice system, transgender youth and gender nonconforming youth are commonly housed in sex-segregated facilities where their gender identity is policed or placed in isolation (Marksamer 2008).

Segregation of these trans youth into congregate rooms with youth that are similar in sex can subject trans youth to harassment, sexual assault, and other forms of violence. Moreover, trans youth often do not receive adequate legal representation and advocacy because of attorney bias and lack of understanding of gender and sexuality (Majd et al. 2009; Marksamer 2008). The lack of trans-affirming social services and treatment programs also results in the exclusion of trans youth from "rehabilitative" alternatives to incarceration that may be available to other youth.

The combination of these factors, in conjunction with a frequent lack of support from family members, results in disproportionately poor outcomes for transgender youth involved in the juvenile justice system (Marksamer 2008; Puritz and Majd 2007). Specifically, Patricia Puritz and Katayoon Majd (2007) document these outcomes, including "vulnerability to assault, lack of socialization and programming, loss of community and connection with family, and an increased likelihood that he or she will be pulled even deeper into the system." Thus, for LGBTQ youth in general, and gender nonconforming youth in particular, profound discrepancies exist between the stated "rehabilitative" promise of the juvenile justice system and the "healthful" family environments of the child welfare system on the one hand and the reality of institutional responses that are at least highly stressful and in extreme cases potentially lethal (through, for example,

hate crimes) on the other hand. This portrait of large-scale systemic and institutional bias illustrates a system of revolving doors, where LGBTQ youth are all too commonly in constant flux, denied access to opportunity structures accessible to other youth, and experiencing a deprivation of opportunities that facilitate healthy development and survival.

PART III: FUTURE POLICY AND PRACTICE REFORMS AND THE CALL FOR AN INTERSECTIONAL LENS

Recommendations for Practice, Programming, and Policy in Child Welfare

Despite increased recognition of the presence of LGBTQ youth in the foster care system, literature reveals that a lack of standards of care for working with LGBTQ youth in the child welfare system is attributable to a lack of organized effort to establish such standards (Wilber et al. 2006). Movements to create a uniform body of standards have emerged in two states (New York and California) since 2006, serving the dual function of creating standards of care for agencies and providing momentum and material for the generation of research and literature committed to improving services.

The Spring 2006 issue of *Child Welfare* committed to LGBTQ youth contains literature regarding these two initiatives: the Model Standards Project in California and Fostering Transitions in New York (Wilber et al. 2006; Woronoff and Estrada 2006). Wilbur et al. (2006) trace the evolution of the San Francisco-based Model Standards Project, a collaboration between Legal Services for Children and the National Center for Lesbian Rights in response to phone calls each organization

had received from various states relaying discrimination experienced by LGBTQ youth in child welfare and juvenile justice settings. After developing a national advisory committee, a body of standards was generated and piloted in several conferences and workshops around the country. Wilber et al. (2006) additionally documented the group's success in procuring substantial foundation funding in order to partner with several counties in California to assure meaningful adherence to standards and to provide in-depth consultation to agencies in partnering counties.

The authors also describe the tenets of the Foster Care Nondiscrimination Act (AB 458) passed in California in 2004. AB 458 is the only piece of state legislation that explicitly prohibits harassment and discrimination against any individual in the California foster care system on the basis of sexual orientation or gender identity, in addition to race, ethnic group identification, ancestry, national origin, color, religion, sex, mental or physical disability, or HIV status. The legislation also requires initial and ongoing nondiscrimination training for all group home administrators, foster parents, and licensing personnel.

A similar partnership of national scope emerged concurrently on the East Coast. The joining programs in this case were the Child Welfare League of America (CWLA), the nation's largest and oldest national association of child welfare organizations, and Lambda Legal, the oldest and largest advocacy organization committed to advancing the civil rights of LGBTQ people and people with HIV (Woronoff and Estrada 2006). Collaborative efforts began in 2002, one year after Lambda Legal's publication of "Youth in the Margins: A Report on the

Unmet Needs of Lesbian, Gay, Bisexual and Transgender Adolescents in Foster Care” (Sullivan et al. 2001).

“Youth in the Margins” is based upon surveys completed by child welfare administrations in fourteen states. It highlights the following areas as ones strongly in need of attention: nondiscrimination policies, foster parent and staff training, and knowledge and existence of programs and services for LGBTQ youth (Woronoff and Estrada 2006). After this stride, Lambda Legal and CWLA partnered to begin a more comprehensive review of LGBTQ youths’ experiences in foster care by conducting Regional Listening Forums within thirteen cities in the United States (Woronoff and Estrada 2006). The listening forums included LGBTQ youth, allowing youths’ accounts of their own experiences to guide the process of the forums as well as the creation of a second comprehensive manual, which centered around three themes: (1) the need for comprehensive policies that support open and competent support for LGBTQ youth in care; (2) the need for comprehensive training throughout all levels of the child welfare system to build capacity for serving LGBTQ youth in care; and (3) the development of services that are designed with the specific needs of LGBTQ youth in mind. The regional specificity of the forums also allowed for a more nuanced understanding of geographical distinctions in the experiences of LGBTQ youth in care.

Recommendations for Practice, Programming, and Policy in Juvenile Justice

The Equity Project, a national collaboration of individuals and organizations with diverse expertise relevant to LGBTQ youth in the juvenile justice system, is a multiyear initiative “aimed at ensuring that LGBTQ

youth who are in the juvenile justice system are treated with dignity, respect, and fairness” (Majd et al. 2009).

Spearheaded by attorneys, psychologists, psychiatrists, social service providers, community activists, and LGBTQ youth, the Equity Project released “Hidden Injustice” (Majd et al. 2009), a report that seeks to educate professionals working in the juvenile justice system about the continuing stigma and systemic biases experienced by LGBTQ youth as well as to suggest concrete policy and practice reforms. A call to action, “Hidden Injustice” urges juvenile justice professionals to treat, and ensure that others treat, all LGBTQ youth with fairness, dignity, and respect. The report specifically encourages juvenile justice professionals to develop individualized, developmentally appropriate responses to the behavior of each LGBTQ youth, tailored to address the specific circumstances of his or her life, and explicitly prohibiting attempts to ridicule or change a youth’s sexual orientation or gender identity.

Acknowledging that many youths in the juvenile justice system have had child welfare involvement and recognizing the significant movement of LGBTQ youth between these systems, the Equity Project calls for collaboration between and among these two systems, arguing that juvenile courts should collaborate with other system partners and decision makers to develop and maintain a continuum of programs, services, and placements competent to serve LGBTQ youth, such as prevention programs and detention alternatives. Importantly, the report contends that individuals working within juvenile courts should be available to address the conflict that some families face over the sexual orientation or gender identity of their LGBTQ child.

Consequently the report insists that juvenile justice professionals receive training and resources regarding the unique societal, familial, and developmental challenges confronting LGBTQ youth and the relevance of these issues to court proceedings.

“Hidden Injustice” additionally makes recommendations for more just and equitable treatment of LGBTQ youth that echo themes found within child welfare reform initiatives but are specific to the juvenile justice system. Included among these is the insistence that, at all stages of the juvenile justice process, agencies and offices involved in the juvenile justice system (e.g., prosecutor, defender, and probation offices) develop, adopt, and enforce policies that explicitly prohibit discrimination and mistreatment of youth on the basis of actual or perceived sexual orientation and gender identity. The report also argues that juvenile courts must ensure the timely appointment of qualified and well-resourced counsel to provide ardent defense advocacy at all stages of delinquency proceedings and that juvenile justice professionals must take responsibility for protecting the civil rights of LGBTQ youth.

Similar to the recommendation that LGBTQ youth be placed in the most intimate and family-like child welfare setting possible, the Equity Project asserts that the juvenile justice system must commit to using the least restrictive alternative necessary when intervening in the lives of youth and their families and avoid unnecessary detention. Finally, acknowledging the particularly acute mistreatment of transgender youth, the “Hidden Injustice” report insists that juvenile justice professionals promote the well-being of transgender youth by allowing them to express and live out

their gender identity through choice of clothing, hairstyle, and name and by guaranteeing that they have access to appropriate medical care if necessary.

CONCLUSION: INTERSECTIONAL THEORIZING AND LGBTQ YOUTH

In the recently published *Incorporating Intersectionality in Social Work Practice, Research, Policy, and Education*, the authors argue for the need for a paradigm shift within contemporary social work: “specifically this is a shift from a linear, either/or, one-dimensional paradigm to a dynamic, contextual, multilevel, both/and approach that considers the power of socially constructed relations of oppression and inequality” (Murphy et al. 2009). Intersectionality—a comprehensive theory addressing these concerns for complexity and a “both/and” approach—has its origins in Black feminist thought and has also been widely utilized within queer theory. Patricia Hill Collins (2000) defines intersectionality as “particular forms of intersecting oppressions, for example, intersections of race and gender, or of sexuality and nation,” furthering the position that unlike additive models of oppression, “intersectional paradigms remind us that oppression cannot be reduced to one fundamental type and that all oppression work together in producing injustice.” In the article, “The Sociology of Sexualities: Queer and Beyond,” Joshua Gamson and Dawne Moon (2004) apply the connections often drawn from intersectionality theory to queer theory, noting that sexuality sociologists have begun to evaluate the ways in which sexuality is woven within and among other culturally constructed categories of inequality. Similarly, David Eng, Judith Halberstam, and José Esteban Muñoz (2005) strengthen this link to queer theory, noting that the “commit-

ment to interrogating the social processes that not only produced and recognized but also normalized and sustained identity” increases the salience of intersectionality as a frame for evaluating multiple “social antagonisms.”

The distinct experiences of marginalized youth in the justice system, outlined in the previous sections, highlight the need to work on policy remedies from an intersectional framework, one that aims “to capture both structure and dynamics consequences of the interaction between two or more axes of subordination,” when engaging in comprehensive reform efforts of either the justice or child welfare system (Crenshaw 2000). The fracturing impact of a singular focus upon sexual orientation and gender identity within educational venues, social services, and youth spaces, and its impact upon queer and trans youth of color, is increasingly being addressed within academic and nonacademic writing as well as in documentary film (Mehrotra 2010; Gastic and Johnson 2009; Wright 2008; Kumashiro 2001). Andrea Daley et al. (2007) emphasize interlocking oppressions in experiences of bullying among LGBTQ youth, arguing that:

A singular focus on sexual orientation as the presumed primary source of peer victimization for LGBTQ youth may inadvertently contribute to a “matrix of oppression” (youth’s experiences of simultaneous, multiple, and interlocking oppressions) by privileging and addressing only one form of inequality, without attention to the interactive relationships between systems of sexual orientation, gender, race/ethnicity, social class, and immigration/citizenship status. (Daley et al. 2007)

There is dual documentation showing an overrepresentation of both LGBTQ youth (most of whom are LGTBQ youth of color) and youth of color (some of whom are LGBTQ) within the juvenile justice system and the child welfare system (Mallon et al. 2002; Majd et al. 2009). Given this, I conclude that there is an urgent need to apply an intersectional lens to child welfare and juvenile justice research, policy, and practice in order to gain an enhanced and more nuanced understanding of the complex ways in which multiple institutionalized systems of oppression are operating in the lives of LGBTQ youth involved in these institutions.

The overrepresentation of LGBTQ youth in both child welfare and juvenile justice systems and the analogous structural biases that persist in both systems, combined with the reality that family and criminal courts are a hub of decision making in the lives of LGBTQ youth in both systems and that LGBTQ youth face large-scale breaches of justice in both systems, indicates that a well-coordinated collaborative policy reform effort is not only warranted but also necessary. Moreover, given the overrepresentation of LGBTQ youth of color within both systems, the overrepresentation of young women—many of whom are LGBTQ—within the juvenile justice system, and the particularly acute mistreatment of, and human rights violations experienced by, transgender and gender nonconforming youth, policy and practice reform within legal, medical, and social service arenas must be embedded within an intersectional framework. This intersectional framework must be one that is attentive to the overlapping, institutionalized forms of oppression that shape the lives of systems-involved LGBTQ youth and, as Black

feminist theorist Patricia Hill Collins has argued, “reminds us that oppression cannot be reduced to one fundamental type, and that oppressions work together in producing injustice” (2000).

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- Be inspired by and network with policy makers across the country
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- Connect schools of public policy and administration in broadening the conversation of our role in social justice and defining the rights of LGBTQ people.

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HIV and Aging: Emerging Issues in the HAART Era

by John A. Guidry, Lyndel Urbano,
and Olivia Yi

John A. Guidry, Ph.D., is GMHC's lead researcher on HIV prevention and is responsible for developing academic-community partnerships in the field. In addition to HIV prevention, he has a significant body of work on community-based participatory research, social movements, and children's rights.

Lyndel Urbano is GMHC's Manager of Government Relations in the Public Policy Department. In this role he advocates for social justice issues as they relate to the HIV epidemic and to lesbian, gay, bisexual, and transgender rights. He is a returned U.S. Peace Corps volunteer and is active on both the New York City HIV Prevention Planning Group and the New York City HIV Health and Human Services Planning Council.

Olivia Yi is a graduate student at the Columbia University School of Social Work. She is also a policy intern with GMHC's Public Policy Department where she conducts research and advocates for issues related to HIV and lesbian, gay, bisexual, and transgender rights.

ABSTRACT:

This article explores some of the most important issues related to HIV and aging based on a survey of the current literature and programs around the United States. The article focuses on the biomedical complications of aging with HIV as well as the multiple stigmas faced by people growing older with HIV. The article then outlines specific policy changes that will address issues related to comorbid conditions and stigma.

Antiretroviral (ARV) drug therapies are enabling people with HIV to live increasingly longer lives. In 2008, the Antiretroviral Therapy Cohort Collaboration pooled data from several countries in the developed world to show that those who begin highly active antiretroviral treatment (HAART) at an initial CD4 cell count of >200 per microliter of blood can expect to live to their early seventies (Antiretroviral Therapy Cohort Collaboration 2008) (see Table 1).

CD4 cells are the immune system T-cells targeted by HIV; a healthy individual without HIV (or other immunologic impairment) can have a CD4 count in the range of 500 to more than 1,500 per microliter of blood. One of the basic goals of HIV therapy is to maintain the individual's CD4 count up to 500.¹ The trend toward longer life expectancy for those living with HIV is already evident in demographic data, and, as shown in Table 2, by 2017 it is expected that more than half of the HIV-positive population in the United States will be over fifty years of age (Justice 2010b). As a result of these life-saving drugs and therapies, what was once a deadly infection is becoming a more chronic, manageable condition.

Table 1 — Life Expectancy and Antiretroviral Therapy

At HAART Initiation	CDF Cell Count (μl)		
	<100	100–199	>200
A 20 year-old will live to:	52	62	70
A 35 year-old will live to:	62	65	72

Source: Antiretroviral Therapy Cohort Collaboration 2008)

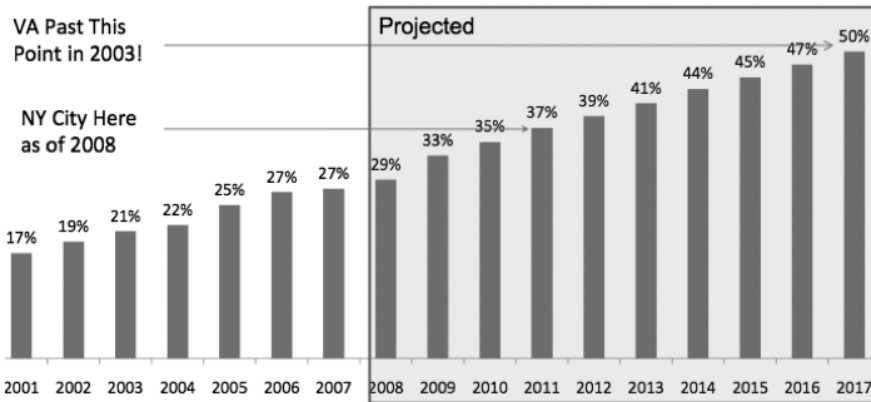
This is certainly good news, but the implications are complex and worthy of reflection. As Table 1 shows, life expectancy and ARV treatment are related to the age of initial treatment and the severity of damage to the immune system. Higher age and higher CD4 cell counts at HAART initiation are related to longer life expectancy. Other research shows that long-term exposure to ARVs may have toxic effects that reduce both the number of years one can expect to live as well as quality of life (Gebo 2006). Because the phenomenon of aging with HIV is so new, we know very little about the biomedical context. Initial evidence shows complicated interactions between ARVs and other body systems. Additional research shows that even when the immune system is stabilized by HAART, HIV can accelerate the effects of aging, especially in cognition (Effros et al. 2008). Older people with HIV tend to have a higher rate of comorbidities (the appearance of two or more illnesses or health conditions concurrently), which brings into play issues related to drug and disease interactions.

The social context surrounding the care of older people with HIV and AIDS is uncharted terrain. We already know that the Social Security system and elder care nationwide will be severely challenged by the retirement of the “baby boom” generation, which is already underway. As

persons living with HIV and AIDS grow older, we must add to the institutional burden issues related to special medical complications of HIV/AIDS. Given that more than half of those with HIV/AIDS in the United States are gay or bisexual men (CDC 2010), the cultural and social issues surrounding lesbian, gay, bisexual, transgender (LGBT) elder care must also be considered.

For several years, Gay Men’s Health Crisis (GMHC) has been doing research to help us understand how the aging of the HIV-positive population will affect care and support. In what follows, we present some of the most important issues that are emerging in this field, based on our survey of the current literature and programs around the United States. The first section of this article addresses the biomedical complications of aging with HIV, focusing on the comorbidities that are most common in people with HIV and the problems they present. The second section examines the multiple stigmas that people growing older with HIV face, including HIV-related stigma, anti-gay stigma, and ageist stigma. Caring for elders with HIV is particularly challenging for medical and social service professionals, as prevailing assumptions and stereotypes may influence these individuals’ attitudes toward this population. Finally, the third section outlines some specific policy changes that will address issues related to comorbid

Table 2 — Projected Proportion of Those Living with HIV in the United States, 50+ Years of Age



Source: Justice 2010b

conditions and stigma. The literature suggests these changes are not only possible but would have a tremendous effect in making elder care for HIV-positive people more accessible and successful, reducing the long-term cost of caring for this particular population of elders while preserving the dignity and respect of those being served.

COMORBIDITIES: HIV AND OTHER CONDITIONS

As people with HIV live longer, the long-term effects of the virus are becoming more apparent. HIV is no longer patients' sole or primary health concern as many are dealing with multiple medical issues, called comorbid conditions, in addition to the emotional and mental burden of living with HIV. In a study by the AIDS Community Research Initiative of America (ACRIA) and GMHC, which assesses older GMHC clients with HIV, the number of comorbid conditions reported ranged from 0 to

15, with an average reporting of 3.4 (Brennan et al. 2010). To some extent, the development of comorbidities within the elderly HIV-positive population may be associated with the natural process of aging. However, early unsubstantiated evidence points to a relationship between the virus and the development of other diseases that are common to older adults. The issue of HIV medications and their interaction with other medications also raises critical research questions, the answers to which are relatively lacking.

Immune System

HIV and aging each have dramatic effects on a person's immune system, and some studies have shown that HIV can accelerate the aging process (Effros et al. 2008). HIV depletes an individual's T-cell population, leading HIV-positive individuals to have a T-cell population similar to that of someone twenty to thirty years older (Kalayjian and Al-Harhi 2009). HIV and aging both negatively affect the

production of T-cells, which are critical in defending the body against infection.

Aging has also been associated with decreased production of cytokines, which regulate T-cell production and maintenance, and may negatively impact naïve B cells, which produce antibodies in the immune system (Effros et al. 2008). In the end, the combined toll of HIV and aging on the immune system leaves older HIV-positive adults susceptible to chronic immune activation (Kirk and Goetz 2009), with increased risk of serious infections (e.g., pneumonia) (Effros et al. 2008).

Though antiretroviral therapy may reduce the negative impact of aging on the progression of HIV, it does not eliminate it altogether (Effros et al. 2008).

Differences in life expectancy between HIV-positive and HIV-negative populations persist (Antiretroviral Therapy Cohort Collaboration 2005), and despite the use of HAART, the negative impact of HIV and aging on one's immune system and recovery remains apparent. Research has revealed the immune systems of HIV-positive older adults receiving antiretroviral therapy do not recover as quickly as those of younger adults (Martin et al. 2008). One study shows that older adults with HIV took longer to raise their CD4 counts (Viard et al. 2001), a critical finding considering that low CD4 counts have been associated with increased morbidity and mortality (Deeks and Phillips 2009). A relationship between lower CD4 count and increased risk of heart disease, kidney disease, liver disease, and cancer is also supported (Baker et al. 2008).

Antiretroviral Therapy: Side Effects and Interactions

Despite the benefits, the long-term use of antiretroviral therapy may introduce other variables for older adults that actually increase these individuals' risk for certain comorbidities. One study indicates that an increased risk of heart attack is associated with longer exposure to HAART, especially protease inhibitors (Bhavan et al. 2008). Greater risk of dying or contracting new illnesses has also been shown for older adults with HIV receiving ARV therapy (Gebo 2006), and specific classes of antiretrovirals appear to increase the risk of heart disease (Deeks and Phillips 2009), though research to the contrary has recently surfaced.

As with most medications, antiretrovirals are not without side effects, and because older adults are less able to metabolize ARVs, increased toxicity may result (Gebo 2006). Side effects resulting from antiretrovirals include liver toxicity, osteoporosis, pancreatitis, lipodystrophy (fat loss and redistribution), peripheral neuropathy (numbness in extremities), and buildup of lactic acid (Gebo 2006). Another common problem whose emergence corresponds to the rise of effective HIV therapies is obesity (Bhavan et al. 2008). An Australian cohort study (Wand et al. 2007) finds that certain symptoms related to heart disease, which include abdominal obesity, insulin resistance, and high blood pressure, rose from 8.5 percent to 26.5 percent among HIV-positive individuals after beginning antiretroviral therapy (Bhavan et al. 2008). HIV infection and HAART have also been associated with elevated levels of fats in the blood (also known as hyperlipidemia), presenting another risk factor for heart disease (Simone and Appelbaum 2008).

The interaction of antiretroviral medications with other medications may lead to further health complications. This especially affects older adults with HIV who, due to an increased incidence of comorbidities within this population, are likely to be taking two or more drugs for different conditions at the same time. Research suggests that certain combinations of antiretrovirals can cause abnormal bone metabolism, with continuous therapy being shown to have greater effects in bone density than intermittent regimens (Kirk and Goetz 2009). For individuals who are coinfecting with HIV and hepatitis, the interaction of antiretrovirals and cholesterol medications has been shown to cause liver toxicity, a matter of concern considering the association between low CD4 counts and increased risk of death from liver disease (Gebo 2006).

Cancer

While older adults with HIV are susceptible to a host of comorbidities, studies indicate that people with HIV have a generally elevated risk of cancer. Compared against the general population, they experience a significantly higher incidence of several kinds of cancer, including melanoma; leukemia; Hodgkin's lymphoma; and colorectal, renal, anal, vaginal, liver, lung, mouth, and throat cancers (Patel et al. 2008). In the case of anal cancer, which is relatively rare among the general public (2 cases per 100,000), the rate of incidence increases to up to forty times for HIV-positive men who have sex with men (MSM) (Cranston et al. 2007).

In today's HAART era, non-AIDS related cancers (NARCs), which include anal, cervical, lung, and liver cancer, have become more common among people

with HIV than AIDS-related cancers like Kaposi's sarcoma and non-Hodgkin's lymphoma (Engels et al. 2008). Some research has shown higher rates of death from NARCs than from AIDS-related cancers within the HIV-positive population (Kalayjian and Al-Harathi 2009), with the most common cancers affecting the lungs, digestive tract, blood, and anal canal (Bhavan et al. 2008). While the relationship between NARCs and HIV is not well-understood, some studies suggest that immunodeficiency (a low CD4 count) is associated with greater risk of their development (Deeks and Phillips 2009).

Mental Health Burden

In addition to physical health and well-being, HIV and aging can have profound effects on the brain, making older adults with HIV more susceptible on average to negative mental health outcomes such as depression, dementia, and Alzheimer's disease. Studies have indicated that older individuals with detectable levels of HIV in their spinal fluid were twice as likely to have psychological impairment as those with no detectable virus (Cherner et al. 2004). Increased aging of the brain was also found among subjects with HIV, as scans performed using functional magnetic resonance imaging have found lower than normal blood flow to the brain, matching levels normally seen in people fifteen to twenty years older (Ances et al. 2010). Older HIV-positive adults are more likely to be diagnosed with depression compared to the general population (Gebo 2006). For HIV-positive veterans, who also had greater prevalence of substance use, the rate of depression was shown to increase with age (Gebo 2006).

The effect of drugs used in HAART on mental health is unclear (Ances et al. 2010). Some research suggests that antiretroviral therapy may cause damage that increases the risk of Alzheimer's disease, which is not normally associated with HIV (Myers 2009). At least one study suggests that the antiretroviral Efavirenz is associated with depression and other psychiatric side effects (Simone and Appelbaum 2008). Unfortunately, the mental health needs of older HIV-positive individuals are often overlooked by physicians who tend to focus on HIV, despite the fact that depression can exacerbate immune system dysfunction (Karpiak and Shippy 2006).

STIGMA ISSUES

Age

HIV stigma greatly affects quality of life for older adults with HIV. Defined as attributes that are "deeply discrediting" (Goffman 1963), stigma carries the potential to damage and destroy an individual's sense of self-worth and identity. Older adults living with HIV are confronted with stigma from multiple sources—HIV, ageism, and sexual orientation—thereby intensifying the negative impact on their lives. While the number of older adults with HIV is growing, research on stigma remains limited. In fact, most HIV research ignores this hidden population, thereby limiting our understanding of how to best care for these individuals. Nevertheless, the impact of stigma on behaviors and self-perceptions of people living with HIV is not to be ignored. Especially of consequence is the relationship between stigma and physical health, as those who are stigmatized are less likely to display health-seeking behavior, such as test-seeking behavior or willingness to

disclose HIV status (Emler 2008). HIV stigma has also been shown to negatively affect quality of health care and social support for older adults with HIV (Emler 2008). In terms of self-image and emotional health, HIV stigma is associated with various psychosocial and interpersonal issues, all of which can have deleterious effects on health and well-being.

The issue of sexual orientation is central to the discussion of HIV stigma. It is well-understood that public opinion about AIDS is strongly associated with perceptions and attitudes toward homosexuality. As a result, older adults with HIV experience discrimination, rejection, prejudice, and stereotyping due to stigma surrounding their real or perceived sexual orientation. Because older adults tend to be more conservative on issues of gay rights and homosexuality, older HIV-positive adults experience difficulty in their relations with age-peers and may even internalize their own feelings of guilt or shame regarding their HIV status (Andersen and Fetner 2008).

Negative attitudes toward older adults with HIV are not limited to the heterosexual community. Older gay and bisexual men with HIV have also reported a strong sense of ageism and rejection by younger gay men, which is supported by the emphasis on youth and vitality within the gay community seen among gay men in a study sample (Schrimshaw and Siegel 2003). Such findings demonstrate that dual HIV and age-related stigma transcend gender and sexual orientation and occur in gay communities as well (Emler 2008).

Older adults with HIV often become disconnected from friends, family, and society at large. Many report feeling

separate, alone, isolated, and rejected by their community and peers. For HIV-positive older adults, social isolation is a factor of vulnerability, as a lack of social networks and support leaves them with less resources and greater susceptibility to negative outcomes such as depression, bereavement, poor mental health, and substance abuse. Their sexual orientation may affect their likelihood of being partnered. A study by ACRIA of HIV-positive New Yorkers over age fifty reveals that 70 percent of the 914 respondents lives alone, compared to 39 percent of all New Yorkers over age fifty (Karpiak and Shippy 2006). In light of the considerably precarious situation facing this vulnerable population, the creation and provision of innovative support networks and systems based on community-building principles is critical (Assistive Housing for Elderly Gays and Lesbians in New York City 1999).

Elder Sexuality

Despite prevailing assumptions about adults over age fifty, substantial evidence shows that many remain sexually active well into old age. According to a study conducted by the National Council on Aging (1998), 61 percent of men and 37 percent of women over age sixty report being generally sexually active, with people in their sixties being the most sexually active and people above eighty the least. Existing stereotypes regarding elder sexuality, however, hinder pertinent information and services regarding HIV transmission and prevention that target younger cohorts from reaching older populations.

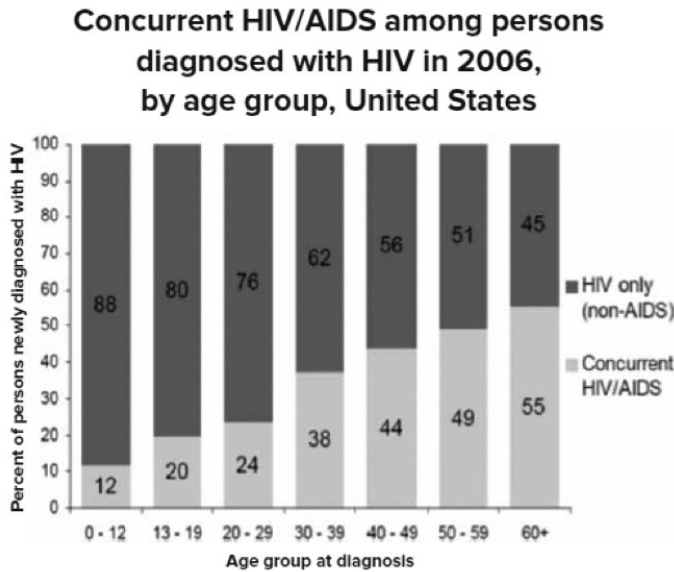
A 2006 ACRIA study reveals a general pattern of elder sexuality present in HIV-positive older adults, as many older adults with HIV engaging in high-risk

activities were found to lack critical knowledge regarding sexual health and protection from sexually transmitted infections (STIs) and HIV (Karpiak and Shippy 2006). Of those HIV-positive older adults in the study who reported being sexually active, 47 percent used drugs or alcohol before sexual intercourse. The study also showed that older adults living with HIV who used drugs engaged in high-risk sexual behaviors (multiple partners, the exchange of sex for money or drugs, and sexual intercourse with other drug users) at rates comparable to that of younger drug users (Kwiatkowski and Booth 2003). However, because of existing beliefs and assumptions regarding older adults, they are less likely to be offered treatment for substance abuse issues than their younger counterparts (Kohli et al. 2006).

Such lack of sexual health knowledge inevitably translates into greater levels of high-risk behaviors and practices within the older adult population. Of the HIV-positive individuals over age fifty surveyed in the ACRIA study, 33 percent reported having unprotected insertive sex within the past three months (Karpiak and Shippy 2006). In a Chicago study, 60 percent of unmarried women over age sixty who were sexually active reported that they had not used a condom (Lindau et al. 2006). Another study reported at least one risk factor for HIV infection, including unprotected sex, for older African American women living in rural areas (Winningham et al. 2004).

Lower rates of condom use among older adults may be linked to their misconceptions about HIV transmission and the effectiveness of condoms in preventing HIV and STIs. Many older adults who become sexually active after divorce or the death of their spouse or partner do

Table 3 — Concurrent HIV/AIDS Among Persons Diagnosed with HIV in 2006, by Age Group, United States (Source: CDC 2006)



Source: CDC 2006

❖ *Anti-gay, anti-aging, and anti-HIV stigmas have the impact of silencing older HIV-positive individuals about their sexual behaviors, lessening their access to information and services that may help prevent infection and increase knowledge of their HIV status.*

not know that they may be at risk for HIV or STIs (CDC 2008). The prevalence of erectile dysfunction, a common issue for older men, may also make effective use of a condom more difficult (Justice 2010a). The increasing gender imbalance of men to women within older populations—with women progressively outnumbering men, thus increasing male bargaining power in heterosexual sex—may also affect risk behavior, as women are less able to negotiate condom usage during

intercourse (Suarez-Al-Adam et al. 2000). This is particularly troubling in light of the fact that older women, more specifically postmenopausal women, have an increased biological risk of HIV infection and other STIs due to hypoestrogenism and the resulting vaginal dryness that occurs with aging (Linsk 2000).

Medical Care

Anti-gay, anti-aging, and anti-HIV stigmas have the impact of silencing older

HIV-positive individuals about their sexual behaviors, lessening their access to information and services that may help prevent infection and increase knowledge of their HIV status. In a study involving MSM of all ages, the New York City Department of Health and Mental Hygiene found that 39 percent do not disclose their sexual orientation or risk behaviors to their doctors (Bernstein et al. 2008). Black, Latino, and Asian MSM were less likely than White MSM to disclose their sexual behaviors with their physicians. The gaps in disclosure among racial groups are predicted to be higher for men over the age of fifty.

Generally speaking, doctors tend not to assess older patients for sexual health-related risks, regardless of orientation or gender. A national study reveals that adults over fifty at risk for HIV were 80 percent less likely to be tested for HIV than younger cohorts (Catania and Stall 1994). Most older adults learn of their HIV diagnosis while being hospitalized for other medical issues, which may come long after their HIV infection (Kohli et al. 2006). At this point, their CD4 cell count may have decreased to dangerous levels, which increases their susceptibility to other opportunistic infections and, if left untreated, may accelerate the development of AIDS. Table 3 illustrates that the likelihood of receiving a concurrent HIV and AIDS diagnosis increases with age for those who are newly diagnosed with HIV (CDC 2006). In light of this data, the need for increased and more effective communication between patients and their medical providers regarding sexual behaviors and HIV is clear.

U.S. Department of Veterans Affairs

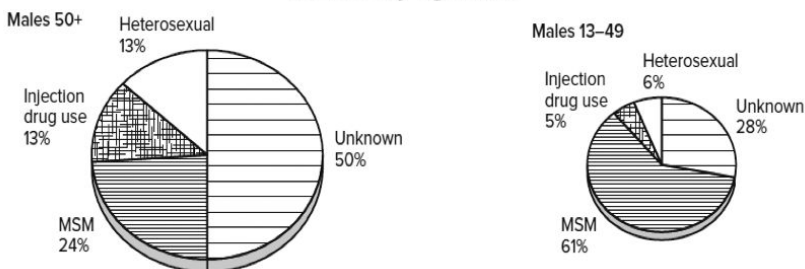
Anti-gay stigma also presents itself in government agencies, which creates a

barrier to treatment and leads to reduced access to care by older adults with HIV. The U.S. Department of Veterans Affairs (VA) is a valuable resource from which HIV-positive veterans stand to benefit. According to the VA (2009b), more than one in five HIV-positive veterans in veterans with HIV/AIDS (VHA) care are over the age of sixty, and in 2008, 23 percent of newly identified HIV-infected veterans were persons aged sixty or older (U.S. Department of Veterans Affairs 2009b). Despite the high numbers of HIV-positive veterans served by the VA, restrictive eligibility criteria and anti-gay policies hinder many from taking advantage of its high-quality services.

The VA is the largest single provider of medical care to people with HIV in the country. The VA network provides a wide array of high-quality services including but not limited to patient-care activities, patient and family education, preventative activities, and screening and testing for HIV (U.S. Department of Veterans Affairs 2009a). It also directs much of its effort toward research on improving services and delivery of care for its patients and clients. While the VA provides care for all veterans with HIV, it has been an especially critical resource for Americans over sixty-five, about one-third of whom are eligible for VA benefits. The “Veterans Pension,” for example, is a needs-tested benefit based on income and assets that can provide up to \$1,843 for those who qualify. Access to and receipt of such benefits can help veterans fund eldercare services at home (National Care Planning Council 2008). Those who fail to meet the needs-based requirements may qualify with appropriate documentation and counseling. Payments may also be made to children, relatives, friends, home care companies, or domestic

Table 4 — Transmission Risk Category of Males Diagnosed with HIV in 2007 by Age, NYC

Transmission risk category of males diagnosed with HIV in 2007 by age, NYC



Half of males diagnosed with HIV who are 50+ years old do not have a documented transmission category. MSM is the largest documented category. As reported to the New York City Department of Health and Mental Hygiene by September 30, 2008.

Source: NYC Health 2009

workers as long as proper documentation of need is provided (National Care Planning Council 2008). Domestic partners, however, are not eligible for the pension. This exclusion affects both gay and bisexual veterans and their partners, demonstrating the prevalence of anti-gay stigma in medical and health care settings and the resulting negative impact on those whom they seek to serve.

Much confusion surrounds the issue of eligibility for VA benefits, which leaves many veterans living with HIV unaware of their access to such a resource. Under the military's "Don't Ask, Don't Tell" (DADT) policy, which was repealed in December 2010, soldiers who were found to be gay, lesbian, or bisexual could be dismissed with the level of discharge (honorable, general, other than honorable, or dishonorable) determined by the commanding officer (Servicemembers Legal Defense Network 2007). Those who receive an "other than honorable" or "dishonorable" discharge are often found ineligible for VA benefits. In light of data

that shows that 24 percent of males over the age of fifty identify as MSM (see Table 4, NYC Health 2009), such LGBT issues must be addressed in improving care for older adults with HIV. Many veterans experience confusion as it relates to their time of service or being gay or lesbian, leaving them unaware of their rights to access VA benefits and services and ultimately rendering the VA an excellent but underutilized source of care. DADT applied only to those serving active duty, so gay and lesbian veterans could have openly accessed VA benefits (Servicemembers Legal Defense Network 2007). Much of the confusion should be cleared up as the repeal of DADT goes into effect and military policies and procedures are updated to reflect the change.

Congregate Living

Stigma is also experienced by older adults with HIV living in congregate-living facilities, with much of the stigma coming from those who have been charged with

their care and well-being. This particular issue warrants special consideration given the growing number of elders living with HIV and the lack of training available for medical and other service providers in meeting the unique needs of the population. The combined effects of HIV and gay stigma have pervaded the environments of nursing homes and assisted living facilities, leading to incidences of discrimination, abuse, and neglect directed toward LGBT and HIV-positive individuals.

LGBT elders living in nursing homes and assisted living facilities are often presumed to be heterosexual and feel compelled to hide their sexual orientation from the staff and their fellow residents (Johnson et al. 2005). Long-term relationships with same-sex spouses or partners are often devalued, and those who are found to be gay are often discriminated against or abused and neglected by the staff (Fairchild et al. 1996). The need for cultural competence and training for staff in nursing homes and assisted living facilities, therefore, is critical in creating a more tolerant and inclusive environment for elders.

At present, there is little research on the experiences of HIV-positive elders in congregate-living situations. Further research is necessary in order to create and develop services that are adequately and uniquely tailored to meet the needs of this specific population. However, some light has been shed on the efficacy of diversity training in building greater cultural competence and tolerance among both staff and residents in congregate-living facilities. Boulder County Aging Services in Boulder, CO, took steps toward achieving these outcomes by implementing “Project Visibility,” a training program for assisted living and

elder service providers in LGBT issues. The program demonstrated marked success, as 84 percent of trainees reported “an increased awareness of LGBT aging issues,” and 78 percent claimed they “better understood the fears experienced by some LGBT elders” (Grant 2010). Such results demonstrate the importance of diversity training for staff and medical providers in congregate-living facilities and the positive impact such efforts can have in improving both the quality of care and quality of life for older adults with HIV.

POLICY RECOMMENDATIONS

As the number of people living in the United States over the age of fifty who are HIV-positive is rapidly growing, we must take steps to prepare for the increasing needs of this population. HIV is no longer the sole issue in caring for older adults with HIV. The effects of HAART and other drugs and therapies and the high incidence of comorbidities introduce new challenges that policy makers must recognize and prepare for. Increased understanding of the social context in which older adults live and the impact stigmas have on their medical and emotional well-being must also be considered in improving care. In addition, it is important to recognize the need for increased training for the geriatric workforce, which will play a critical role in preserving the long-term health of this population.

GMHC has taken positions on these issues, and we are engaged in an ongoing effort to improve the lives of older adults with HIV. Through specific changes in policy, we believe that we can alter negative outcomes for HIV-positive older adults by increasing access to treatment and support while reducing the imped-

ing strain on our nation's economy of caring for this growing population. We recognize the complexity of the issues at hand and believe a collaborative effort involving multiple agencies and levels of government is needed to effectively respond to and meet the complex needs of this growing population. We put forth the following policy recommendations with respect to older adults with HIV.

Stigma

In order to combat the effects of stigma on HIV-positive elders, the Administration on Aging and the Department of Health and Human Services should fund social marketing campaigns that challenge HIV and anti-gay stigma.

Medical Care

In order to ensure that HIV-positive elders receive the adequate medical care and information they need, health care providers, especially doctors, should proactively assess older patients for sexual health risks and sexual activity. They should screen for HIV and speak with their patients regarding sexual behavior/orientation, while ensuring the confidentiality of their conversations.

The Centers for Disease Control and Prevention should improve epidemiological surveillance systems and data collection to provide specific data delineated by age and risk category. Such data would inform HIV preventionists and gerontological health providers on what proportion of older HIV-positive adults get HIV through homosexual sex, heterosexual sex, and injection drug use.

Health Care and Senior Services

Veterans living with HIV should be aware of their rights and the opportunities to access VA benefits. In order to eliminate the confusion many veterans feel about eligibility as it relates to time of service or being gay or lesbian, the VA should expand outreach efforts in order to enroll more veterans and eligible family members.

Context of HIV-Positive Older Adults' Lives

Researchers should study the experiences of older HIV-positive and LGBT populations in congregate-living facilities. Such research is a necessary prerequisite to the development of services appropriately tailored to these specific populations.

The geriatric workforce is not at all prepared to accept the growing number of older adults living with HIV. There are not nearly enough well-trained medical providers to care for the elderly, in general, let alone hundreds of thousands of elders living with HIV. Very few medical schools even have a geriatric focus. More health care providers must be trained in the unique needs of HIV-positive elders, including cultural competence programs and ongoing technical assistance and capacity-building assistance to support the integration of new knowledge and skills into the work of elder care.

Senior health care providers, including nurses and volunteers in medical, social, and housing facilities, should be trained on factors that affect older HIV-positive patients, including, but not limited to, sexuality, social isolation, stigma, and comorbidity issues.

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¹ A CD4 count below 200 is considered a key indicator for an AIDS diagnosis (www.thebody.com/content/art6110.html).

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Fair and Accurate Identification for Transgender People

by Harper Jean Tobin

Harper Jean Tobin is policy counsel of the National Center for Transgender Equality in Washington, DC. From 2007 to 2009, Tobin was the staff attorney for the Federal Rights Project, National Senior Citizens Law Center. Tobin received a J.D., M.S.S.A. from Case Western Reserve University in 2007 and a B.A. from Oberlin College in 2003.

ABSTRACT:

Identification documents are a ubiquitous and essential currency of contemporary life. Yet for transgender people, these quotidian documents are also among the most serious barriers to employment, housing, essential services, and even personal safety. Most government agencies still adhere to an outmoded paradigm that requires proof of surgery to change gender on personal documents. But an increasing number are placing discretion regarding document changes in the hands of transgender people and health care providers rather than bureaucrats and judges. This approach is fair, medically supported, and has proven workable. This article recommends that such an approach be adopted by all state and federal agencies.

Identification documents such as driver's licenses, birth certificates, and passports are a ubiquitous and essential currency of contemporary life. These documents are used in everyday official and commercial transactions to establish a person's identity, age, citizenship, and residency. We commonly need to present such documents whenever we start a new job, apply for an apartment or a loan, enter a government building, purchase alcohol, board an airplane, apply for public benefits, including everything from a library card to food stamps, and, in many jurisdictions, vote. Most of us seldom give any thought to these documents other than to lament the quality of our photographs; for the vast majority of Americans, the information on such documents is a combination of the essentially impersonal (e.g., date of birth) and the fairly obvious (e.g., eye color).

But imagine that these everyday documents contained information about you that was not only of a private and personal nature but also could easily lead to discrimination and harassment from which you might lack any legal protection or recourse. For transgender people, identification documents and other official records frequently function as something akin to a scarlet letter, with the "F" or "M" designation contradicting the holder's appearance and social identity and outing him or her as transgender. State and federal policies in the United States today make it impossible for many transgender people to update these documents to reflect their lived gender. These restrictive policies create not only an enormous indignity but a significant barrier to economic and other opportunities and at times even compromise personal safety.

Recently, however, there has been a major shift toward reform of policies regarding gender documentation. This shift, taking place across the country, reflects a contemporary understanding of what it means to be transgender and of the role of medical treatment in gender transition. A wave of policy reform has produced best practices that are fair, medically supported, and administratively workable. Chief among these best practices is placing discretion regarding the point in an individual's social and medical transition where document change is appropriate in the hands of transgender people and their health care providers rather than inexpert officials. Additionally, the best policies standardize and strictly limit the collection of private medical information and also eliminate procedural hurdles such as obtaining a court order or having already changed another document. This article recommends adoption of these best practices by all state and federal agencies that issue personal identification documents or maintain databases of personal information that include a person's gender.

Barriers to document changes also create difficulties for some people born with intersex conditions (also known as differences of sex development or DSD), in which the chromosomes, gonads, internal reproductive system, and/or genitalia develop in an atypical pattern. When a person is born with an intersex condition, standard medical practice is to assign a sex based on multiple factors, including genital configuration and likely reproductive capacity and gender identity (Greenberg 1999). However, current standards of care recognize that doctors or birth attendants sometimes erroneously assign sex where there is an intersex condition and

recommend correcting the sex designation in such cases if the patient desires the change (Consortium on the Management of Disorders of Sex Differentiation 2006; Tamar-Mattis 2009). While this article focuses on transgender people, the policy challenges presented are applicable to many people with intersex conditions as well, and the recommended solutions should also address the needs of this population.

IDENTIFICATION AS A BARRIER FOR TRANSGENDER PEOPLE

Gender identity is a deep-seated, inherent aspect of human identity. When a person's innate gender identity differs from the gender assigned at birth, the individual typically seeks to transition to living in accord with his or her gender identity (American Psychological Association 2006).¹ Gender transition typically includes psychological and medical treatments, but there is not one uniform treatment protocol for gender transition. Internationally accepted clinical standards establish a range of safe and effective treatment options as well as a framework for treatment, which may include psychotherapy, hormone therapy, and a variety of other treatments, sometimes including one or more of a variety of accepted surgical treatments (WPATH 2001). According to the World Professional Association for Transgender Health (WPATH), which promulgates these standards, "not every patient will have a medical need for identical procedures; clinically appropriate treatments must be determined on an individualized basis with the patient's physician" (2008).

Some form of surgical treatment is deemed medically necessary for many, but not all, transgender people. Surgical procedures are costly, invasive, and often

contraindicated by other medical conditions. Data from a national survey of transgender people reveals that while a large majority of transgender people undergo hormone therapy as part of gender transition, only a minority undergo any form of gender reassignment surgery. Genital reconstructive surgeries are especially rare, with fewer than one in five transgender women and fewer than one in twenty transgender men having undergone them (Grant et al. 2010).

Most state and federal agencies today rely on outdated policies that require proof of surgical treatment to update identification and other documents, which means that most transgender people are unable to update key documents to reflect their lived gender. Many have various identity documents with different gender designations. Nationally, the percentage of transgender people who are unable to update identification and official records to reflect their lived gender varies from 41 percent for driver's licenses and 51 percent for Social Security records to 74 percent for birth certificates. Prior to a change in federal policy in June 2010, 75 percent of transgender people were unable to obtain a passport that reflected their lived gender, and 79 percent were unable to update all their identification and records (National Center for Transgender Equality and National Gay and Lesbian Task Force forthcoming).²

Identity documentation that reflects a person's birth-assigned gender rather than the individual's lived gender puts the person at risk of discrimination, harassment, and violence in nearly every aspect of daily life. Uncorrected documents have the potential to "out" a person as transgender every time he or she begins a new job, applies for housing, credit, or public benefits, goes to a bar or club, is subject to

a routine traffic stop, or boards an airplane. Computer programs administered by the Social Security Administration can also disclose gender designations to employers and other third parties (National Center for Transgender Equality 2008).

WPATH states that:

National survey data indicate that transgender people who are unable to obtain identity documents reflecting their lived gender are less likely to be employed and more likely to face discrimination in employment and housing. Transgender people also commonly report experiencing harassment (40%) and being asked to leave a place of business (15%) as a result of showing identification that does not match their lived gender, and significant numbers have also experienced physical violence as a result (3%). Transgender people of color experience these adverse outcomes at substantially higher rates.

Lack of access to accurate identification, the lack of explicit protection from discrimination in most of the United States,³ as well as other factors all contribute to an overall picture of marked economic and social disparities for transgender people. Transgender people experience unemployment and poverty at twice the rate of the U.S. population as whole and also face serious health disparities and startling rates of violent victimization in everyday settings (National Center for Transgender Equality and National Gay and Lesbian Task Force forthcoming). More than one in four transgender people has lost a job due to being transgender, and one in five has been turned away by health care providers (National Center for

Transgender Equality and National Gay and Lesbian Task Force forthcoming). Eliminating these disparities will require, among other things, making it possible for all transgender people to obtain identification that reflects their lived gender.

EVOLUTION OF GENDER DOCUMENTATION POLICIES

Public policies concerning gender documentation have evolved to reflect popular beliefs about gender transition. Before about forty years ago, it was impossible for transgender people to correct identity documents to reflect their lived gender.⁴ Prior to the media sensation surrounding the story of a transgender woman named Christine Jorgensen in 1952, the idea of gender change was virtually unknown in the United States (McQuiston 1989). The first state law specifically authorizing corrected documentation for transgender people was enacted in Illinois in 1961. Reflecting the ascendant medical paradigm of the day, the Illinois law permitted amendment of a birth certificate on the basis of the following: “an affidavit by a physician that . . . by reason of [an] operation the sex designation on such person’s birth record should be changed” (410 ILCS 535/17(e)).

This approach—document change based on either a physician’s statement or judicial finding that a person had undergone a surgical sex reassignment procedure—was incorporated into the Model State Vital Statistics Act in 1977 (National Center for Health Statistics 1977) and, by the early 1990s, had been adopted by most state and federal agencies, including in policies for birth certificates, driver’s licenses, and Social Security records (National Center for

Transgender Equality 2007; Lambda Legal n.d.; GLAD 2010). In 1992, the U.S. State Department formalized a policy for U.S. passports requiring documentation of surgery and providing a limited one-year updated passport for those traveling abroad for surgery (U.S. Department of State 1992). These policies reflected a prevailing public understanding of gender transition as defined by a single, presumably standard, surgical procedure. Officials, it was believed, simply had to ask for documentation of this procedure. Any transgender person applying for updated documentation without a surgeon’s letter was understood to be doing so prematurely or else trying to game the system.

By the late 1990s, however, it became clear that this surgery-centered paradigm was at odds with contemporary medical practice and the realities of transgender people’s lives. Some state motor vehicle agencies began to revise their policies to permit updated gender designations based on documentation of medical treatment short of surgery. Some, such as Maryland’s, still required details of medical treatment and left broad discretion to the agency to determine the sufficiency of treatment (Spade 2008). Increasingly, however, policy makers have adopted the view that an individual’s health care provider—typically either a primary care physician or a therapist—is best positioned to determine the point at which it is appropriate to update gender on official documents. Instead of requiring government officials (who may lack knowledge or expertise regarding gender transition) to determine the adequacy of an application based on details of specific treatments, newer policies more commonly require a statement from the applicant’s physician or therapist con-

firming the individual's gender identity (Spade 2008, 827).⁵

As this changing medical paradigm began to be reflected in policy, other shortcomings in many long-standing policies on gender documentation were also reevaluated, including often burdensome procedural requirements. Procedural hurdles for transgender people have frequently included obtaining a court order recognizing an individual's gender transition, obtaining an amended birth certificate as a prerequisite to amending other documents, or both (Spade 2008, 822-832). Filing a court action presents a financial barrier for low-income people, who are also among those most adversely impacted by identification that fails to reflect their lived gender. It also presents special difficulties for those who no longer live in their place of birth and seek to amend their birth records. Filing an action in one's place of birth presents logistical and financial hurdles if that place is thousands of miles away, and at the same time, many states have no mechanism for residents born elsewhere to obtain a court order to amend birth records. Moreover, requiring a court order serves no purpose since administrative agencies can and regularly do evaluate the same evidence themselves and are far better able to standardize procedures than local courts. Another set of burdens was imposed by policies requiring correction of a birth certificate as a condition for updating other documents. Instead of a single agency standard, such a prerequisite makes the issuance of updated documentation dependent on the varying vital records policies of all fifty states. Today, no federal agency and few very state agencies make an amended birth certificate a prerequisite for updating gender on other

documentation. However, many state agencies still require court orders before amending gender on documents.

Finally, as state and federal governments have moved toward greater systematization of record and identification systems, it has also become clear that broadly phrased laws and policies have placed substantial and almost completely unguided discretion in the hands of administrators and, in some cases, local judges to determine whether a particular type of surgical procedure or other course of treatment qualifies a person for document change. Perhaps out of embarrassment about the subject matter, until recently very few agencies made their policies on gender change publicly available, online or otherwise. The result has been wide-ranging inconsistency in the application of agency policies, at both state and federal levels. The fact that these policies have rarely been set by statute or regulation has contributed to their obscurity and inconsistent application but has also given agencies more freedom to adapt and improve their policies. Recent federal regulations pursuant to the REAL ID Act of 2005 impose numerous mandates on motor vehicle agencies but expressly leave them free to determine their own policies on gender change (U.S. Department of Homeland Security 2008).

BEST PRACTICES FOR GENDER DOCUMENTATION

In the last decade there has been a dramatic shift in state and federal policies on official gender designations. These trends have been seen across the country and in motor vehicle, vital records, and federal agencies. By 2006, when the District of Columbia Department of Motor Vehicles (DC DMV) adopted a new policy, more than a dozen motor

vehicle agencies permitted gender change without proof of surgery, a court order, or a birth certificate change (Spade 2008). Many other public and private institutions, most notably universities, have also eliminated barriers to updating gender in student, personnel, and other records (Beemyn n.d.; New York University n.d.). From these policy reforms have emerged key best practices that should guide other agencies and institutions.

One example of these best practices is the policy adopted by the DC DMV. With input from local and national experts, this agency sought to develop a clear and readily administrable policy that could be a model for other states. Its policy is based on a simple form that transgender people can fill out and have signed by a medical or social service professional when they have reached the point in their gender transition where having an updated form of identification is appropriate. Rather than attesting to specific treatments, the form simply verifies the applicant's gender identity (DC DMV 2006). To ensure authenticity, the provider must list a professional license number and certify under penalty of law the accuracy of the form's information. To protect applicants, the content of the form is designated as private medical information, and instructions prohibit asking additional medical questions. The DC model proved successful and influential and contributed to an acceleration of change in licensing policies. In the four years since the DC DMV policy was issued, motor vehicle agencies in Massachusetts (Massachusetts Registry of Motor Vehicles 2009), Nevada (Nevada Department of Motor Vehicles 2010), New Mexico (New Mexico MVD 2010), New Jersey (New Jersey Motor Vehicle Commission n.d.), Ohio (Ohio Bureau of Motor Vehicles n.d.),

Pennsylvania (Pennsylvania Department of Transportation n.d.), and Washington State (Washington State Department of Licensing n.d.) have all issued new policies and forms based on the DC model. These policies now represent a well-established model that can be readily adapted by other jurisdictions and for other forms of identifying documents.

In the area of vital records, best practices are reflected by a policy formalized by the Washington State Department of Health in 2008. The policy simply requires a letter from the applicant's physician "stating that the requestor has had the appropriate clinical treatment" (Washington State Department of Health 2008). As with the DC DMV approach, the agency does not request specifics of medical care but instead defers to the professional judgment of the certifying provider. Washington is not the first state to permit updated vital records without specific proof of surgery, but it is the first to do so through a formalized, statewide policy.⁶ Washington State had a similar, but less clearly articulated, policy for gender change on vital records in place for nearly two decades, and department officials report that the policy is easy to administer and has never led to any problems or complaints (Freeman and Lovinger 2009). Legislation recently introduced in the District of Columbia would establish a similar policy for DC-issued birth certificates.⁷

In June 2010, the U.S. State Department announced a new policy for updating gender designations on both U.S. passports and Consular Reports of Birth Abroad. Similar to the Washington State birth certificate policy, it requires a letter from the applicant's physician stating that the applicant "has had appropriate clinical treatment for gender transition."

Similar to the DC DMV policy, it makes clear that “[o]ther medical records are not to be requested,” and that “[s]exual reassignment surgery is not a prerequisite for passport issuance.” To provide clarity and uniformity, the department included in the policy a model letter and posted the full policy on its Web site (U.S. Department of State 2010). The State Department’s new policy states it is “based on standards and recommendations of the World Professional Association for Transgender Health (WPATH).” The same month, WPATH issued a policy statement strongly supporting this trend, stating that:

No person should have to undergo surgery or accept sterilization as a condition of identity recognition. If a sex marker is required on an identity document, that marker could recognize the person’s lived gender, regardless of reproductive capacity. The WPATH Board of Directors urges governments and other authoritative bodies to move to eliminate requirements for identity recognition that require surgical procedures. (WPATH 2010)

By abandoning the surgery-focused standard followed by other federal agencies and explicitly basing its action on contemporary medical standards, the State Department has set a standard the other federal agencies, such as the Social Security Administration, should logically follow.

Each of these policies shares several key features. First and foremost, the policies do not require proof of specific medical treatments and instead require a statement reflecting the judgment of the applicant and his or her health care provider that the applicant has reached a point in gender transition at which

document change is appropriate. Second, these policies standardize and strictly limit the collection of private medical information, typically through a simple form or model letter. And third, they create ordinary administrative processes for changing documents that do not require court action or prior changes to other documents. Policies that follow these best practices are easy to understand and administer, ensure consistency in application, and most importantly, eliminate needless and harmful barriers for transgender people. Identification that reflects an individual’s lived gender will also make it easier for law enforcement, customs, and other officials to quickly and accurately identify individuals in the course of their daily business.

CONCLUSION

There is simply no serious public policy justification for retaining policies that forbid gender change or condition it upon proof of surgery. Correction of gender designations would do no more to assist identity theft or fraud than updating names, especially when a licensed professional is required to sign off. In fact, identification that fails to reflect an individual’s lived gender actually makes it harder to verify the individual’s identity. Nor is the concern that certain records, such as birth records, are historical in nature and should not be changed persuasive, since such documents are regularly amended to reflect name changes, adoptions, and other events. Restrictive policies on gender documentation change represent a serious government intrusion into the most personal aspects of an individual’s life and create economic barriers and hazards for transgender people in their everyday lives (Tobin 2007).

Accurate identification will not eliminate the discrimination and disparities that transgender people experience. Far more needs to be done to achieve that goal. Updating identification policies will, however, enable individuals to choose when and how to disclose their transgender status and medical history—the sort of deeply personal matters about which Americans generally expect a right to privacy. Accurate identification will eliminate one barrier to economic success and one risk factor for bias-motivated violence. And critically, it will enable many transgender people to go about their daily lives without constant anxiety and fear. State and federal agencies should act swiftly to revise outdated policies and advance these worthy goals.

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ENDNOTES

¹ For the purposes of this article, transgender women are those assigned the male gender at birth who identify and live as women and transgender men are those assigned the female gender at birth who identify and live as men.

² This report, scheduled to be published in early 2011, is based on a survey that asked a wide range of questions of nearly 6,500 transgender and gender nonconforming adults throughout the United States.

³ At present, thirteen states, the District of Columbia, and many municipalities expressly prohibit discrimination on the basis of gender identity or expression.

⁴ See, for example, *Anonymous v. Weiner*, 270 N.Y.S.2d 319 (N.Y. Sup. Ct. 1966).

⁵One early example, adopted by Oregon's motor vehicle agency in 1998, requires a letter from a therapist stating the applicant is living full-time as the desired gender as per the gender reassignment therapy.

⁶See Dubois-Need and Kingery (2009), which discusses the authority of judges, in jurisdictions lacking statutory surgery requirements, to consider other factors in approving vital records changes; see also Grant et al. (2010), indicating 6 percent of individuals who had had no surgery had changed gender on birth certificate.

⁷Legislation is expected to be introduced in early 2011.

Understanding Anti-LGBT Bias: An Analysis of Chinese- Speaking Americans’ Attitudes Toward LGBT People in Southern California

by Tommy Tseng

Tommy Tseng has been an activist for progressive causes since 2003 and is currently a Master in Public Policy candidate at the John F. Kennedy School of Government at Harvard University. He has worked for labor unions, political campaigns, and other issue campaigns. Tseng earned a B.A. in American politics with a minor in Workplace and Labor Studies from the University of California, Los Angeles. He currently serves as Editor-in-Chief for the Harvard Kennedy School’s Asian American Policy Review and as Editor for the LGBTQ Policy Journal at the Harvard Kennedy School. His research interests include LGBTQ human rights, public perception of LGBTQ people, and Asian American political participation.

ABSTRACT:

Currently, there is little research on the attitudes of Asian Americans toward lesbian, gay, bisexual, and transgender (LGBT) people that is both culturally relevant and linguistically appropriate. The purpose of this research is to take the first step in studying the attitudes of Asian Americans by understanding the

attitudes of Chinese-speaking Americans toward LGBT people on a variety of topics including children, culture, marriage, family, and society. The research conducted thirty in-language interviews with Chinese-speaking Americans using culturally specific questions. The study finds that adherence to traditional gender roles and communitarian values is the foundation upon which Chinese-speaking Americans form their often homophobic attitudes toward LGBT people.

The purpose of this research is to unearth, examine, and analyze the attitudes of Chinese-speaking Americans toward lesbian, gay, bisexual, and transgender (LGBT) people on a variety of topics including children, culture, marriage, family, and society. This study treats Chinese-speaking Americans as a distinct population because the vast majority of people in this group are foreign-born and have significant cultural differences compared to their American-born counterparts who do not speak a Chinese dialect fluently.

Recently, there has been an increasingly strong effort to push the LGBT movement to become more inclusive of people of color communities. The historic and present failures to meaningfully include people of color have prevented the LGBT movement from realizing its full potential. LGBT Americans have similar racial composition to the entire population, with only 68 percent non-Hispanic White; the LGBT movement’s lack of engagement with people of color communities makes it prone to alienating people of color LGBT individuals and enabling opponents of full equality to use wedge issues to create divisions between the LGBT and people of color communities (Movement Advancement Project 2007).

Within the people of color communities, the Asian American population is arguably one of the most diverse and least understood. Having a greater understanding of the Asian American community will enable the LGBT movement to achieve its goals more effectively, particularly in states the U.S. 2000 Census shows have higher concentrations of Asian Americans such as Hawaii (41.6 percent), California (10.9 percent), New Jersey (5.7 percent), New York (5.5 percent), and Washington (5.5 percent) (Barnes and Bennett 2002).

Currently, there is little to no research on Asian Americans' perceptions of and attitudes toward LGBT people. This research is taking the first steps to understand Asian Americans' attitudes by examining Chinese-speaking Americans' attitudes toward LGBT people using methods that are both culturally relevant and linguistically appropriate.

RESEARCH QUESTIONS

In developing research questions that would be culturally relevant and linguistically appropriate, the research reviewed a wide array of materials, including academic articles in English and in Chinese, Chinese-language news articles, and publicly available and privately commissioned reports.

After an extensive review of these materials and consultation with people who had experience working with this population, the researcher developed the following research questions:

- What are the **general impressions** that Chinese-speaking Americans have of LGBT people?
- What are the **biggest concerns or questions** that Chinese-speaking Americans have of LGBT people?

- What do Chinese-speaking Americans think about the debate of **choice versus born LGBT**?
- What do Chinese-speaking Americans think about **children** in the context of LGBT issues?
- What do Chinese-speaking Americans think about **gender roles** in the context of LGBT issues?
- What do Chinese-speaking Americans think about LGBT issues generally in the context of the **American culture** and the **culture of their countries of birth**?
- What do Chinese-speaking Americans think about LGBT issues in the context of **family and social networks**?

General Attitudes Toward LGBT People

The male homosexuals don't have men's masculinity—comparatively less masculinity. Other characteristics are comparable. They are just men who do not have the appearance of men.

— *Male, 60-64, Republican, Jiang Su, China, master, Ph.D., or professional degree*¹

For Chinese-speaking Americans, gender is by far the most salient lens through which they define, perceive, and form their attitudes toward LGBT people. Gender is also the foundation through which Chinese-speaking Americans form their attitudes toward LGBT people in relation to a variety of prominent issues including children, culture, marriage, and family.

The vast majority of interviewees described LGBT people as people whose gender characteristics—including appearance, gender roles in relationships, and behavior—do not conform to the gender characteristics of heterosexuals. Gender nonconformity is both the most

cited definition for being LGBT and the strongest source of discomfort about LGBT people.

Research conducted with parents of LGBT children in Taiwan also find strong adherence to traditional gender roles including the separation of genders and the complementarity of strong masculinity (yang) and weak femininity (ying) (Chieng 2007).

Strict adherence to traditional gender roles is not only apparent in interviewees' explicitly stated attitudes toward LGBT people, but also manifests itself in the ways that they conceptualize LGBT people in relationships. A solid majority of interviewees offered descriptions of LGBT men when asked to describe their perceptions of LGBT people.

Furthermore, many interviewees described their understanding of roles in LGBT relationships in terms of heterosexual relationships. These interviewees also described LGBT people as people who are confused about their gender identity, and some even cited extreme discomfort particularly with LGBT people who are neither masculine nor feminine.

Throughout the research, many interviewees articulated their discomfort with some version of "it just doesn't feel right." It should be noted that "it just doesn't feel right" equates to the "ick" factor (Face Value Project 2010) or unconscious bias that is the most difficult to overcome for activists seeking to change society's attitudes toward LGBT people. Similar studies on the "ick" factor around race demonstrate that even people who consciously express little to no bias continue to have racist gut reactions when they interact with members of a different race (Devine 1989).

Attitudes Toward LGBT Men Versus Women

I guess it is possible that we have higher expectations for men. For women, we have more tolerance because they are the weak ones anyway . . . this way, for women to become more masculine, that is not a major problem. However, society does have higher expectations for men, because men need to feed and support the family. A man is the head of the family. So men should be strong, and for them to be feminine is just very weird.

— *Female, 45-49, Democrat, Beijing, China, college*

Existing data on attitudes toward LGBT people indicates that bias toward LGBT men is greater than bias toward LGBT women (Herek 2000; Herek 2002). This pattern is consistent with findings in this research.² While many interviewees did not express differences in their attitudes toward LGBT men and women, a comparable portion of interviewees did. Out of these interviewees who indicated a difference between men and women, the vast majority indicated that it is worse for men to be LGBT than for women.

Interviewees who expressed the "worse for men" opinion explained their attitude with two types of reasoning. First, the vast majority of interviewees who expressed the "worse for men" opinion also feel that men are the main pillars of family and society and need to be held to higher standards. They reasoned that if men do not behave like men, society will fall apart because the pillars are no longer there to hold it. Second, a smaller portion indicated that "it just feels worse for men."³

“Born that Way” Versus “Choice”

Some small children possibly have homosexual tendency when they were young, then you can say that they are born that way. Some small children don't have this tendency, they become homosexuals when they grow older, then you can't say that they were born that way.

— *Female, 45-49, no affiliation, Tianjin, China, some college*

I feel that for Chinese, we live in a collectivist society, so I want to know how the society feels. If society is more accepting of one woman-one man type of relationship, then I would be more accepting of that, too.

— *Male, 25-29, Democrat, Taiwan, master, Ph.D., or professional degree*

In the United States, the “choice” versus “born that way” dichotomy has been a point of intense debate for many activists and opponents of LGBT rights.

Opponents of LGBT rights often argue that being LGBT is a choice and that LGBT people freely choose a particular “lifestyle.” Conversely, activists argue that LGBT are born that way and hence deserve protection from discrimination for an “immutable characteristic” that they cannot control.

The interviewees, however, framed the “born that way” versus “choice” debate differently. The major difference is twofold. First, a solid majority of interviewees held a complex view of the causes of being LGBT; that is, they did not believe the causes could be narrowed down to either “born that way” or “choice.” Second, interviewee beliefs in either “born that way” or “choice” were not correlated with specific attitudes (i.e., acceptance versus rejection) toward LGBT

people, even for those who were certain about the causes of being LGBT.

Cultural psychology research demonstrates that there are at least three ethical frameworks; two of these are the ethics of autonomy and the ethics of community. Ethics of autonomy is an ethical framework based on respect for individual autonomy and rights. Ethics of community is based on community that requires respect and obedience to society and actions consistent with one's social role, including gender, age, class, and so on (Shweder et al. 1997).

In the United States, the ethics of autonomy is the dominant framework. Based on this framework, some activists feel that educating people that being LGBT is not a choice is the key to winning people's support for full equality. However, for Chinese-speaking Americans, the respect for the good of the collective—the ethics of community—is the dominant framework. In fact, a solid majority of interviewees expressed negative attitudes toward LGBT people regardless of their beliefs in the “choice” versus “born that way” debate. For these interviewees, being LGBT is undesirable regardless of its causes and LGBT people need to conform or simply hide their sexual orientation for the good of society.

Children at School with LGBT Teachers

I think teaching is fine . . . as long as the homosexual teacher doesn't tell others about this type of personal things. As a homosexual, you can keep it a secret . . . because teaching is part of education, just don't promote that you are homosexual and that is fine.

— *Male, 50-54, Republican, Szechuan, China, college*

Opponents of LGBT equality are adept at using children to activate people's fears and disgust of LGBT people. During the 2008 campaign for California Proposition 8, the proposed same-sex marriage ban, a television advertisement showed an elementary school girl telling her horrified mother that she learned in school that she could marry a princess. Many experts, including proponents of Proposition 8, agree that this advertisement was the most effective in moving the needle away from equality (Schubert and Flint 2009). Understanding the attitudes of Chinese-speaking Americans in relation to children will enable us to uncover some of people's deepest fears.

When asked if LGBT teachers should be allowed to teach in schools, only a small minority of interviewees indicated that LGBT teachers should be prohibited from teaching in schools outright. A solid majority of interviewees indicated that LGBT teachers should be allowed to teach in schools; however, the vast majority of these interviewees also qualified their statements with some version of "as long as they do not teach LGBT materials to, or 'act gay' in front of, the children." In contrast, virtually no references were made about LGBT teachers or people molesting children.⁴

Interviewee concerns about LGBT teachers are twofold. First, LGBT teachers may teach LGBT-related (i.e., same-sex marriage) materials directly to children; second, LGBT teachers may influence children by virtue of their appearance and behavior.

Children at Home with LGBT Parents

I think it should be allowed, but I still feel that even though various studies demonstrate that this has no negative

impact on the child, I still have some lingering doubts: it is just not fair for the child. The child has no way of choosing one dad and one mom. But the child has to be stuck with two moms or two dads. If the studies truly show that there is no negative impact, then I'm not qualified to say anything. But, I just have some lingering doubts.

— *Male, 25-29, Democrat, Taiwan, master, Ph.D., or professional degree*

Adoption by LGBT parents is also a topic that the research investigated. Compared to attitudes regarding children with LGBT teachers in school, attitudes about children with LGBT parents were much more layered. The concepts of gender and gender roles—though omnipresent in all the topics—reemerged as a major theme in interviewees' responses to this question. Concern regarding children not understanding and not behaving in accordance with gender roles is equal to, if not greater than, concern of children becoming LGBT in households with same-sex parents.

Studies in Taiwan also show strong societal beliefs that families without traditional parental structures—including single-parent households—provide a less-than-holistic experience for children, cause confusion in gender roles, and possibly lead children to become LGBT (Chieng 2007).

Similar to attitudes regarding children with LGBT teachers, a solid—though slightly less—majority of interviewees indicated that LGBT parents should be allowed to adopt children just like heterosexual parents. However, a solid majority of interviewees who expressed this view also believed that living with LGBT parents would have negative consequences. Some interviewees also

expressed concerns that children who grow up in same-sex parent households would be ridiculed by others or feel alienated at school because other children have different sex parents.

CULTURE

I think . . . in the past . . . people cannot openly express their homosexuality . . . society in America and the West is freer, so there is the opportunity for this expression . . . the culture influences the expression.

— *Male, 55-59, no affiliation, Guangdong, Chin, high school*

Culture is a powerful medium through which people gather information and form opinions about LGBT people. Looking at the cultural influence on attitude is becoming an increasingly critical task as the LGBT movement

because the culture is not accepting of LGBT people.

Some activists speculate that anti-LGBT bias is strongly associated with the belief that being LGBT is only a product of American culture and Whiteness. However, only a small minority of interviewees were found to believe that this is actually the case. Nevertheless, the lack of linkage between being LGBT and American culture does not imply acceptance of LGBT people. Similar to findings in the choice versus born that way debate, there is little to no evidence showing that beliefs about the influence of American culture are linked to acceptance or rejection.

Furthermore, the above referenced speculation may have been based on faulty interpretation of existing data. Recent research on attitudes toward

❖❖❖...*the vast majority of interviewees believe there have always been LGBT people in their home countries.*

begins to realize the need and urgency to understand the attitudes of people of color communities. This section addresses how the interviewees' attitudes toward LGBT people are influenced by (1) the culture of interviewees' country of birth and (2) their belief regarding the impact of American culture on people being LGBT.

Surprisingly, the research finds that the vast majority of interviewees believe there have always been LGBT people in their home countries. These interviewees also observed that the LGBT people are afraid to be open in their countries of birth

LGBT people demonstrates that, when asked their opinion of LGBT individuals, people respond first with a gut judgment based on affect and then later attempt to use logic to justify their affective reactions (Haidt et al. 1993). People who do not genuinely believe that American culture causes people to become LGBT may very well use "American culture" and "White people" as a reason to justify their initial negative reactions to LGBT people.

Even though interviewees did not believe that American culture causes people to become LGBT, a solid majority of interviewees did believe that the relatively more open and liberal nature of

❖ Asking someone about his or her attitude toward LGBT people in abstraction is materially different than doing the same in a more concrete context.

American and Western cultures makes it possible for LGBT people to be more open about their sexuality. That is, the openness of the culture is an enabler of LGBT people being open about their identities.

Marriage

I think the most contentious issue of the day is legalization of same-sex marriage. I don't support this because this would end marriage's original definition. . . . But if two people are really together, for example, the transfer of financial assets should be protected because they are of the companions, partners, and friend-type relationship. . . . But I don't agree with marriage . . . because marriage is one man, one woman . . . with children.

— *Female, 55-59, no affiliation, Taiwan, master, Ph.D., or professional degree*

Recently, same-sex marriage has been a hotly contested policy issue in different parts of the United States and in various countries around the world.

A solid majority of interviewees do not support same-sex marriage and express their strong reservations about it. The anti-same-sex marriage attitudes can be divided into three categories: first, LGBT people should be able to have the same rights but not call it marriage; second, the function of marriage is reproduction and passing down the family name; and third, same-sex marriage is a violation of

tradition and only heterosexual marriage is recognized around the world.

Family Acceptance of LGBT Child

Because in my circle, people's knowledge and level of acceptance of homosexuals are limited, so it is weird. Even though homosexuality is now acceptable . . . if that's what you like . . . but if there is a homosexual in my own home . . . I may not be able to accept it.

— *Male, 65-69, no affiliation, Shanxi, China, college*

Asking someone about his or her attitude toward LGBT people in abstraction is materially different than doing the same in a more concrete context. The research asked the interviewees—the vast majority of whom are parents—if they would accept their child in a hypothetical situation in which the child came out as LGBT.

The research posed the hypothetical scenario because Chinese cultural norms make it easy for people to “accept” or at least express a “neutral” attitude toward the stigmatized conditions in the lives of others. Expression of strong opinion, which is seen as a disruption of social harmony, is not encouraged in Chinese cultural norms. Asking interviewees about their children enabled the research to identify how the interviewees really feel by making the issue personal and preventing the “otherization” of LGBT people.

Many interviewees indicated that they would grudgingly accept a LGBT child but not before making many attempts to “correct” the child. Out of all the interviewees who indicated a willingness to accept, the vast majority expressed resigned acceptance rather than a proactive embrace. A smaller portion of interviewees indicated that they would not accept a LGBT child. The interviewees who indicated acceptance tended to talk more about the relationship between parent and child while the interviewees who indicated rejection tended to emphasize the stigma and the level of anti-LGBT bias in their immediate network of friends and family members.

Family and Social Networks

First reaction is resignation. . . . The second is I don’t know how to face friends and relatives. . . . I will be ridiculed.

— *Male, 55-59, no affiliation, Guangdong, China, high school*

This research also examined the roles of family and social networks in shaping interviewees’ attitudes. Studies conducted in the immediate aftermath of Proposition 8’s passage indicate that the factor with the most influence on voter decision is the substance of discussion with friends and family.

Continuing with the topic of a hypothetical LGBT child in the family, we asked the interviewees about the potential reactions of their close friends and family to the hypothetical news of having an LGBT child.

The interviewees expressed two types of concerns. First, they were concerned that they may be labeled as ineffective parents who had done a poor job of raising their

children. Second, they felt that it would be hard to “face” close friends and relatives who may ridicule them. The “ineffective parents” critique is both internal and external; many interviewees indicated that they would feel a high degree of self-blame if their children turned out to be LGBT.

Research in Taiwan also confirms widespread belief that ineffective parents may cause children to become LGBT by not providing a “natural” family atmosphere for children to be properly socialized into society. Stigmatized children lead to stigmatized parents (Chieng 2007).

CONTAGION AND SOCIAL DECLINE

Legalization of same-sex marriage will bring an atmosphere in which people feel that acceptance of homosexuality is normal. . . . This will perhaps have a larger impact on younger children. They won’t have a clear understanding of the one man, one woman marriage. . . . This will mislead their judgment.

— *Male, 25-29, Democrat, Tianjin, China, college*

Similar to the narratives of American social conservatism, the attitudes of Chinese-speaking Americans tend to contextualize LGBT people in the larger story of “social decline.” Although a solid majority of interviewees acknowledged that they did not know for sure the causes of being LGBT, they expressed grave concern that people, especially youth and children, would be influenced into adopting the LGBT “lifestyle.” Out of the interviewees who held these views, many explicitly used words associated with infectious diseases to illustrate their fears of LGBT people and the potential “contagion” that LGBT could cause.

RELIGION

This discussion would not be complete without at least a brief mention of religion. Chinese-speaking Americans, as a whole, are not religious people.

According to a 1997 poll done by the *Los Angeles Times*, only 32 percent of Chinese Americans identify as some type of Christian (including Roman Catholics), 20 percent identify as Buddhists, and 44 percent identify as not religious (Dart 1997). Further, the vast majority of religious interviewees who expressed negative attitudes toward LGBT people indicated that their religious views only played a small role in their dislike of LGBT people.

CONCLUSION

For Chinese-speaking Americans, beliefs in and adherence to traditional gender roles are the foundational source of anti-LGBT bias. For them, gender nonconformity is not only the definition of being LGBT, but also the very source of discomfort toward LGBT people. The core beliefs in traditional gender roles influence the interviewees' beliefs about the proper structure of family and society, which, in turn, form the arena that shapes the interviewees' attitudes on other topics, including children and marriage. Overall, the interviewees are just as worried about gender nonconformity as being LGBT.

With gender roles as the foundation of people's attitudes, culture gives us a lens through which to examine these beliefs. The most important cultural takeaways—not directly related to gender roles—are the impacts of distinct ethical structures and interviewees' attitudes about the influence of American culture on LGBT people. First, knowing communitarian ethics enables us to understand interviewees' negative attitudes toward and

rejection of LGBT people regardless of the causes of being LGBT; second, knowing Chinese-speaking Americans' view of American and other Western cultures as an enabler of LGBT people's willingness to "come out" rather than as a cause of being LGBT allows us to understand how exactly culture matters in the eyes of the interviewees.

In addition, many of the interviewees' comments show that they meet the clinical characteristics of a phobia: an irrational fear toward specific things (spiders), situations (public speaking), or people (homosexuals). Comments using metaphors of disease, contagion, and "hidden agenda" are the classic indicators of homophobia. It is unclear if rational arguments can rid homophobic people of their primal affective reactions toward LGBT people anymore than a biology lesson on the low risk spiders pose to humans can prevent an arachnophobic individual from jumping at the sight of a big tarantula crawling up his or her leg. Activists seeking to change the opinions of homophobic individuals may have to rely less on messages about equal rights and discrimination and focus more on telling stories that will generate empathy and encourage homophobic individuals to seek out more information. No message can change the attitude of a homophobe overnight, but messages that effectively generate empathy toward LGBT people or create cognitive dissonance in one's existing beliefs may create the conditions under which a homophobe may begin to change his or her attitude.

Of course, Chinese-speaking Americans are not a monolithic group and diverse attitudes exist within this population. Although this discussion presents a synthesis of the most prevalent discourse of the interviewees who participated in

the research, the perspectives within this population, as presented here, are much more nuanced.

Suggestions for Future Research

- **Study of gender nonconformity versus being LGBT.** Gender nonconformity, for the interviewees, is the definition of being LGBT and the strongest source of discomfort. This raises the possibility that the interviewees simply do not see a distinction between the two. Obviously nonconformity to traditional gender roles is the definition for the “T” in LGBT, but not necessarily the “LGB.” Studying this puzzle will help us better understand the attitudes of Chinese-speaking Americans.

- **Turning findings into effective in-language outreach.** With more of an understanding of Chinese-speaking Americans’ attitudes toward LGBT people, the question is, how do we turn this research into actionable knowledge? Recent elections have proven that outreaching to voters in their native languages with the right message can go a long way in winning elections and getting people to the polls (Lee and Tseng 2010). Research should be done to adopt the new findings about Chinese-speaking Americans in efforts on the ground to change hearts and minds.

- **Modeling process of changing hearts and minds.** A few of the interviewees who participated in the research indicated that they had changed their attitude toward LGBT people from intolerance to acceptance. However, there are too few stories from which to spot patterns and conduct analysis. Research that recruits people who have changed their attitudes and focuses on the specific process of change will further help us replicate similar conditions on the ground.

ACKNOWLEDGEMENT

The author would like to thank Peggy Traub and Phyllis Dicker for their generous support for this research project.

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ENDNOTES

¹ For each quotation, the interviewee demographic is listed as follows: Sex, age, political party, place of birth, highest level of education.

² However, other data findings that suggest men are more hostile than women toward LGBT people do not play out in this population.

³ See above explanation for “it just doesn’t feel right.”

⁴ Out of more than twenty-five hours of recorded conversation, there were no more than two mentions of molestation as it relates to LGBT teachers, parents, and other authority figures in relation to children.

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Shutting LGBT Students Out: How Current Anti-Bullying Policies Fail America's Youth

by Daryl Hannah

Daryl Hannah is currently a senior media field strategist with the Gay & Lesbian Alliance Against Defamation (GLAAD) where he helps organizations develop their communications strategies around lesbian, gay, bisexual, and transgender issues.

ABSTRACT:

Every student deserves the opportunity to go to school without fear of being harassed. While students remain protected on the basis of race, color, national origin, sex, and level of ability, there remains no federal law that protects gay and transgender students from being harassed, discriminated against, or intimidated in the classroom. In this article, I outline how fragmented bullying laws result in disjointed school district policies that not only affect gay and transgender students in the classroom but also have larger public policy ramifications.

Most Americans would agree that discrimination on the basis of race, color, national origin, sex, or level of ability is wrong. The most progressive businesses understand that shunning members of

these groups can have irreparable effects on employee recruitment and retention, competitiveness, and ultimately the bottom line and have taken serious steps toward creating a work environment that is welcoming to all employees.

Governmental agencies recognize that women, members of minority racial groups, people with disabilities, and immigrants are among the most vulnerable members of our society and, therefore, have banned discriminatory practices that target members of these groups.

In addition, today, 89 percent of *Fortune* 500 companies prohibit discrimination on the basis of sexual orientation and 43 percent prohibit discrimination on the basis of gender identity (Human Rights Campaign 2010). In terms of government, while there remains no comprehensive federal antidiscrimination protection on the basis of sexual orientation or gender identity, U.S. policy makers have instituted tougher punishments for violent acts that target individuals because of their actual or perceived sexual orientation and/or gender identity with the enactment of the Matthew Shepard Hate Crimes Prevention Act in 2009. However, even though government and businesses have taken major steps to protect the gay and transgender members of our society, the truth remains that our public school system has not done the same for our gay and transgender students.

Today, America's public school system is home to more than 55 million elementary and secondary students from different ethnic backgrounds, creeds, sexes, and levels of ability—a diversity that reflects the multicultural tapestry that is American society (National Center for Education Statistics 2010). While the

educational system prohibits discrimination and harassment against students who fit into the aforementioned groups, there currently are no standardized anti-bullying or antiharassment protections for gay and transgender students. This inherent discrimination on the basis of sexual orientation and gender identity has sparked a rancorous public debate and created the perfect moment for a national discourse on the hardships gay and transgender students face in schools.

As the media continues to shine more light on the harsh realities of bullying, intimidation, and harassment, both inside and outside of the classroom, school safety is increasingly becoming a key public policy issue. States, school districts, and researchers have invested millions of dollars in attempting to understand certain fundamental questions: What is the cause of school yard bullying? Who are the most likely victims of harassment and intimidation? If bullying is a problem, is it a federal or a state issue?

In as much as these questions have helped shape the national discourse and prompted legislatures to seriously examine adolescent victimization, they have also driven the debate circuitously. As a result, they have stifled our ability to uncover and institute best practices for keeping gay and transgender students safe at school, on buses, or at school-sponsored functions.

So why, with more than 50 percent of Americans saying being gay is “morally acceptable” (Saad 2010), has the conversation around the bullying and harassment of gay and transgender youth remained virtually stagnant? Or better yet, why has our conceptualization of “protected class” remained unmoved for the past forty years? The reason: latent homophobia.

In an interview with *Ladies’ Home Journal*, Scott Quasha, a professor of school psychology at Brooklyn College, said:

Despite recent cultural shifts, kids still get the overwhelming message from society that homosexuality is not acceptable. It’s not uncommon to hear fierce condemnation from politicians and preachers as they debate gay civil rights. Homosexuality is compared to incest, bestiality, even violent crime. This trickles down into the schools, where bullying occurs. A gay child is an easy target for classmates looking to make trouble. (Miller 2010)

The national conversation around anti-bullying protections and safe schools has been severely limited and framed around Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin with regard to programs and activities receiving federal financial assistance; Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex with regard to any education program or activity receiving federal financial assistance; Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, which together prohibit discrimination on the basis of ability regardless of federal financial assistance. As a result, there has been little movement within the framework to include protections for students based on their actual or perceived sexual orientation or gender identity as well as, ultimately, to challenge how we conceptualize a “protected class.”

WHAT IS BULLYING?

Much of the debate around extending anti-bullying and antiharassment protections to include gay and transgender students derives from the amorphous definition of bullying and a poor understanding of its origins. In addition, the discourse has highlighted our largely underdeveloped understanding of sexuality and our lack of understanding of gender identity development in today's youth. Despite the efforts of academics, education experts, and even legislators to develop a concrete and universal definition of bullying, harassment, or intimidation, most incidents of bullying are still judged on a case-by-case basis and can occur within the context of threats, physical assaults, and social alienation, among others.

Researcher Finessa Ferrell-Smith with the National Conference of State Legislatures writes:

Although no standard or universally understood definition of bullying exists, certain elements usually are present. The first element is a pattern of behavior over time—repeated exposure to intentional injury inflicted by one or more students against another. This behavior may include physical contact, verbal assault, social ostracism, obscene gestures, or other aggressive acts that cause the victim to feel fearful or distraught. More serious instances of bullying can result in physical injury or emotional trauma. A second common element is a perceived imbalance of power, which allows one student—or group of students—to victimize others. (Ferrell-Smith 2003)

In a memo to colleagues, Russlynn Ali, assistant secretary for civil rights in the U.S. Department of Education, echoed

Ferrell-Smith's definition but expanded it beyond the confines of intent:

Harassing conduct may take many forms, including verbal acts and name-calling; graphic and written statements, which may include use of cell phones or the Internet; or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Harassment creates a hostile environment when the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a student's ability to participate in or benefit from the services, activities, or opportunities offered by a school. When such harassment is based on race, color, national origin, sex, or disability, it violates the civil rights laws that OCR [Office for Civil Rights] enforces. (Ali 2010)

With no standardized or clearly spelled out federal definition for bullying or harassment in schools, many state legislatures have taken up the task of defining what constitutes bullying within the schools in their own borders, resulting in fragmented definitions and interpretations of bullying that address everything from intent to geography.

For instance, Georgia, which recently updated its anti-bullying laws, defines bullying as “any willful attempt or threat to inflict injury on another person, when accompanied by an apparent present ability to do so or any intentional display of force such as would give the victim reason to fear or expect immediate bodily harm” (Ferrell-Smith 2003). Oklahoma, on the other hand, defines harassment as “any written or verbal expression or

physical act or gesture or pattern thereof, that is intended to cause distress upon one or more students in the school, on school grounds in school vehicles at a designated school bus stop or at school activities or sanctioned events” (Ferrell-Smith 2003). Oregon defines harassment, intimidation, or bullying as “any act that substantially interferes with a student’s educational benefits, opportunities or performance that takes place on or immediately adjacent to school grounds, at any school sponsored activity on school-provided transportation or at any official school bus stop and that has the effect of (1) physical harm to the student or damaging a student’s property (2) knowingly placing a student in reasonable fear of property or (3) creating a hostile educational environment” (Ferrell-Smith 2003).

It is important to note that neither Georgia nor Oklahoma includes harassment on the basis of an actual or perceived sexual orientation or gender identity in its definition of bullying or intimidation. Currently only ten states (California, Colorado, Illinois, Iowa, Maine, Minnesota, New Jersey, Oregon, Vermont, and Washington) and the District of Columbia include harassment on the basis of sexual orientation and gender identity, actual or perceived, in their definition of bullying, and therefore provide protections on the basis of sexual orientation and gender identity. Connecticut, Massachusetts, and Wisconsin provide protection on the basis of sexual orientation only.

Despite the ongoing debate regarding what constitutes bullying, both on the statewide and federal level, the truth remains that the lack of protections puts gay and transgender students at risk. According to the Gay, Lesbian and

Straight Education Network (GLSEN), which has monitored and analyzed the school climate facing gay and transgender students for more than ten years, bullying creates a hostile school environment, inspires absenteeism, and lowers education aspiration and academic achievement. These negative effects call for effective policy interventions.

EFFECTS OF BULLYING

Although policy makers have been able to agree that discrimination and harassment on the basis of race, color, national origin, and sex reinforce toxic environments in our schools and ultimately create systemic and unfair advantages in society, many have turned a blind eye to research that makes a similar case for gay and transgender students.

According to GLSEN’s 2009 National School Climate Survey, which polled more than 7,000 self-identified gay and straight students between the ages of thirteen and twenty-one from all fifty states and the District of Columbia from 2008 to 2009, 61 percent of all students felt unsafe at school because of their actual or perceived sexual orientation whereas only 9.8 percent of all students felt unsafe because of their gender and 7.6 percent of all students felt unsafe because of their race or ethnicity (Kosciw et al. 2010). Concurrently, the study also sheds light on the lack of support from school teachers and administrators as nearly 85 percent of gay, transgender, and gender nonconforming students said they were verbally harassed at school because of their actual or perceived sexual orientation, but only 37.6 percent reported the incident to school staff and believed action would be taken (Kosciw et al. 2010). This also highlights a larger, and arguably more systemic, problem facing

our public school system: the discomfort of gay and transgender students in reporting incidents of harassment, bullying, or intimidation to school officials either due to fear or to no expectation that it will better the situation.

The study also finds a direct correlation between students' concern for safety and their school attendance. Nearly 30 percent of students reported having skipped a class at least once in the past month because they felt unsafe or uncomfortable. The same percentage of students missed at least one entire day of school in the past month because they felt unsafe or uncomfortable (Kosciw et al. 2010).

Additionally, the effects of bullying and harassment on the basis of sexual orientation extend well beyond the classroom; students who experience harassment for these reasons tend to have lower grade point averages than those who aren't harassed and are also more likely to report no postsecondary education plans, which consequently limits their career trajectories. In the most severe cases, constant harassment and taunting can lead to suicide, as we have seen in several high-profile cases in 2010, including those of Raymond Chase, age nineteen, a student at Johnson & Wales; Billy Lucas, fifteen, a freshman in high school in Indiana; Seth Walsh, thirteen, a middle school student in California; Tyler Clementi, eighteen, a student at Rutgers University; and Asher Brown, thirteen, a middle school student in Texas.

The Importance of Comprehensiveness

During the past ten years, legislatures have worked to formally address the issue of school yard bullying, harassment, and intimidation but have fallen short in protecting gay and transgender students.

By 2007, thirty-five states had anti-bullying and antiharassment laws; however, none of these laws were comprehensive, meaning they did not include sexual orientation and gender identity as explicitly enumerated categories of protection alongside race, ethnicity, national origin, and religion. As a result, gay and transgender students in schools without comprehensive laws report hearing the terms "gay," "faggot," and "dyke" used in negative ways more frequently than those students in schools that do have comprehensive anti-bullying laws. In addition, while these generic anti-bullying laws are directed at policing harassment by firmly prohibiting such behavior and demanding that districts communicate to administrators and educators their responsibilities should they witness bullying taking place, they do little to move toward actually preventing bullying practices.

Safe school advocates contend, and research, such as GLSEN's, agrees, that comprehensive anti-bullying and antiharassment policies and laws must go beyond clearly outlining responsibilities for educators and firmly banning bullying practices; they must also work to stifle a culture conducive to bullying. They must work to prevent bullying in addition to prohibiting it. When researchers polled students who lived in the states with comprehensive laws, which in addition to naming gay and transgender students as enumerated groups also fostered a culture that worked to prevent bullying, students reported hearing homophobic remarks significantly less often than students in states with no laws or with a generic anti-bullying/antiharassment laws (Kosciw et al. 2010).

Furthermore, schools that incorporated sexual orientation and gender identity as

enumerated groups in their anti-bullying and antiharassment policies were more likely to have supportive on-campus organizations for gay and transgender students, such as gay-straight alliances, which provide safe and affirming spaces for students, and supportive curriculums that incorporate the voices of gay and transgender individuals (Kosciw et al. 2010). These schools are also more inclined to publicize “safe spaces” on and off campus, making students aware of allies in both the classroom and the school’s administration (Kosciw et al. 2010). All of this, in conjunction with support from the state level, has been credited by education experts with making gay and transgender students feel safer in our public schools. This holistic approach to addressing homophobia in schools by creating safe spaces, having open dialogue, and policing bullying has ultimately resulted in both academically and socially better-adjusted students—straight, gay, and transgender.

In a statement, GLSEN’s Executive Director Eliza Byard addressed this finding:

GLSEN began data collection on the school experiences of LGBT [lesbian, gay, bisexual, and transgender] students in order to fill a critical void in our knowledge and understanding of the ways LGBT issues play out in schools. It could not be clearer that there is an urgent need for action to create safe and affirming schools for LGBT students. (Vossekuil et al. 2000)

Yet despite these successful examples of how to police and prevent antigay and anti-transgender bullying—both on school grounds and at school-sponsored functions—legislators remain reluctant to

enact across-the-board bullying protections for gay and transgender students.

Further, the rate at which students report being harassed and/or assaulted at school has remained relatively constant over time. However, the GLSEN study found “small but significant” decreases in the frequency at which students experienced verbal and physical harassment from 2007 to 2009—a period during which there was no increase in the number of comprehensive anti-bullying policies instituted in schools. This is the same time period, however, that provided analysts with the clearest snapshot of whether the previously instituted comprehensive anti-bullying policies were effective. The study found they were.

From Prohibition to Prevention

As important as it is to create safe spaces for gay and transgender students in schools and to push for the inclusion of anti-bullying policies, it’s not enough to merely add sexual orientation and gender identity as enumerated groups to already in-place anti-bullying policies or to merely erect policies that simply outlaw bullying gay and transgender students. To effectively address the anti-gay bullying epidemic and ultimately curb anti-gay bullying in schools, legislation addressing anti-gay bullying must also include proactive elements that prevent bullying outright.

According to Ferrell-Smith, preventative measures remain “a final and often problematic component of legislation” because “legislation mandating prevention” is often perceived as expensive” (2003). But, as the Washington Institute for Public Policy discovered, the Bullying Prevention Program, which today is the model anti-bullying program, actually saved Washington State taxpayers \$5.29

for every \$1 spent on the program (Ferrell-Smith 2003). This happened because the program resulted in fewer districts facing heavy lawsuits.

Preventative measures can also be implemented by simply publicizing the anti-bullying policy in student handbooks and school codes of conduct; giving students immunity for reporting instances of bullying and punishing students who falsely report accusations of bullying; and training teachers to recognize, intervene, and respond to bullying behavior in a uniformed way. Policies must also clearly outline the criterion for determining consequences for bullying, examples of consequences, and the measure by which administrators will determine remediation.

Consideration must also be given to external factors that contribute to the nuanced environment that makes each school and district different. Assessing school needs to address gay and transgender bullying must also include input from students who experience taunting firsthand. This information may be gathered via student surveys and can be tailored to uncover the causes and sources of bullying. This information must be analyzed and made available to policy makers to provide them with a clear picture of the state of our schools so they may draft pertinent and comprehensive legislation that protects our schools and ultimately continues to protect America's most vulnerable asset: our students.

CONCLUSION

As policy makers on the district, state, and federal level continue to work to make schools safe for students, it remains critical that they do what is in the best interest of all students. This begins with moving beyond the conversations that

have stifled progress to actually push for anti-bullying legislation nationwide that emulates the laws in our most progressive jurisdictions. The anti-bullying and antiharassment policies in states like New Jersey, Minnesota, and Colorado remain models for effective and comprehensive school reform. Policies in these states have specifically enacted the three components proven to be most effective in addressing bullying; they specifically name gay and transgender students as enumerated groups, address prohibition, prevention, and intervention of antigay and anti-transgender taunting, and clearly outline the roles of school administrators.

Additionally, the U.S. Department of Education must also provide more dollars for research that illustrates the causes and effects of bullying both inside and outside of the classroom. Experts at the national level must also understand the impending social and political impact that weak bullying policies have on America's infrastructure and competitiveness. Furthermore, regulators must expand and build upon the instruments and reporting mechanisms of bullying to improve our understanding of how bullying translates to homophobia in society. As we've seen, the lack of comprehensive bullying protections results in higher dropout rates by gay and transgender students and, for the aggressors, can become a "gateway" to other negative behaviors such as vandalism, shoplifting, and drug use.

In the absence of a federal mandate that bars school yard bullying or a law that requires states and school districts to incorporate comprehensive anti-bullying legislation to protect all students, states that have elected to institute generic anti-bullying laws most certainly deserve to be commended for their initial efforts.

But the successes of states with comprehensive anti-bullying laws should be recognized and should help states with generic laws to understand that more can be done to protect students. Students, categorically, regardless of race, color, religion, sex, national origin, sexual orientation, or gender identity, deserve equal access to an education and an equal opportunity to be their best selves. This can only be achieved if every student can go to school free from victimization and hallway terrorism.

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The Black Closet: The Need for LGBT Resource and Research Centers on Historically Black Campuses

by Victoria Diane Kirby

Since 2009, Victoria Diane Kirby, who is currently finishing the last year of her master's degree in public administration at Howard University, has been featured on CNN, NBC's Today Show, Fox, and a number of other national and international media outlets. After being honored with an invitation from First Lady Michelle Obama to the White House and U.S. President Barack Obama's first address to Congress, she was featured on hundreds of Web sites, blogs, and print news outlets including the Washington Post. She served as the first openly gay member of the board of trustees of her alma mater, Howard University, where she recently graduated with a bachelor of arts in communication and culture and a minor in political science. She serves as a member of the Human Rights Campaign's Diversity & Inclusion Council.

According to the U.S. Department of Education, there are 105 Historically Black Colleges and Universities (HBCUs) in the United States. HBCUs are institutions classified as higher education that were chartered prior to 1964 and created with the principal mission of serving African Americans. These institutions are led and taught predominately by African

Americans to a majority African American student population. For more than a century, HBCUs have graduated some of the most well-known and respected people of color in America. Famous and accomplished alumni, who have had a variety of roles including ones in the civil rights movement, ending apartheid in South Africa, and the Harlem Renaissance, include Thurgood Marshall, Wanda Sykes, Rev. James Tinney, Oprah Winfrey, Rev. Darlene Nipper, Sharon Lettman-Hicks, and Dr. Martin Luther King Jr. Although HBCUs have been a beacon of hope for thousands of African Americans for decades, they have also been a source of great pain to hundreds of students who identify as lesbian, gay, bisexual, or transgender (LGBT). HBCUs, along with the Black church, are the longest-serving Black institutions in the United States and are thus often intertwined. Both have promulgated mass messages that continue to stigmatize their LGBT populations and create subcultures of fear, denial, and secrecy.

Although a handful of HBCUs have LGBT student organizations that provide support to their peers and antidiscrimination policies that cover sexual orientation and gender expression, not a single school offers an institutionalized, full-time center or coordinator that provides resources and support to students. This type of support is found at hundreds of traditionally White institutions (TWIs) and provides unparalleled opportunities for inclusion, protection, personal growth, self-discovery, and retention. The Black church, high rates of suicide, and fear of hate crimes are issues that the Black LGBT community grapples with and that contribute to the negative campus climate of HBCUs for LGBT

students. These barriers will have to be addressed to eliminate the subculture of fear, denial, and secrecy that exists on HBCUs for LGBT students. HBCUs will need to create spaces that look at more aspects of their students' identity than simply race to stay relevant in an increasingly multiracial, multicultural society; students have to be supported on their journey to navigate and understand their various identities in the world. Ultimately, HBCUs need institutionalized spaces, policies, and resource centers to protect and create a better environment for their LGBT population.

THE BENEFITS OF LGBT RESOURCE AND RESEARCH CENTERS

LGBT resource and research centers, specifically, have the ability to enhance the campus environment for the entire university community. The centers offer a number of benefits such as educating the entire university community on issues of importance to the LGBT community; advocating for LGBT-inclusive university policies; developing an atmosphere of safety for students to feel comfortable in their own skin by fostering social and educational experiences that build camaraderie among the LGBT community on campus; and sending out valuable information about future employment and educational options. All of these opportunities are beneficial at HBCUs because they show a commitment to diversity, education, inclusion, protection, research, and support for all members of the university, which includes students, faculty, administrators, staff, and alumni who are sexual minorities who often face additional barriers and stigmatization on campus.

Results from a focus group with LGBT students from Howard University found

that the major contributors to a negative campus climate at HBCUs were the influence of homophobia in the Black church, perceived homophobia in the Black community, high levels of suicide attempts, hate crimes on campus, and fear of rejection (Kirby 2009). Having an LGBT resource and research center on campus can assist in diminishing these factors by addressing these concerns with the entire campus community and creating safe environments for students.

HOMOPHOBIA IN THE BLACK CHURCH

The history of the Black church is intertwined with that of America's HBCUs. The initial goal of HBCUs was to educate teachers and preachers for newly freed slaves. As a result, churches and missionaries created denominational schools and colleges across the South. Those religious ties maintain a deep influence on the institutions today.

Robert L. Miller writes that "homosexuality has been conceptualized as inconsistent with most religious traditions" (Miller 2007). Many members of the clergy believe that the Bible allows heterosexism and homophobia. This belief is supported by the six scriptures in the Bible that reference homosexuality (Genesis 1-2, 19:1-9; Leviticus 18:22, 20:13; 1 Corinthians 6:9; Romans 1:26-27; and 1 Timothy 1:10). As such, the self-worth and self-esteem of homosexual congregants and their partners are diminished by the attitudes that exist within the leaders and fellow congregants of the church (Miller 2000). Same gender loving (SGL) members of the congregation listen to sermons from the pulpit that say that they are going to Hell if they do not change their "lifestyle." This doctrine and environment play a major role in the resistance toward the creation

of not only resource centers, but also LGBT student groups and antidiscrimination policies that offer protection for sexual orientation and gender expression. HBCUs who operate on funding from Christian denominations as well as those who rely on dollars from alumni who believe in the same doctrine try not to do anything to “rock the boat.”

The Black church’s influence on the Black community has impacted LGBT students at HBCU campuses in a variety of ways. Many students have internalized the biblical concept of “being an abomination” and have simply accepted the fact that they are going to Hell (Kirby 2009). Having a negative self-concept plays a major role in youth suicides, in how well one does in school, and in how one interacts with society at large.

PERCEIVED HOMOPHOBIA IN THE BLACK COMMUNITY

It has become a common belief that African Americans are the least likely to accept family members and friends who have intimate relationships with those of the same gender (Fullilove and Fullilove 1999). Due to this perceived reality, many sexual minorities hide their relationships with those of the same gender while on campus. The fear that family and friends may disown or distance themselves drives many sexual minorities to keep their relationships, orientation, or gender expression a secret. There is also the fear that they will lose social standing on campus, such as being unable to join sororities or fraternities, be elected in student government, or be accepted by peers and professors. Gregory Lewis analyzed surveys and polls from 1973 to 2000 that contained questions that looked at homophobia in the Black community. He found that African Americans were

not necessarily more homophobic than other groups, but that they were more likely to believe that homosexuality is a life choice and can be changed (Lewis 2003). Hateful speech and homophobia toward the LGBT community is regarded by many in the Black religious community as a religious duty to “save souls” from the sin of homosexuality. Essentially, the hate is not directed at the person but at the sin. In order to decrease this perceived or actual homophobia, African Americans must be educated about the LGBT community and realize that some of their family and friends are members of both communities. HBCUs can play a major role in educating and fostering a healthy dialogue within the African American community.

SURVIVAL TECHNIQUES AMONG HBCU STUDENTS

African American homosexuals experience discrimination as members of the African American community but also experience harsh and unequal treatment as members of the LGBT community. Sarah E. Holmes and Sean Cahill make the point that most schools do not have sensitivity training for their students, faculty, or staff; as a result, SGL students are left feeling isolated and risk violence and harassment from their peers (Holmes and Cahill 2004). These problems are made worse by racism and the risk of rejection by the African American community. Perceived homophobia in the Black community leads to several survival techniques among LGBT students at HBCUs.

Some students have tried unsuccessfully to “turn themselves straight” in order to obtain consonance with their faith. Other students “pass” for straight by never discussing their gender preferences,

switching pronouns, or participating in sexual relationships with members of the same gender without admitting true attraction. There is a subculture on HBCU campuses of young men who date women to maintain their public appearance while sleeping with men on the side, often without protection. Risky sexual practices such as this increase the chances of HIV infection in both male and female partners. This subculture is often referred to as “the down low” (Phillips 2005). Reasons cited by students who choose these survival tactics are fear of alienation from peers and family, religion, lack of upward mobility in organizations, and acceptance in campus society (Kirby 2009). The fear of rejection is so strong that these LGBT students refuse to even give their friends the chance to accept them for who they are as individuals. However, most who have disclosed to their friends have found that, more times than not, they were accepted. With regard to the friends that chose not to accept their “lifestyle”, the LGBT individuals realized that these friends were not true friends after all (Kirby 2009).

On the other hand, there are other LGBT young people who live their life freely with no constraints and ask that their family and friends accept them and their relationships. If they refuse to do so, the young people break their ties.

All students should be able to live their lives openly and comfortably. Most major universities have made sure that they have provided institutional support to ensure this is true on their campuses. Unfortunately, HBCUs have not yet moved in this direction.

SGL SUICIDE

Homophobia in the Black community has created other discouraging statistics among African American youth. Thirty-six percent of African American lesbians compared to 21 percent of White lesbians and 32 percent of African American gay males compared to 27 percent of White gay males attempted suicide before age eighteen (Bell and Weinberg 1978). These statistics are mirrored throughout the LGBT community regardless of race. For example, in 1989, the U.S. Department of Health and Human Services issued its “Report on the Secretary’s Task Force on Youth Suicide,” which revealed that SGL youth represented 30 percent of teenage suicides across the country although they only represented an estimated 5 percent of the youth population. The report found that race and gender identity is a major aspect of youth suicide rates among SGL teenagers (U.S. Department of Health and Human Services 1989).

A study in 1991 of 150 gay and lesbian youths in Minneapolis found that more than 30 percent said they had attempted suicide at least once as a teenager (Remafedi et al. 1991). This study also discovered that teenagers who kept their relational preferences a secret were most likely to commit suicide. In addition, the study showed that there is an unusually high relationship between homosexuality and sexual abuse, drug abuse, homelessness, prostitution, feelings of isolation, family problems, and school difficulties among youth.

On HBCU campuses, LGBT students have the potential to feel more isolated in their relationships. As a result, they will not feel comfortable talking about mental health matters or domestic violence in their relationships for fear of potential rejection if they share their sexuality to

friends, professors, or administrators. Counselors are not often trained to deal with matters concerning LGBT students. In addition, students may not feel comfortable talking to someone who they believe cannot relate to what they are going through.

HATE CRIMES

SGL students on HBCU campuses may also fear for their personal safety if they are open about their sexuality. In 2006, statistics show that 15.6 percent of hate crimes were committed because of sexual orientation (Federal Bureau of Investigation 2006). Members of the SGL community not only have to worry about the perceptions of family and friends, but also have to be aware of the perceptions of total strangers.

Students from Howard University believe that across the country their peers sit in classrooms and interact with others in their residence halls with fear. Some fear people knowing their sexual orientation while others fear what people will do or say because of their sexual orientation (Kirby 2009). This fear is increased by the knowledge of hate crimes that garnered media attention and took place on a few HBCU college campuses in the last decade (Hamilton 2002). HBCUs do not typically offer sensitivity training to their

crime is committed, students may not feel comfortable seeking assistance from their university (Holmes and Cahill 2004).

THE FUTURE FOR HBCUS

Since HBCUs produce the highest percentage of Black scholars in the country, creating safe spaces in which LGBT students can learn and thrive can have an extraordinary effect. Internalized homophobia, perceived homophobia in the Black community, and stigmatization in society and in the Black church have contributed to record numbers of Black LGBT youth suicide and HBCU on-campus hate crimes. HBCUs can play a strategic role in eliminating these statistics in the Black community by creating LGBT resource and research centers on their campuses.

Currently, less than a quarter of HBCUs have official LGBT student groups or university policies that protect members of the community regardless of sexual orientation or gender identity, while other campuses have ad hoc groups that meet to provide their own safe environments. While these efforts are applauded, they are not enough. There has to be an institutional commitment for an inclusive campus environment. Historically, HBCUs have been considered diverse by nature due to their predominately

❖❖❖ *...when a hate crime is committed, students may not feel comfortable seeking assistance from their university.*

students concerning sexual orientation; as a result, students are left feeling as though they have no support from their university community even before a hate crime is committed. Consequently, when a hate

minority population. In order to have an inclusive campus, HBCUs must have institutionalized spaces and policies that create a welcoming environment for all of students.

There are a number of potential benefits that can result from the inclusion of LGBT resource and research centers. They include:

- **Campus programming.** There are a number of important campus-wide programs that LGBT resource centers provide. Some examples include safe-sex education to LGBT students, safe space training, training on how to be straight allies for heterosexual students, community outreach to LGBT youth, and weekly spiritual sessions with various religions and dominations. Resource centers are traditionally responsible for educating the campus community through optional and mandatory workshops throughout the year for students, faculty, and staff as a way to cut down on the ignorance, bias, and fear that often cause hate crimes. These opportunities create inclusive and safe environments for all students and provide avenues for changing the status quo at universities.

- **Increased scholarship** on the intersection of race and sexuality. The study of the intersection of race and sexuality is a small but growing field. HBCUs have the potential to add to this area of scholarship. Furthermore, these classes and programs will allow for LGBT students to learn more about their lives and histories as well as educate the entire campus population.

- **Inclusion as a matter of survival.** Incorporating LGBT needs into the university's culture and environment will allow HBCUs to capitalize on the financial donations of LGBT alumni. Furthermore this will also increase retention among LGBT students as well as grade point averages, assessment areas that national ranking surveys such as *U.S. News and World Report* take very

seriously and which in turn increase the number of LGBT applicants and students.

- **Safe spaces.** Having a space where students are able to comfortably describe their feelings and find support and affirmation is a value that LGBT centers are able to provide at TWIs. Students who are supported are more likely to seek help in times of stress and potentially less likely to attempt suicide. This can be accomplished in many ways, from school-sponsored support groups, gay-straight alliances, listing of institutional straight allies, or designation of safe spaces by placing affirming stickers on office doors.

- **Institutional advocacy.** In order to combat LGBT youth suicides, an LGBT resource center would provide knowledgeable staff members who are able to empathize with a student and provide a means for the student to seek professional help through the university counseling center. An LGBT center can also train campus police officers and the entire community on the warning signs of same gender intimate partner abuse. The center could also assist in determining financial aid options for students who cannot go home due to homophobia in their families and in the creation of gender-neutral bathrooms for transgender members of the university community.

The creation of LGBT resource and research centers at HBCUs is not simply about following the newest trend in higher education; it is about protecting the students who have chosen to attend those schools. Students attending HBCUs, just as at other institutions, have been sexually assaulted, beaten, and harassed because of their sexual orientation. The difference is that other institutions have moved to decrease these occurrences. HBCUs must decide to stop playing

politics with religious denominations and alumni and do what is in the best interest of their students. The stigma regarding sexual orientation in the Black community and the pain that its LGBT students, faculty, and staff experience will never go away unless one of the most important institutions in the African American community does something about it first. It is time for America's Historically Black Colleges and Universities to move away from the sidelines and step up to the plate.

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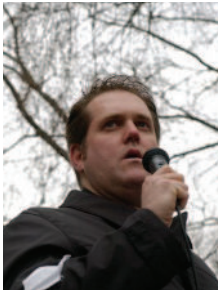
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Does It Get Better? A Roundtable on LGBTQ Youth

Participants: Desiree Flores, Arthur Lipkin, Timothy Patrick McCarthy, Rev. Irene Monroe, and Glenda Testone

Introduction: On Progress and Prejudice

by Timothy Patrick McCarthy



In this inaugural issue of the *LGBTQ Policy Journal at the Harvard Kennedy School*, we include what we hope will become a tradition: a roundtable forum on major

issues facing the lesbian, gay, bisexual, transgender, and queer (LGBTQ) community. Here and in subsequent issues, we invite leading experts in the field to discuss a particular area of concern in a short essay written for a broad audience. We hope that this and future roundtables will help to inform and inspire better policy and advocacy work on behalf of LGBTQ people.

Our first forum addresses the health and safety of LGBTQ youth. This is an issue that captured the nation's attention in the fall of 2010 following a string of tragic

LGBTQ youth suicides. The media responded with a series of high-profile stories on the epidemic of “bullying,” a phenomenon that has become even more dangerous with the rapid proliferation of online social media outlets. Politicians and other public officials lamented the suicides, often in moving public testimonies, but have yet to implement comprehensive policy changes to address the root causes and institutional contexts that are responsible for such alienation and harm among LGBTQ youth. Ordinary citizens responded with great concern and compassion, the most celebrated expression of which came in the form of syndicated columnist and author Dan Savage’s “It Gets Better” campaign, in partnership with The Trevor Project, wherein thousands of people—including President Barack Obama himself—recorded short videos designed to reassure young people that all is not lost (see www.itgetsbetter.org or www.trevorproject.org). As President Obama said in his message: “As a nation we’re founded on the belief that all of us are equal and each of us deserves the freedom to pursue our own version of happiness; to make the most of our talents; to speak our minds; to not fit in; most of all, to be true to ourselves. That’s the freedom that enriches all of us. That’s what America is all about. And every day, it gets better” (see www.whitehouse.gov/blog/2010/10/21/president-obama-it-gets-better).

But does it get better? When it comes to the lives of LGBTQ people, recent history offers a more complex reality. On the one hand, we should acknowledge the progress we have made. With the signing of the Matthew Shepard Hate Crimes Prevention Act and the repeal of the military’s discriminatory “Don’t Ask,

❖❖❖ *Every step forward seems to be threatened by a push backward; progress is by no means inevitable.*

Don't Tell" policy, President Obama has begun to fulfill some of the bold promises he made during the 2008 campaign. Same-sex marriage is now legal in five states (Massachusetts, Connecticut, Iowa, Vermont, and New Hampshire) and the District of Columbia, and several other states (including New York and Maryland) are poised to move in the same direction. After a thirty-three-year ban, Florida recently joined twenty-nine other states in allowing gays and lesbians to adopt children. Indeed, for some of us, in some states, things are getting better.

But that's only part of the story. Every step forward seems to be threatened by a push backward; progress is by no means inevitable. This is perhaps nowhere more obvious than in the recent battles in California and Maine, where marriage equality remains in limbo, stuck in a protracted celebrity death match between court cases and ballot initiatives. The Defense of Marriage Act (DOMA), signed into law by former President Bill Clinton in 1996, is still the law of the land. In fact, for every one state that currently allows same-sex marriage, there are four more that explicitly define marriage, as DOMA does, as a "legal union between one man and one woman." Arkansas, Mississippi, and Utah still prohibit gay adoption. In many states, LGBTQ people can still be fired from their jobs or denied housing and health care without justification or legal recourse. School curricula—from history to health—still routinely omit any positive references to LGBTQ people, reinforcing the false yet fulsome belief that such material poses a threat to the

physical, psychological, and moral development of children.

For queer youth, especially, such prejudice is still a powerful barrier to progress. Those of us who work in the LGBTQ community—especially those of us who grew up as closeted, questioning, or queer kids ourselves—know that bullying is not a new story. Study after study confirms that LGBTQ youth are more likely to be harassed or homeless, more susceptible to substance abuse and public health risks, and more prone to depression and suicide than their straight and gender-conforming peers.¹ Epithets like "gay," "fag," and "dyke" are still widely deployed and accepted—in classrooms and locker rooms, on playgrounds and athletic fields—and young people whose actions and appearances don't conform to normative gender expectations are often teased for being "tomboys," "sissies," "trannies," and the like. Such bullying, which can take both verbal and physical (and now virtual) form, is especially rampant among adolescent boys whose conceptions of "manhood" and "masculinity" are contaminated by homophobia, trans-phobia, and sexism that often go unchallenged by teachers, coaches, religious leaders, and family members. In a recent speech on bullying, one of my Kennedy School of Government students presciently noted, "children often learn words like 'fag' and 'dyke' in the same place where they learn to say 'mommy' and 'daddy.'" And as the award-winning lesbian writer Sarah Schulman documents in her haunting memoir, *The Ties That Bind: Familial Homophobia and Its*

Consequences, for many queer kids, the bullying begins at home.

And it doesn't end there. As the recent suicides and studies demonstrate, the world is still a treacherous place for many LGBTQ kids. Indeed, the institutions that we rely on to protect and nurture our children—families, schools, churches, and the like—are often havens of intolerance, even violence, for queer youth. Too often, as adults, we turn a blind eye to the bullying in our midst, writing it off as some evolutionary mandate or required rite of passage with statements like “kids can be so cruel” or “boys will be boys.” Even when we recognize the deleterious effects of prejudicial bullying, even as many of us work to combat the worst of its consequences, we sometimes unwittingly reinforce it, encouraging queer youth to be more “straight acting” or “normal” and to not “flaunt it.” This act of downplaying our differences—what acclaimed legal scholar Kenji Yoshino calls covering—represents a “hidden assault on our civil rights” (Yoshino’s 2006 book is titled as such: *Covering: The Hidden Assault on Our Civil Rights*). Whenever individuals or institutions insist that we hide any aspect of our full humanity as LGBTQ people, we send a powerful message to queer youth that gay is not good. The sad truth of the matter is that many of us are complicit in creating and maintaining this problem (some, of course, more than others). Like unconditional love and full acceptance, stigma and self-loathing are shaped by our cultural attitudes and behaviors and reinforced through our social and political institutions. If we are to make a serious effort to provide safe and healthy contexts for all youth, we must rethink our efforts to combat prejudice and create policy so that we can achieve and sustain

real progress, once and for all. It only gets better if we make it better.

This roundtable features essays from recognized LGBTQ leaders who know how to make it better because they’ve been doing so for years. In these essays, the authors advance different political and cultural strategies for improving the health and safety of LGBTQ youth while addressing various factors—race, class, gender, religion—that are often absent from academic discussions, cultural representations, and public policy debates. Drawing on her experiences as a queer Chicana woman, Desiree Flores challenges us to open up space in the LGBTQ movement for a deeper examination of the interlocking problems of sexuality, gender, class, and ethnicity. A veteran educator and activist, Arthur Lipkin exposes the precarious nature of policy making, even in a relatively progressive state like Massachusetts, when it comes to LGBTQ youth, education, and public health issues. Rev. Irene Monroe delivers a powerful critique of the recent coverage of youth “bullicide,” examining how certain religious leaders and institutions—in this case, “down low preachers” in African American churches—help to produce and perpetuate a culture of shame among queer youth of color. Finally, Glenda Testone, executive director of the Lesbian, Gay, Bisexual & Transgender Community Center of New York City, outlines the “vital need” for LGBTQ youth programs, demonstrating the powerful effect affirming communities can have among queer youths of all backgrounds.

Timothy Patrick McCarthy, Ph.D., is Core Faculty and Director of the Human Rights and Social Movements Program, Carr Center for Human Rights Policy,

*John F. Kennedy School of Government
at Harvard University.*

ENDNOTES

¹ For a recent comprehensive review of literature on suicide and suicide risk among LGBT populations, see Haas, Ann P. et al. 2011. Suicide and suicide risk in lesbian, gay, bisexual, and transgender populations: Review and recommendations. *Journal of Homosexuality* 58(1): 10-51.

Going Home to Make it Better

by *Desiree Flores*



Dan Savage's "It Gets Better" campaign has indeed been a positive game changer in national conversations on gay youth. However, Dan Savage alone is not

going to convince people in my hometown that being a gay kid is okay.

I am a Chicana who grew up in the Central Valley of California. This is the vast agricultural land of cows, cotton, and cornfields commonly described as "the middle of the state between Los Angeles and San Francisco." I was born in Delano, a town made famous by Cesar Chavez and his tireless struggle to achieve fairness and dignity for farm workers, most of whom were and continue to be undocumented immigrants.

The Central Valley also has the unpleasant distinction of being ranked dead last in nearly every national indicator of well-being: health, educational attainment, and income. While Delano's gay youth do need to hear that being gay need not mean a life of unhappiness and marginalization, the fact remains that growing up gay may prove to be the least of their barriers to a fulfilling and healthy adulthood.

It is simply not our national cultural norm to view young people as crucial investments that need our care. Why do we not think it necessary for young people of all backgrounds to have access

to health care, quality education, and a living wage? Addressing the homophobia that has taken the lives of so many youth cannot be done in isolation from this often-bleak reality of social and economic inequality.

What happens to those young people growing up in my hometown for whom coming to terms with their sexuality takes a backseat to providing for a poor family or caring for multiple family members battling cancer due to years of exposure to poisonous pesticides? Kids don't live their lives in silos. They don't have the luxury of coming to terms with being gay one day, poor the next, and undocumented the third.

These intersecting realities cannot only be addressed by the prevailing representation of LGBTQ people that depicts us primarily as White, affluent, culturally mainstream, and well-adjusted. Nor can they be completely addressed by branding a one-size-fits-all message for gay or questioning youth. While discovering one's sexuality is a personal experience, the lens through which one does so is highly dependent on one's cultural, familial, economic, and religious DNA.

This is why I believe that the voices that will save gay youth in Delano and similar communities across the country are those that talk not just about their sexuality, but about the specific intersection of the root causes—cultural, religious, economic, and ethnic—of the homophobia they've experienced. Those who will most successfully and convincingly carry this message in my hometown and other places like it are trusted messengers borne of the same culture and life experience, whose struggles at these same intersections speak to and legitimize their expertise.

Most importantly, these are messengers who understand the community they are addressing; these are messengers who understand you cannot educate and mobilize a Latino community, for example, without reflecting the values it holds most deeply—things such as family, dignity, fairness, and opportunity. These are people who will be able to speak directly to that audience because they are that audience. It will require Latinos—both gay and ally—to not only come out themselves but to also share responsibility for educating our communities of birth.

I'm incredibly grateful that Dan Savage launched the "It Gets Better" campaign. He has made a significant contribution to the LGBTQ movement that has and will continue to save lives. But we need to go further than encouraging young people to save their own lives one by one, either from homophobia or any of the other factors that threaten their well-being and happiness. As adults, we must make the connections between dismantling homophobia and a young person's opportunity to grow up healthy and happy, go to school, make a living in a satisfying profession, and achieve the "American Dream."

While there are certainly a greater number of famous and non-famous LGBTQ people living out-and-proud lives, there still aren't enough, especially in the Latino community. As Chicana lesbian writer Gloria Anzaldua says, homophobia can literally mean "the fear of going home." But it is home where gay adults and allies must start their work if we want the lives of young people in our communities to truly get better.

Desiree Flores is a mid-career master in public administration candidate, class of 2011, at the John F. Kennedy School of Government at Harvard University.

Is This the Best We Can Do?

by Arthur Lipkin



After six years of marriage equality, many would say “the gays” are doing quite well in Massachusetts. But, too many queer youth are not. The

Commonwealth

that once boasted a state budget of some \$1.5 million for LGBT youth support programs in education and in public health has suffered a retrenchment that risks the health and welfare of a still vulnerable population. Public health’s LGBT youth budget is now \$250,000, and education’s is \$0.

Attributing this slippage to the economy doesn’t admit to the fact that the Safe Schools Program for Gay and Lesbian Students at the Massachusetts Department of Education (DOE)—now the Massachusetts Department of Elementary and Secondary Education (DESE)—had been virtually eliminated well before the great recession of 2009 took its toll. Prior budget constraints and a lack of commitment at the cabinet and commissioner’s level had rendered Safe Schools for Gay and Lesbian Students a non-priority even before 2009.

Despite this reality, many assume the Bay State is still at the vanguard as it was beginning in 1993, when most of the recommendations of then-Governor Bill Weld’s recently appointed Commission on Gay and Lesbian Youth were adopted and generously funded. The Safe Schools Program for Gay and Lesbian Students

alone employed three to four full-time staff members offering technical assistance. Within a few years, the number of high school gay/straight alliances (GSAs) had risen into the hundreds, many aided by state grants. Scores of high school teachers, administrators, coaches, and counselors attended training on LGBT youth concerns.

The Safe Schools Program for Gay and Lesbian Students quickly became a national model despite its shortcomings (e.g., Governor Weld rejected his commission’s recommendations for LGBT-themed books in school libraries, and LGBT curriculum and middle schools were declared off limits).

As for public health, the Department of Public Health (DPH) provided funding to strengthen community-based safe spaces for LGBT youth programs for HIV-AIDS prevention, mental health, and youth development. DPH grew to be a more active and generous partner for LGBT youth providers than any other state agency.

As seen by the current drastic reduction in budget of both education and public health for LGBT youth support programs, things have changed in the Bay State.

In 2006, when then-Governor Mitt Romney’s antipathy to all things gay threatened the governor’s commission, the legislature passed a statute establishing an independent Commission on GLBT Youth. Since then, the new commission has focused on a number of unyielding problems:

- Health risk behaviors for gay and lesbian students (as measured by the Centers for Disease Control and Prevention’s Youth Risk Behavior Survey) are still disproportionately high. The gap between gay and lesbian students and

their heterosexual peers has remained constant over ten years.

- Within the gay and lesbian youth cohort, risk behaviors for students of color are consistently higher than those of their White peers.
- No health risk assessments for transgender youth are being conducted.

Consequently, the commission's annual recommendations to the legislature, the executive office, DPH, DESE (the former DOE), and other state agencies have targeted racial and ethnic disparities among LGBT youth and inclusion of gender identity and expression in risk assessment.

Currently, the commission fears Massachusetts is resting dangerously on its laurels. The state counted the impressive number of GSAs and wrongly assumed its work was done. It hasn't asked who is being served by GSAs and who is being left out (e.g., middle schools, many youth of color, and immigrant youth). It hasn't responded to the common observation that GSA members are mostly female straight allies. DESE congratulated itself for hosting educator workshops, but has never asked whether those trainings had a measurable or lasting impact on schools. DPH has provided hundreds of thousands of dollars for community-based programs but resists requests to evaluate and to condition its support on the effectiveness of those interventions.

True, when funds are limited, the expense of evaluation is a hard sell with both state agencies and legislators focused on direct constituent services. But the commission contends that even limited evaluation can lead to better programming more broadly. Still, the state keeps hiring the same providers to deliver the same

services, despite its own hard evidence of persistent maladies and unyielding disparities.

Most of these state-supported programs try to rescue LGBT youth who have already sustained health injury, rather than attacking the root causes of LGBT youth risk. Providing services to a disproportionately injured population, while laudable, does little to reduce the risk of injury in the first place. It must be noted here that, despite the risks, the majority of LGBT youth are resilient; yet for those who are not, the consequences are an injustice.

Queer youth's disproportionately negative health outcomes are the product of hostile environments that put them in jeopardy in families, communities, schools, and places of worship. Queer kids have been emotionally and even physically assaulted in each of these treacherous milieus for ages. Notwithstanding recent media attention, bullying is nothing new to LGBT youth. Their risk for depression, suicide, substance use, STDs, dropping out of school, and other negative outcomes has been studied to redundancy.

How will their bullied lives be improved? Surely not only by videos telling them "it gets better . . . (later)." Much as they need the encouragement of older LGBT survivors and straight cabinet secretaries, youth empowerment through action can begin to make it better now (for example, see <http://makeitbetterproject.org>).

Activists come at homophobia-provoked youth risk from all different angles. Some of us target religious bigotry; others focus on family rejection; and some aim at toxic schools. Yet, with all these approaches, it is maddening that so many LGBT youth programs today, after decades, are still

about pulling struggling kids out of the river of distress and self-harm and that we still need a Trevor Project for suicide intervention or a Harvey Milk School for alternative placements. Of course, we must help these young people; but at the same time, can't we be bolder in challenging the culture of ignorance and hate that pushes these kids into that river in the first place?

If a GSA or community-based support group is merely a refuge for queer kids to huddle—while the rest of the school or town remains unchanged and unchallenged—then the GSA or support group is merely a kind gesture. If anti-bullying policies are just part of a checklist for school boards to avoid lawsuits and are focused on detection and punishment rather than on transforming the school culture through anti-bigotry activities and curricula, they are hardly worth adopting. In Massachusetts's schools and communities, we must do better.

Arthur Lipkin, Ed.D., is Chair of the Massachusetts Commission on GLBT Youth.

Messology of Black Church Sexuality and LGBTQ Suicide

by Rev. Irene Monroe



When Sirdeaner L. Walker of Springfield, MA, spoke at a press conference in 2009 and called for effective and comprehensive anti-bullying legislation to be

passed in response to the tragic loss of her eleven-year-old-son, Carl, I had hoped I would never again read or hear about another child or young adult committing suicide as the result of homophobic bullying.

But the rise of “bullicide” has become a national epidemic, where anti-gay bullying, just in the month of September 2010 alone, resulted in nine suicides due to teenagers' sexual orientation or gender expression, highlighting the disproportionate bullying of our LGBTQ kids (or those perceived to be).

One of those September suicides was that of eighteen-year-old Rutgers University freshman Tyler Clementi. Clementi jumped to his death from the George Washington Bridge after finding out that his college roommate and another classmate had used a Webcam to secretly broadcast his sexual encounters with another male. This incident points to the dangers of cyberbullying—teasing, harassing, or intimidating with pictures or words distributed online or via text message.

Clementi's suicide, along with the other eight in September, went viral, and they saturated the media. Those of us in the African American community, however, were not surprised that the suicide of Joseph Jefferson, just two months later in November 2010, went unnoticed. Twenty-six-year-old African American gay youth activist Joseph Jefferson took his own life; he worked with HIV/AIDS charities and was an assistant to promoters of Black LGBTQ events in NYC.

Hoover, hanging by an extension chord on the second floor of their home after he endured endless anti-gay and homophobic taunts by schoolmates—this despite the fact that Carl never identified as gay.

In 2009, when I went to speak at the Anti-Bullying Community Forum and Vigil in reference to Carl's death, I also had conversations with several kids in the Black community of Springfield about homophobic bullying. They told me

❖❖❖ *But homophobia in the African American community has become more than merely a spiritual crisis. It is now a public health crisis.*

"I could not bear the burden of living as a gay man of color in a world grown cold and hateful towards those of us who live and love differently than the so-called 'social mainstream,'" Jefferson posted on his Facebook page the day he killed himself.

African American LGBTQs residing in Black communities are frequently the subjects of bullying, which oftentimes can lead to death by suicide or gang violence. For example, in 2006, Michael Sandy was killed after being hit by a car while he was trying to escape attackers in Brooklyn on Plumb Beach. Sandy and a man arranged to meet after their exchange in an online gay chat room. When Sandy arrived, he was confronted by four men who robbed him and chased him onto the highway. Sandy was then hit by an oncoming vehicle and died from brain injuries.

Walker, who spoke at the press conference mentioned earlier, found her African American son, Carl Joseph Walker-

about their ministers' views on homosexuals, which they had adopted, and also told me about Carl's gender expression being "queer," implying that there existed sufficient rationale to taunt him. With homophobia being what it is in the African American community, I imagined Carl, a frightened African American kid, must have experienced an endless cycle of bullying.

Anti-gay bullying is not to be endured or tolerated. And it must be stopped by us all—at all levels, from our legislators to our educators. But for African American anti-gay bullying to stop, African American homophobic ministers, especially those on the "down low," must stop spewing religious vitriol from their pulpits. Why? Because if African American LGBTQs aren't committing suicide due to an anti-gay theology espoused weekly by homophobic Black clerics, then they are being spiritually killed by it.

In February 2010, African American Princeton University professor Eddie Glaude, Jr., published an obituary for the Black church in the Huffington Post entitled “The Black Church Is Dead.” Glaude talked about several of the problems facing the African American community, but nowhere in his piece did he talk about anti-gay ministers and homophobic congregations.

According to the Pew Research Center’s Forum on Religion & Public Life, 87 percent of African Americans identify with a religious group and 79 percent say that religion is very important in their lives. The Pew report also showed that since 2008, African American Protestants are less likely than other Protestant groups to believe that LGBTQ people should have equal rights. And since hot-button issues like gay adoption and marriage equality have become more prominent, support for LGBTQ rights among African American Protestants has dipped to as low as 40 percent.

Suicide statistics for LGBTQ youth and young adults are difficult to collect, not only because of the infrequency of “suicide notes” generally but also because LGBTQ individuals who commit suicide are not necessarily “out” to friends and family at the time of their death. In addition, demographic information on suicides at the national level does not generally include sexual orientation (only race/ethnicity, gender, age, and geographic region). Many of the statistics for LGBTQ suicides come from regional or state jurisdictions, usually public health departments.

The Santa Cruz, CA, suicide hotline reports that one in five calls is due to the caller’s distress over the conflict between sexual orientation and religion. A

groundbreaking study in July 2010, entitled “Black Lesbians Matter,” examined the unique experiences, perspectives, and priorities of the Black lesbian, bisexual, and transgender community. One of the key findings of the survey revealed that there is a pattern of higher suicide rates among Black LBTs. Scholars have primarily associated these higher suicide rates with one’s inability to deal with “coming out” and the Black Church’s stance on homosexuality.

Why can’t we as an African American community tell the truth about our sexuality? What price do we pay in telling the truth? And what role does the church play in not only perpetuating unsafe sexual behavior but also in contributing to LGBTQ suicide?

In the African American church community, oppressions are seen hierarchically, with racism believed to be the ultimate and in some cases the only oppression that African American people face. Issues of sexism and homophobia within the church community are dismissed under the hegemonic control of Black Nationalist religious language; therefore the necessary connections between oppressions like racism, sexism, and homophobia are intentionally eclipsed. But homophobia in the African American community has become more than merely a spiritual crisis. It is now a public health crisis. Of course, voicing the problem publicly will be viewed by many in the Black community as “airing our dirty laundry” or “putting our business in the street.” But when 42 percent of the country’s homeless youth identify as LGBTQ, and approximately 90 percent within this group is composed of African American and Latino youth from urban enclaves like New York City, Boston, and Los Angeles who on any given day may

take their lives, the problem is already on the street. Why? Because our children are. They're the Black community's throw-away kids. And many of them are suicidal. Their sexual orientation and gender expression do not make these youth children of a lesser God, and they deserve better than to be made homeless. But the church has both unapologetically and unabashedly closed its doors to them despite the fact these kids looked to the church for help.

One reason for suicide in the Black community is attributed to the Black church's attitude about the transmission of HIV/AIDS. Back in 1981, when the now-defunct gay newspaper the New York Native first reported on a virus found in gay men then known as GRID (Gay-Related Immune Deficiency), an editorial noted that "even if the disease first became apparent in gay men, it is not just 'a gay disease.'" Today, Black heterosexual women are the new face of AIDS. And know this: women with AIDS are as unwelcome in the Black church as LGBTQ people. They too are frequently the subjects of homophobic bullying, which often leads to their death by gang violence, domestic violence, or suicide.

Another reason for thoughts or acts of suicide by our youth and young adult males—straight or gay—is the "down low" culture of black pedophilic ministers who use their power over these males for sexual gains.

Take, for example, the Bishop Eddie Long. Called by the Southern Poverty Law Center "one of the most virulently homophobic black leaders in the religiously based anti-gay movement," Bishop Long has been rumored, for some time, to be gay. When news broke in September 2010 about Long's alleged

sex-capades with two male teenagers (followed immediately by a third allegation) while the teens were enrolled in his ministry for teen boys, those inside Long's stained-glass closet at New Birth Missionary Baptist Church outside of Atlanta knew of the bishop's predilection for pubescent boys, whom he calls "spiritual sons." Sadly, however, Long, like too many African American ministers on the down low, has erected his bully pulpit denouncing gays while using his clerical authority to court and to covet them. During his infamous anti-gay "Stop the Silence" march in December 2004, during which he denounced same-sex marriage, Long stated: "In essence, God made Eve to help Adam replenish the earth. Woman has the canal . . . everything else is an exit. . . . Cloning, homosexuality, and lesbianism are spiritual abortions. Homosexuality is a manifestation of the fallen man." Long is not alone—to be gay or rumored to be gay—in denouncing homosexuality.

Another reason for thoughts or acts of suicide by our youth and young adult LGBTQ population is down low ministers who espouse damning messages about homosexuality, like Pastor Donnie McClurkin. Speaking at the November 2009 Church of God in Christ's 102nd Holy Convocation International Youth Department Worship Service, Pastor McClurkin told his audience, "God did not call you to such perversions. Your only hope is Jesus Christ. Were it not for this Jesus I would be a homosexual today. This God is a deliverer." The poster boy for African American ex-gay ministries attributed his homosexuality to being raped twice as a child, first at age eight at his brother's funeral by his uncle and then at age thirteen by his cousin, his uncle's son. Confusing same-gender sexual

violence with homosexuality, McClurkin misinterpreted the molestation as the reason for his gay sexual orientation. McClurkin “testi-lies” that his cure was done by a deliverance from God and a restoration of his manhood by becoming the biological father of a child.

The mess these ministers now find themselves in is emblematic of the Black church’s down low “politics of silence” concerning sexuality. J.L. King exposed down low behavior in his best-seller, *On the Down Low: A Journey into the Lives of “Straight” Black Men Who Sleep with Men*. He stated, not surprisingly, that many of his partners were churchmen. King writes: “There are gospel conventions throughout the nation for churches. There is one for ushers, Sunday school departments, music departments and ministers. . . . These events allow men to meet men and to have sex while away from their hometowns. Many midnight concerts turn into affairs where brothers are cruising each other. I’ve been there, seen it, and done it.”

Our silence, shame, and stigma around issues of sexual identity, gender expression, and sexual practice have allowed for behaviors of denial, neglect, abuse, and suicide. And our silence and the lack of pastoral care to people deemed “outsiders” are factors contributing not only to high-risk sexual behaviors and the transmission of HIV/AIDS, but also to the silent killer of suicide in the African American community.

Many in our community turn to their churches first during a crisis. Since the Black church remains the cornerstone of our communities, it is uniquely positioned to significantly affect knowledge, attitudes, beliefs, and behaviors within

congregations and by extension the entire African American community.

Research has shown that sexuality education programs in Black churches have delayed the onset of sexual activity among teens, reduced the number of partners among teens and adults, and has decreased significantly the incidence of sexually transmitted disease, unplanned pregnancies, and suicide.

Rev. Irene Monroe is a theologian, syndicated columnist, and Huffington Post blogger.

The Vital Need for LGBTQ Youth Programs

by *Glennnda Testone*



Like so many others in the fall of 2010, I was shocked and saddened watching all the reports about young LGBTQ people taking their lives after facing

relentless bullying in schools. The media also called on me to offer commentary on the issue from my vantage point as executive director of the New York City Lesbian, Gay, Bisexual & Transgender Community Center. When speaking to one of the local television stations following the tragic loss of Rutgers University freshman Tyler Clementi, I said that I hoped this would be a galvanizing moment, the beginning of a movement: “We need every single person in this country to step up and say it’s okay to be who you are.”

At the center, we provide a space for young LGBTQ people to do just that—celebrate who they are in a safe, supportive, and positive environment 365 days a year. Through the center’s Youth Enrichment Services (YES) Program, each year we serve more than 1,000 individual young people from diverse ethnic and socioeconomic backgrounds; these youths are seeking refuge from a frequently anti-LGBTQ world. Many have faced intense bullying in their schools and rejection from their own families. Many are homeless—roughly 30 percent at any given time—and they have no role models to help guide them through tough times and celebrate with them when they

experience basic milestones like birthdays, prom, graduation, and holidays.

The center’s YES Program, founded in 1989, follows a positive youth developmental model. Simply put, that means we intervene in the lives of LGBTQ kids and help them successfully reach adulthood. We give them a positive LGBTQ youth experience that many do not experience in their schools and families. We create activities and events in a queer-affirming environment so these kids see themselves as healthy and whole. It’s a simple yet powerful concept that quite literally saves lives. We help them develop identities that are not conflicted. We essentially say, “Come here and be with people who are like you.”

Through a variety of internships, we empower LGBTQ young people to develop into peer leaders and to begin to build a community outside the walls of the center by leading activities to start gay/straight alliances in their schools, advocate for inclusive policies and legislation, and even partner with older LGBT adults to teach technology skills.

LGBT equality is advancing at a record pace in this country. President Barack Obama recently signed legislation to repeal “Don’t Ask, Don’t Tell,” which barred gay, lesbian, and bisexual people from serving openly in our military. Same-sex couples can marry in five states and the District of Columbia. LGBTQ people have never been more visible in mainstream media. Given this climate of progress it is hard to believe that we still need programs like YES. But we need them now more than ever as young people feel the acute pain of being treated unequally because they are LGBT. I see that firsthand every day.

Despite all of our progress as a community, young people still don’t have full

equality in their homes, their schools, and among their peer groups. Even in progressive New York City and surrounding areas, LGBTQ youth face a dearth of social arenas where they feel accepted, respected, and nurtured. But I do have hope. Just the other day my staff reported to me that one of the young people in our program said he had gotten depressed and planned to kill himself but decided not to because he was worried that his friends and counselors in the YES Program would miss him. That incredible story stays with me every day as a reminder of the lifeline we provide to these kids and the need to emulate this model at centers across the nation. Everyone deserves a safe space to grow into adulthood.

In November 2010, our YES Program hosted a youth dance. As I walked down 13th Street on my way home from an event, I could hear the sound of music coming from the center. When I entered, I was so proud of what I saw. More than 100 youth filled our first floor beaming with confidence and pride. The center serves as a beacon of light, allowing each of these young people a chance to be themselves without fear or judgment, and at this youth dance, I noticed several youths who appeared to be on first dates and was reminded that the center is the place where these young people feel safe enough to be themselves—and even bring a date! Positive energy filled the building that night and I was reassured we can overcome any hate or intolerance that we face—if we support each other, and especially if we support our young people.

Glenda Testone is the Executive Director of the Lesbian, Gay, Bisexual & Transgender Community Center in New York City.

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