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Ensuring Access to Mentoring Programs for LGBTQ Youth

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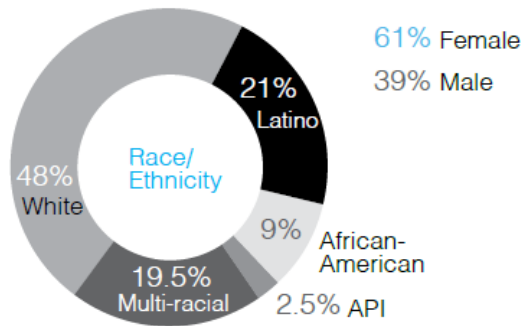
January 2014

EXECUTIVE SUMMARY

Youth mentoring programs, such as those of 4-H, Big Brothers Big Sisters and Boys and Girls Clubs of America, are an important strategy for supporting at-risk youth and preventing them from becoming entangled with the juvenile justice system. This white paper summarizes research showing that LGBTQ youth would benefit from access to these programs and makes recommendations for youth mentoring programs and local, state, and federal governments to ensure that access.

We estimate that there are 3.2 million LGBTQ youth (aged 8 to 18) in the United States. Approximately 61% are of these youth are girls and 39% are boys. In terms of race and ethnicity, 52% are youth of color -- 21% are Latino, 9% are Black, and 2.5% are Asian and Pacific Islander and 19.5% are multi-racial.

LGBT Youth Demographics

Following an analysis from a January 2014 report by MENTOR: The National Mentoring Project, we conservatively estimate that there are 1.6 million at-risk LGBTQ youth in the United States. More specifically, recent research indicates that:

- LGBT youth rank non-accepting families as the most important problem in their lives.
- Over 70% of LGBT youth feel unsafe at school because of their sexual orientation or gender expression.
- LGBT youth are almost twice as likely to consider dropping out of school as their non-LGBT peers.

- LGBTQ youth are at higher risk for drug use than non-LGBTQ youth.
- LGBT youth are much more likely be homeless or in foster care.
- LGB youth are over three times more likely to report that they have attempted suicide.
- While approximately 7% of youth generally identify as LGBTQ, almost 14% of youth in custody identify as LGBTQ.

Research shows that certain subpopulations of LGBTQ youth are more likely to face factors that put them at risk of involvement in the juvenile justice system than LGBTQ youth as a whole. These groups include LGBTQ youth of color, gender nonconforming youth and transgender youth.

This research indicates that LGBTQ youth are at risk for being, or are already entangled with, the juvenile justice system and would benefit from youth mentoring programs. As the 2014 MENTOR report concludes: "Research shows that certain populations are more likely than others to become at-risk –and therefore in greater need of the benefits that a quality mentoring relationship can provide. These groups include… youth that identify as LGBTQ…Each of these populations has unique, and sometimes intersecting, challenges that mentoring can—and does—help address."[1]

However, research also shows that LGBTQ youth currently face barriers to accessing youth mentoring programs and other social services. Following the 2014 MENTOR report analysis, we conservatively estimate that of the 3.2 million LGBTQ youth ages 8 to 18 in the United States, almost 1.l million have never had a mentor and under 500,000 have had a mentor through a formal or structured program. For the over 1.6 million at-risk LGBTQ youth, just over 600,000 have ever had a mentor, and fewer than one in five (just over 300,000) have had a formal mentor. In other words, we estimate that over 1.3 million at-risk LGBTQ youth have never had a formal mentor.

The Mentoring Gap for LGBTQ Youth*

	All LGBTQ 8-18-year-olds		At-Risk LGBTQ 8-18-year-olds	
Total Population	100%	3,203,200	100%	1,666,000
Never had a structured mentorship	85%	2,722,720	89%	1,349,460
Never had a mentor of any kind	34%	1,089,088	37%	616,420

*Based on an analysis in MARY BRUCE AND JOHN BRIDGELAND, THE MENTORING EFFECT: YOUNG PEOPLE'S PERSPECTIVES ON THE OUTCOMES AND AVAILABILITY OF MENTORING (Civic Enterprises with HART Research Associates for MENTOR: The National Mentoring Partnership, Jan. 2014), *available at* http://www.mentoring.org/images/uploads/Report_TheMentoringEffect.pdf.

Mentoring Gap for At-Risk LGBTQ Youth
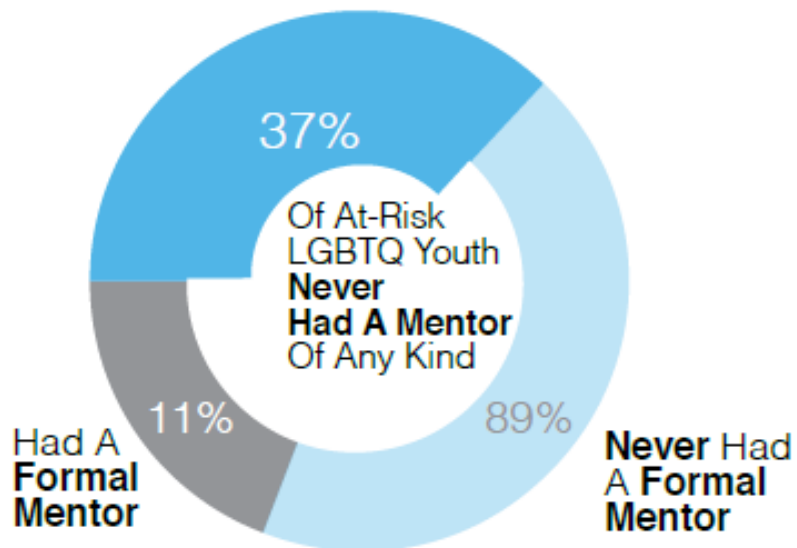
There is a need for policies and legal protections that ensure that LGBTQ youth have access to mentoring programs designed to reduce behaviors that can lead to involvement with the juvenile justice system. Key recommendations to ensure access to youth mentoring for LGBTQ youth include:

- **Adopting internal policies and practices:** Youth mentoring programs can adopt a number of policies and practices to ensure that their programs are accessible and welcoming to LGBTQ youth, as well as LGBTQ mentors. Such policies and practices include:

  o Sexual orientation and gender identity non-discrimination and anti-harassment policies, and confidentiality policies;
  o Inclusion of LGBTQ identity-affirming language on websites and other materials;
  o Staff trainings focused on "best practices" for mentoring LGBTQ youth;
  o Outreach practices targeting LGBTQ youth and LGBTQ-affirming mentors.

- **Establishing LGBTQ-focused youth mentoring programs.** Government and foundations can encourage development of private programs for mentoring LGBTQ youth.

- **Implementing LGBTQ-protective requirements in youth mentoring program grants**: To further the objectives of youth mentoring programs, the Office of Juvenile Justice and Delinquency Prevention within the Department of Justice has the authority to issue guidance prohibiting grantees from discriminating based on sexual orientation and gender identity, to designate LGBTQ youth as an underserved population, and to specifically fund programs for LGBTQ youth.

- **Enforcing existing legal protections:** Several existing laws protect LGBTQ people to some extent, including Title VII, Title IX, constitutional provisions, and state non-discrimination laws.

- **Adopting new legal protections**: Laws explicitly prohibiting sexual orientation and gender identity discrimination can be passed at the federal, state, and local levels.

In Part I of this paper, we provide an overview of youth mentoring programs. In Part II, we present the research demonstrating that LGBTQ[2] youth need access to youth mentoring programs and would benefit from them. In Part III, we offer recommendations to ensure that LGBTQ youth have access to services through youth mentoring programs, including the availability of LGBTQ mentors.

I. Youth Mentoring Programs

Youth mentoring programs started in the United States over a century ago, in 1904, with a program that used "big brothers" to reach out to children and offer them guidance.[3] Broadly speaking, mentoring is defined as "a relationship over a prolonged period of time between two or more people where an older, caring, more experienced individual provides help to the younger person as [he or she] goes through life."[4] Today, one of the primary purposes of many youth mentoring programs is to provide mentors to youth who are at risk of becoming involved with the juvenile justice system.

There are several models of mentoring used in the United States, but the traditional model is community-based mentoring (CBM).[5] CBM "matches a carefully screened volunteer with an at-risk youth. The pair agrees to meet regularly, usually for at least 4 hours per month. The pair engages in variety of activities (e.g., sports, games, movies, visiting a library or museum) within the community."[6] Approximately 50% of mentoring programs use the CMB approach.[7] Other approaches include school-based mentoring,[8] group-mentoring,[9] e-mentoring,[10] and peer-mentoring.[11]

Organizations with mentoring programs range from national organizations such as 4–H, Boys & Girls Clubs of America, Boy Scouts/Girl Scouts, and the YMCA to local community, religious, and nonprofit organizations. Examples of large, national youth mentoring programs include:

- **Big Brothers Big Sisters (BBBS):** BBBS operates in all 50 states and provides mentoring services to over 250,000 children and youth.[12] BBBS "carefully matches at-risk youths with caring, adult role models."[13] Through its mentoring program, BBBS promotes success in education, avoidance of risky behaviors, higher aspirations, greater confidence, and better relationships among at-risk youth.[14] BBBS targets those most in need, "including those living in single parent homes, growing up in poverty and coping with parental incarceration."[15] BBBS's non-discrimination policy prohibits discrimination against volunteer mentors on the basis of "sexual preference" but requires disclosure of the volunteer's "sexual preference" to the youth's parents. The policy does not address discrimination on the basis of gender identity. [16]

- **4-H:** 4-H youth programs are focused on using "university-backed curriculum [to] engage [youth] in hands-on learning activities in the areas of science, healthy living, and food security."[17] 4-H's National Mentoring Program "provides services to high-risk populations."[18] The goal of the program "is to reduce juvenile delinquency…and high-risk behaviors."[19] The program operates in nearly all 50 states and serves over 8,000 youth.[20] 4-H's non-discrimination policy prohibits discrimination based on sexual orientation in its programs, facilities, and employment. The policy does not address discrimination on the basis of gender identity.[21]

- **Boys and Girls Clubs of America (BGCA)**: The mission of BGCA is "to enable all young people, especially those who need us most, to reach their full potential as productive, caring, responsible citizens."[22] BGCA has a variety of different programs in which adult mentors work with youth, including programs designed to help youth with education and life skills, sports programs, art programs, delinquency and gang prevention programs, and leadership development programs.[23] BGCA operates in all 50 states and has over 235,000 adult volunteers.[24] BGCA's employment non-discrimination policy states that it "will not discriminate against employees or applicants based on sexual orientation." The policy does not address discrimination on the basis of gender identity.[25]

The MENTOR survey, a January 2014 report on a nationally representative survey of over 1,100 18- to 21-year-olds, estimates that out of 24 million at-risk young people in the United States, only 4.5 million have ever had a structured formal mentorship, and 9 million reported never having had a mentor through a formal program or otherwise.[26] The survey also found that at-risk youth were much less likely to have a

"naturally occurring mentoring relationship" with people who were already in their lives and therefore, "their mentors will most likely need to come through a formal mentorship program."[27] The survey also found that this "mentoring gap" was more pronounced in youth with more risk factors. The more risk factors a youth had, the more likely they were to express a desire to have a mentor, with nearly 60% of youth with two or more risk factors reporting that they wished that they had a mentor growing up.[28]

To help address the need for youth mentoring for at-risk young people, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has provided more than $500 million in grants since 1994 to support youth mentoring programs, including programs focused on underserved populations such as foster children, tribal communities, juvenile offenders who are reentering their communities, and children of military parents.[29]

Based on research focused on juvenile delinquency, the OJJDP has identified a number of specific factors that put youth at high risk of becoming involved with the juvenile justice system. Youth mentoring programs for at-risk youth aim to reduce the impact of those factors by providing adult mentors who can enhance factors that keep youth safe.[30] Risk factors include:

- **Individual factors**: Individual factors include, for example, anti-social behavior, emotionality, low intelligence and hyperactivity.
- **Family factors:** Family factors include, for example, caregiver maltreatment, family violence, family structure, divorce, and parental psychopathy.
- **Peer factors:** Peer factors include, for example, having friendships with other at-risk youth and peer rejection.
- **School and community factors**: School and community factors include, for example, poor academic performance, dropping out of school or not attending regularly, low academic aspirations, and access to drugs and weapons.[31]

According to OJJDP, "mentoring is based on the premise that predictable, consistent relationships with stable, competent adults can help youth cope with challenges and steer clear of high-risk behaviors. In a mentoring relationship, mentors provide guidance and support to help young people build self-confidence, learn positive behaviors, stay in school, and avoid potential pitfalls like drugs and gangs."[32] The OJJDP has identified a number of specific protective factors—factors that keep youth safe, and which mentoring is designed to foster. These factors include, but are not limited to:

- Helping, sharing, and other cooperative behaviors;
- Emotion management;
- Good academic performance;
- Appropriate cognitive development;
- Healthy beliefs;
- Social reinforcement of appropriate behavior;
- Opportunities for community involvement.[33]

Research indicates that youth mentorship programs are effective in reducing high-risk behaviors and recidivism in youth. A recent meta-analysis of evaluations of more than 73 independent mentoring programs found positive effects on the youths' social, behavioral, emotional and academic development, while non-mentored youth showed declines in some of the same areas.[34] Other studies show similar results including positive effects of mentoring on emotional and psychological outcomes, social competence, academic and educational outcomes, and career and employment development, along with reductions in problem and high-risk behaviors.[35] Studies also show that offending youth who have received mentoring services are less likely to reoffend than those who are not enrolled programs that provide mentoring.[36] For example, a large-scale study released in 2013 found that mentored youth benefited from mentoring programs in several ways. Specifically, they reported "fewer depressive symptoms; greater acceptance by their peers; more positive beliefs about their ability to succeed in school; and better grades in school" than non-mentored youth.[37] Additionally, a study of the Big Brothers Big Sisters of America program found that the programs' mentees were "46% less likely to begin using illegal drugs; 27% less likely to begin using alcohol; 52% less likely to skip school; 37% less likely to skip a class; and 33%

less likely to hit someone" than their peers not in the program,[38] and a longitudinal study of the 4-H program found that participants were twice as likely as their peers who did not participate in 4-H to be civically active and nearly twice as likely to participate in science programs outside of school.[39] The 2014 MENTOR survey of over 1,100 young adults ages 18 to 21 found that at-risk youth who had had mentors were more likely to report aspiring to enroll in and actually enrolling in post-secondary education, to participate regularly in sports and other extracurricular activities, to hold leadership positions in clubs, sports teams, and other groups, and to volunteer regularly in their communities.[40]

II. Research Shows that LGBTQ Youth Would Benefit from Youth Mentoring Programs

The Mentoring Gap for LGBTQ Youth

	All LGBTQ 8-18-year-olds		At-Risk LGBTQ 8-18-year-olds	
Total Population	100%	3,203,200	100%	1,666,000
Never had a structured mentorship	85%	2,722,720	89%	1,349,460
Never had a mentor of any kind	34%	1,089,088	37%	616,420

The 2014 MENTOR survey on youth mentoring estimated that of the over 45.8 million 8- to 18-year-olds in the United States, 34% never had a mentor of any kind and only 15% had a mentor from a formal mentoring program. It also defined 52% of youth as at-risk because they reported at least one of seven risk factors (incarcerated parent or guardian, regular absenteeism from school, poor academic performance, behavioral problems in school, delinquency, teenage pregnancy and homelessness) or were not currently engaged in work or school, and had no plans to enroll in school. Of these approximately 23.8 million at-risk youth, 37% had never had a mentor and only 19% had a structured or formal mentor.

For the purposes of this analysis, we estimate that approximately 7% of youth ages 8 to 18 years are LGBTQ.[41] Approximately 61% are of these youth are girls and 39% are boys.[42] In terms of race and ethnicity, 52% are youth of color -- 21% are Latino, 9% are Black, and 2.5% are Asian and Pacific Islander and 19.5% are multi-racial.[43]

Based on the research summarized in the rest of this section, we believe that LGBTQ youth are much less likely than youth in general to have a mentor, and much more likely to be at-risk by the definition used in the MENTOR survey. Nevertheless, we conservatively estimate that LGBTQ youth are equally likely to have a mentor and be at-risk as youth in general from that survey. As a result, we estimate that out of 3.2 million LGBTQ youth in the United States,

almost 1.l million have never had a mentor and fewer than 500,000 have had a formal or structured mentor. For the over 1.6 million at-risk LGBTQ youth, only just over 600,000 have ever had a mentor, and only just over 300,000 have had a formal mentor. In other words, over 1.3 million have never had a formal mentor.

At-risk LGBTQ Youth and LGBTQ Youth in the Juvenile Justice System

Although our estimates above are based on the conservative assumption that LGBTQ youth are similar to youth in general in terms of their risk of being involved with the juvenile justice system, a large body of research indicates that factors related to LGBTQ identity put youth at increased risk of involvement with the juvenile justice system. These factors, discussed below, are behaviors and circumstances that youth mentoring programs focus on reducing in at-risk youth.

- **Family rejection**. Research shows that many LGBTQ youth have strained relationships with their families because of their sexual orientation and gender identity. In one study, LGBT identified youth ranked non-accepting families as the most important problem in their lives (26% of youth), followed by school and bullying problems (21% of youth), and fear of being open about being LGBT (18% of youth).[44] In contrast, non-LGBT identified youth ranked classes/exams/grades (25% of youth), college/career (14% of youth) and financial pressures related to college or job (11% of

youth) as the most important problems in their lives.[45] In a 2009 study of LGBT youth in the juvenile justice system, more than 90% of respondents "identified lack of parental support as a 'very serious' or 'somewhat serious' problem."[46] Other studies show that LGBT youth report being physically and psychologically abused by family members because of their sexual orientation or gender identity.[47] One study of parents of LGB youth found that 45% of respondents were angry, sick, or disgusted when their child came out as gay, lesbian, or bisexual.[48]

- **Homelessness and foster care placement.** Studies confirm that LGBTQ youth are overrepresented in both the youth homeless population and in the child welfare system. Eleven studies conducted across the country between 2000 and 2008 found that 7%-39% of homeless youth[49] are LGBT.[50] More recent studies show similar rates of homelessness among LGBT youth.[51] For example, a 2011 study of youth in Massachusetts found that approximately 25% of lesbian and gay youth, and 15% of bisexual youth in public high school were homeless, compared to 3% of heterosexual youth.[52] Only 5% of the total survey sample identified as LGBT.[53]

Additionally, a study of youth in the child welfare system in three Midwestern states found that 23.8% of female respondents and 10.2% of male respondents reported their sexual orientation as other than heterosexual.[54] Similarly, a 2006 study found that 65% of 400 LGBTQ youth surveyed had lived in a foster or group home.[55]

- **Bullying and harassment at school.** LGBTQ youth are also more likely than non-LGBTQ youth to be bullied by their peers. A recent national survey of 8,584 LGBT youth found that 71% of the respondents felt unsafe at school because of their sexual orientation or gender expression.[56] Of the respondents, 92% reported being verbally harassed at school during some point in the last year, and 49% reported experiencing high frequencies of verbal harassment.[57] Many youth also reported physical harassment (45%) and assault (21%)

occurring at school.[58] Other surveys and anecdotal reports also show frequently reported bullying, harassment, and physical assault of LGBTQ students.[59] A recent meta-analysis of Youth Risk Behavior Surveillance Survey (YRBSS) from 2001-2009 that collected sexual orientation or sexual contact data found that across survey sites, on average, LGBQ youth reported being threatened or injured with a weapon at school more than twice as often as their non-LGBQ counterparts.[60]

- **Dropping out, absenteeism, and low academic performance.** Research shows that bullying can lead to dropping out and low academic performance. A 2009 report by the National Education Association found that, nationwide, approximately half of LGBT students who said that they experienced frequent or severe verbal harassment because of their sexual orientation or gender identity missed school at least once a month, and around 70% who said they experienced frequent or severe physical harassment missed school more than once a month.[61] The report found that LGBT youth were almost twice as likely to consider dropping out of school as their non-LGBT peers.[62] Other national and regional surveys have found similar patterns of academic performance, absenteeism, and dropout rates among LGBTQ students.[63] The YRBSS meta-analysis reported that across sites, on average, LGBQ students were almost three times as likely to report not going to school because of safety concerns than their non-LGBQ counterparts.[64]

- **Depression and suicidality.** Research has shown that LGBTQ youth are more likely to suffer from negative mental health than their non-LGBTQ counterparts.[65] Studies have linked negative mental health outcomes in LGBT youth to family rejection and peer bullying.[66] One study found that LGBT youth who were rejected by their families in adolescence were 5.9 times more likely to report high levels of depression and 8.4 times more likely to have attempted suicide than LGBT youth who had not been rejected.[67] Similarly, a study of high school students in Vermont and Massachusetts

found that LGB youth who reported high levels of at-school victimization reported higher levels of substance abuse, suicidality, and sexual risk behaviors than heterosexual youth and LGB youth who reported low levels of victimization.[68] A recent meta-analysis of 18 studies found that compared to non-LGB youth, LGB youth were more than twice as likely to think about suicide, over three times more likely to report that they had attempted suicide, and more than four times as likely to have attempted suicide such that they needed medical attention.[69] LGB youth were also more likely to report that they had experienced depression.[70]

The factors discussed above increase the likelihood of LGBTQ youth's involvement in the juvenile justice system because they lead to behaviors for which they can be arrested, including:

- **Truancy, curfew violations and "ungovernability."** Family rejection of LGBTQ youth has been linked to an increase in charges for offenses like truancy, curfew violation, and "ungovernability" (a charge often filed against children who cannot be controlled by their parents).[71] A 2010 study of youth in detention facilities found that LGBT youth were more likely than non-LGBT youth "to be held in pre-trial detention for truancy, warrants, probation violations, running away and prostitution."[72] Bullying of LGBTQ youth has also been linked to truancy charges, since youth will often skip school in order to avoid their harassers as described above.[73]

- **Illegal drug use**. Studies have found that LGBTQ youth are at higher risk for drug use than non-LGBTQ youth.[74] Numerous studies have linked increased risk of drug use in LGBTQ youth to some of the factors described above, including family rejection, homelessness, and peer victimization.[75] For example, one study found that LGB young adults who were rejected by their families in adolescence were 3.4 times more likely to use illegal drugs than their LGB peers who had not been rejected.[76] The YRBSS meta-analysis found drastically higher reports of cocaine, ecstasy, methamphetamines and injected illegal drug use among LGBQ youth than non-LGBQ youth.[77]

- **Survival crimes.** Generally, homeless youth are at greater risk for involvement in the juvenile justice system than non-homeless youth.[78] One study of homeless LGBT youth, in particular, found that 45% reported that they had been involved with the juvenile justice system at some point.[79] Homeless LGBT youth have reported in survey and interviews that they have to engage in survival crimes, such as prostitution, shoplifting, and drug dealing, in order to access food and shelter.[80]

- **Violence charges related to defending themselves**. Research also shows that in some instances, LGBT youth have been punished for defending themselves against their harassers.[81] The YRBSS meta-analysis found higher prevalences of carrying a weapon, carrying a gun and being in a physical fight among LGBQ youth than non-LGBQ youth.

Moreover, research also shows that certain subpopulations, such as LGBTQ youth of color,[82] gender nonconforming youth and transgender youth[83] are more likely to face factors that put them at risk of involvement in the juvenile justice system than LGBTQ youth as a whole.

As a result of these factors and selective enforcement, LGBTQ youth are overrepresented in the juvenile justice system. While studies suggest that approximately 7% of youth generally identify as LGBT,[84] data from the National Survey of Youth in Custody indicates that 13.8% of youth in custody identify as LGBT.[85] Another recent study of 2,100 detained youth found that LGBT youth made up 12% of the sample and were much more frequently detained than heterosexual youth for certain offenses including running away, prostitution, truancy warrants, and probation violations.[86]

There is some evidence of selective enforcement against LGBTQ youth may also contribute to their overrepresentation in the juvenile justice system. Research shows that laws are sometimes selectively enforced against LGBTQ youth, which likely contributes to their

overrepresentation in the juvenile justice system. A longitudinal study based on data collected in 1994-1995 and 2001-2002 found that non-heterosexual youth were at higher risk than heterosexual youth for being stopped by the police, expelled from school, arrested and convicted.[87] Researchers found that the differences "are not explained by greater engagement in illegal or transgressive behaviors," suggesting that LGBTQ youth are likely disproportionately targeted for sanctions.[88]

LGBTQ Youth Can Benefit from Youth Mentoring, but Currently Face Barriers to Accessing Services

The factors that LGBTQ youth are particularly vulnerable to are the same factors which youth mentoring programs are designed to address. All of the factors described above which disproportionately impact LGBTQ youth—family rejection; homelessness and foster care placement; bullying, absenteeism and other school-related problems; depression; drug use; and involvement in certain types of crimes—are the types of behaviors and characteristics which experts have identified as putting youth at high risk of involvement with the juvenile justice system as described in Section I. The 2014 MENTOR survey report concludes: "Research shows that certain populations are more likely than others to become at-risk –and therefore in greater need of the benefits that a quality mentoring relation can provide. These groups include… youth that identify as LGBTQ…Each of these populations has unique, and sometimes intersecting, challenges that mentoring can—and does—help address."[89]

More specifically, research has shown that LGBTQ youth, like other at-risk youth, benefit from having adult mentors and role models.[90] For example, sexual minority youth who have teacher-mentors have been found to be much more likely to go to college than their counterparts without mentors.[91] And a survey of LGBT teens in Chicago found that teens with accessible adult role models exhibited less psychological distress than teens whose role models were inaccessible, such as actors and politicians.[92] Such findings indicate that LGBTQ youth are in need of and can benefit from the services offered by youth mentoring programs.

However, research shows that LGBT youth underutilize services compared to their heterosexual peers,[93] and many specifically report that they do not have an adult they can talk to about personal problems.[94] This result is likely because LGBTQ youth currently face several barriers to accessing services, including youth mentoring.[95] A number of these barriers are related to how organizations interact with LGBTQ youth.[96] First, research suggests that youth experience and fear discrimination by service providers. Second, there is evidence that organizational non-discrimination policies are limited in providing protection from discrimination to LGBTQ youth and mentors. Third, even when inclusive policies are in place, organizations may not outwardly appear welcoming to LGBTQ youth and mentors, which may discourage LGBTQ people from becoming involved with the organization.

Research suggests that at-risk LGBTQ youth experience discrimination or fear discrimination by youth service providers because of their sexual orientation or gender identity.[97] For example, in one survey of homeless and at-risk LGBT youth in San Diego, one hundred percent of the respondents "stated that they *often* did not share their sexual orientation with service providers because they feared judgment, retaliation, or refusal of services.[98] Of the youth that *did* choose to disclose their sexual orientation to staff, 74% believed that they had experienced prejudicial treatment that included harassment and threats."[99] This survey demonstrates that LGBTQ youth may be reluctant to access needed social services generally.

Additionally, there is evidence that organizational policies are limited in providing protection from discrimination to LGBTQ youth and mentors. For example, the policies of some of the largest national mentoring organizations do not explicitly include both sexual orientation and gender identity.[100] Also, in some cases, the organization's policies appear only to apply to employment or to provision of services to youth, rather than to both.[101] Such limitations likely exist in the policies of other smaller mentoring organizations throughout the country as well.

Finally, even when inclusive policies are in place, organizations may not outwardly appear welcoming to LGBTQ youth and mentors. One historic example is the Boy Scouts of America. Until January 2014, the Boy Scouts prohibited

gay and bisexual males from becoming scouts.[102] The organization continues to prohibit LGBTQ people from becoming leaders.[103] Although the policy regarding scouts has changed, the organization may still appear unfriendly towards gay and bisexual males because of its discriminatory policy regarding leaders and its long history of exclusion.

Similarly, the non-discrimination policy of Big Brothers Big Sisters' could signal to LGBTQ youth and mentors that they are unwelcome in the organization, although it expressly states that it will not discriminate against mentors based on sexual orientation. The BBBS non-discrimination policy reads it its entirety:

> "Sexual preference and matching: A volunteer's sexual preference will not hinder his/her ability to be matched with a child in the program. However, his/her sexual preference will be divulged to the parent of the child he/she is being matched with. The parent will determine if he/she will accept."[104]

This statement could send a negative message about the organization's inclusiveness to LGBTQ youth and mentors. The statement implies that sexual orientation is different than other personal characteristics, such as race, sex and national origin, because it is singled out in the policy. Additionally, the term "sexual preference" is outdated and offensive to many LGBTQ people,[105] and therefore may indicate to prospective mentors and youth that the organization is not understanding of their needs or welcoming to them. Furthermore, there is no information about LGBTQ mentors or mentees available on the organization's website, aside from the non-discrimination policy quoted above.[106]

In recognition of the need for youth mentoring in the LGBTQ community, there has been some development of informational resources and individual youth mentoring programs tailored to LGBTQ youth. For example, the organization True Colors, run in conjunction with Connecticut's Department of Children and Families, runs a mentoring program for LGBTQ youth in Connecticut,[107] and a number of organizations have published manuals that address best practices for mentoring for LGBT youth.[108] However, these programs and materials are limited in their size and reach, so it

is important for non-specialized organizations also to develop their own policies and practices to ensure that LGBTQ youth have access to their services.

The barriers described above indicate that there is a need for legal protections, polices, and practices that ensure access to youth mentoring programs for LGBTQ youth. Specifically, the need for laws and policies that prohibit discrimination based on sexual orientation and gender identity, as well as practices that go beyond policies to actively demonstrate to LGBTQ youth that organizations are welcoming of them, regardless of their LGBTQ-status.

III. Recommendations

The following legal protections, policies, and practices would ensure that LGBTQ youth have access to services through youth mentoring programs.

Youth Mentoring Program Policies and Practices

1. Non-Discrimination and Anti-Harassment Policies

In order to ensure that LGBTQ youth are able to access youth mentoring programs and feel comfortable doing so, individual programs may consider implementing internal non-discrimination and anti-harassment policies. By building these policies from the inside, they are likely to be easily implemented and accepted internally, resulting in positive experiences for LGBTQ youth and mentors. Such policies could also lead to more LGBTQ people working with youth and more LGBTQ youth participating in programs that they feel serve and accept them.

2. Confidentiality Policies

Youth mentoring programs may consider adopting policies that protect youth from involuntary disclosure of personal information such as sexual orientation, gender identity, and HIV-status. One particular concern that LGBTQ youth may have is that information about their LGBTQ-status will be divulged to intolerant family members if they access social services, such as mentoring. A confidentiality policy would likely reassure LGBTQ youth that they can be open about their LGBTQ-identity with their mentors, which will not only ensure access to services but will also likely make the services more effective for LGBTQ youth.

3. Inclusion of LGBTQ Identity-Affirming Language on Websites and Other Materials

Youth mentoring programs may consider adding LGBTQ identity-affirming language on their websites and other materials so that LGBTQ youth know that they are welcome. One option may to be to make the organizations written non-discrimination and anti-harassment policies easily accessible online and in printed materials.

Other options may be to highlight LGBTQ youth mentees or LGBTQ mentors in program materials, or to include information about mentorship activities involving the LGBTQ community, such as volunteering at an LGBTQ Community Center.

4. Trainings

Trainings within youth mentoring programs focused on reducing discrimination and harassment based on sexual orientation or gender identity would likely increase tolerance and respect for LGBTQ mentors and employees of youth mentoring programs as well as morale overall. These trainings would be likely to not only help the mentors do their jobs more effectively, but would also likely result in higher levels of tolerance and acceptance of LGBTQ individuals in the community, including LGBTQ youth.

Additionally, trainings focused on how to mentor LGBTQ youth would likely increase competence within organizations and make organizations aware of how to be more outwardly welcoming of LGBTQ youth. Several organizations have published "Best Practices" guides for mentoring LGBT youth, which may be useful in developing such trainings.[109] Suggestions in these manuals include, for example, compiling a list of LGBTQ community activities that mentors could engage in with LGBTQ mentees (such as volunteering at an LGBTQ Community Center), and giving mentors a list of terms associated with different sexual orientations and gender identities so that they know how to communicate with youth about being LGBTQ.

5. LGBTQ and LGBTQ-Affirming Mentors

Researchers and service providers have recognized that at-risk LGBTQ youth, in general, can benefit from mentoring.[110] Although research focused specifically on LGBTQ mentor/LGBTQ mentee relationships is limited, some studies indicate that LGBTQ youth do best when they are "matched" with LGBTQ mentors. For example, in a needs assessment of LGBT youth in Washington, 80% of respondents reported that they were interested in support and

guidance from LGBT adults or thought that other LGBT youth would be interested in such support.[111] Similarly, LGBT youth interviewed in Massachusetts and Ohio expressed a desire to have contact with adult LGBT role models.[112] Also, in a qualitative study of LGBT youth in foster care who were assigned mentors, several youths expressed that it was very valuable to have a mentor that was LGBT.[113] One youth explained that "his mentor was 'someone I can talk to if I have a problem. I can talk to him about gay issues, and that is not something I can do with my caseworker.'"[114] Other studies of LGBT undergraduate and graduate students have found that young LGBT people are interested in seeking out LGBT mentors,[115] and have found that LGBT mentors and LGBT-affirming mentors provided more psychological and social support to LGBT mentees than other mentors.[116]

Based on these findings, individual mentoring programs could specifically seek to hire LGBTQ and LGBTQ-affirming mentors to work with LGBTQ youth who seek such guidance. Further, the programs could take certain steps to recruit LGBTQ and LGBTQ-affirming mentors, such as advertising mentorship opportunities in LGBTQ-friendly publications, through LGBTQ employee groups at corporate and non-profit employers, or through LGBTQ student groups at colleges and universities.

6. Outreach and Liaisons to the LGBTQ Community

Outreach directed specifically to at-risk LGBTQ youth would raise awareness of youth mentoring services within this high-risk population, and would likely make LGBTQ youth more comfortable accessing services. Individual youth mentoring programs can outreach to LGBTQ youth through a variety of channels, such as through LGBTQ homeless youth service providers, high school Gay-Straight Alliances, and school counselors.

An additional step to ensure LGBTQ youth and mentor outreach is to create an LGBTQ liaison position within youth mentoring programs to facilitate interactions between mentoring personnel and the LGBTQ community. This liaison sends a message to employees of youth mentoring programs, LGBTQ youth and community members that it's okay to openly be who they are. Establishing a culture of

acceptance is essential in providing LGBTQ at-risk youth with the help they need.

LGBTQ-Focused Youth Mentoring Programs

Several small organizations around the country are focused specifically on LGBTQ youth mentoring. Examples of these organizations include True Colors in Connecticut,[117] Guiding Proud in New York,[118] and LYFE Mentors in the D.C. metro area.[119] States and foundations can encourage the development of LGBTQ-focused mentoring organizations by offering funding for LGBTQ mentorship activities.

Requirements in Youth Mentoring Grants

The Office of Juvenile Justice and Delinquency Prevention (OJJDP), a division within the Department of Justice (DOJ), offers grants for mentoring of at-risk youth. OJJDP has the authority to issue guidance explaining that discrimination based on sexual orientation and gender identity in its youth mentoring grant programs is prohibited because such guidance would further the mission and purposes of the grant programs – to serve all at-risk youth. Such nondiscrimination guidance would complement existing guidance that applies to DOJ grantees, including guidance explaining that grantees cannot discriminate against LGBTI people based on non-conformity with gender expectations or stereotypes.[120]

Additionally, OJJDP can explicitly recognize LGBTQ youth as an underserved population in their grant announcements, and, where appropriate, identify LGBTQ youth as target populations for specific youth mentoring grants. Given the barriers to access and specific needs of LGBTQ youth, this recognition would serve the mission and purposes of the grant programs.[121] This action would not be unprecedented; in 2013, the Department of Health and Human Services (HHS) identified LGBT populations as underserved in their funding opportunity announcement for family violence prevention and services/grants to state domestic violence coalitions[122] and in a similar funding opportunity announcement to states for domestic violence shelters and support services.[123] Also, HHS currently has a funding opportunity posted for improvements to LGBTQ

service accessibility in family violence prevention and services.[124]

Enforcing Existing Legal Protections

Title VII Guidance

While federal courts and the Equal Employment Opportunity Commission (EEOC) have recognized that many forms of discrimination based on gender identity and sexual orientation fall under sex discrimination prohibited by Title VII,[125] the DOJ and other executive agencies could publish official departmental guidance stating that sex discrimination under Title VII of the Civil Rights Act prohibits employment discrimination in all cases based on sexual orientation or gender identity, not just situations that fall under gender stereotyping.[126] This guidance would be in line with the federal missions and purposes of different agencies.[127] For example, the Department of Housing and Urban Development has already promulgated regulations prohibiting sexual orientation and gender identity discrimination in all of their department conducted and department funded programs,[128] to further the Department's purpose of creating "strong, sustainable, inclusive communities and quality affordable homes for all."[129] Other agencies could use their missions and purposes along with judicial and EEOC precedent to issue guidance prohibiting discrimination based on sexual orientation and gender identity in both department funded and department conducted programs.

Title IX Guidance

While federal courts and the Department of Education have recognized that many forms of discrimination based on gender identity and sexual orientation fall under sex discrimination prohibited by Title IX,[130] the Department of Justice and other executive agencies could publish official departmental guidance stating that sex discrimination under Title IX of the Civil Rights Act prohibits discrimination in all cases based on sexual orientation or gender identity, not just situations that fall under gender stereotyping. This guidance would be in line with the federal missions and purposes of different agencies.[131] Other agencies could use their missions and purposes along with judicial and Department of Education precedent to issue guidance prohibiting discrimination based on

sexual orientation and gender identity in both department funded and department conducted programs.

Existing Constitutional Protections and State and Local Laws

Several constitutional mandates prohibit public sector service providers and employers from discriminating against service beneficiaries and employees based on sexual orientation and gender identity. These provisions include the Equal Protection Clause, the Due Process Clause, and the First Amendment.[132]

Additionally, statutes in twenty-one states[133] and many local ordinances in cities and counties across the country[134] explicitly prohibit discrimination on the basis of sexual orientation and/or gender identity. These statutes and ordinances protect LGBTQ people from various forms of discrimination, such as employment, and access to public accommodations and government services. For example, statutes in California[135] and local ordinances in places like Albany, New York[136] prohibit sexual orientation and gender identity discrimination in employment, public accommodations and government services, in addition to other areas such as housing and education.

Adopting New Legal Protections

ENDA

The Employment Non-Discrimination Act (ENDA) is a federal bill that would prohibit employment discrimination based on sexual orientation and gender identity.[137] If ENDA passes, it will provide comprehensive national coverage against employment discrimination. As opposed to judicial rulings, executive interpretations or state or local laws, one federal law would provide clarity and consistency across all jurisdictions. ENDA would protect mentors and employees of youth mentoring programs from discrimination based on sexual orientation or gender identity, which would increase the likelihood that LGBTQ mentors are available to be matched with LGBTQ youth.

Statewide Statutes and Local Ordinances

Twenty-nine states do not explicitly prohibit discrimination based on sexual orientation by state statute and 33 states do not explicitly prohibit discrimination based on gender identity by state statute.[138] Statutes could be passed in these states to extend non-discrimination protections for people across the country. Additionally, ordinances prohibiting sexual orientation and gender identity discrimination can be passed at the local level. Such statutes and ordinances can be comprehensive in terms of the types of discrimination prohibited, including discrimination in public and private sector employment, government services and activities, education, and public accommodations. Prohibiting discrimination in these areas will ensure that LGBTQ youth will have access to services through mentoring programs, including the availability of LGBTQ mentors.

III. Conclusion

Research indicates that LGBTQ youth face unique disadvantages that put them at high risk for involvement with the juvenile justice system. One way to reduce LGBTQ youths' risk of involvement is through youth mentoring programs. The legal protections and policies recommended in this Paper would ensure that LGBTQ youth have access to the services through youth mentoring programs, and that such programs offer the availability of LGBTQ mentors.

About the Williams Institute

The Williams Institute on Sexual Orientation and Gender Identity Law and Public Policy at UCLA School of Law advances law and public policy through rigorous, independent research and scholarship, and disseminates its work through a variety of education programs and media to judges, legislators, lawyers, other policymakers and the public. These studies can be accessed at the Williams Institute website.

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Endnotes

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[5] Office of Juv. Justice & Delinquency, *supra* note 4.

[6] *Id.*

[7] *Id.*

[8] In school-based mentoring, the mentoring relationship occurs at the child's school or a community center and mentoring activities are focused on academic development. *Id.*

[9] In group mentoring, "one mentor meets with a group of youths." *Id.*

[10] In e-mentoring, "two individuals communicate over the Internet." *Id.*

[11] In peer-mentoring, "students are used as mentors." *Id.*

[12] *Big Brothers Big Sisters of America to Receive OJJDP FY2011 National Mentoring Grants Totaling $13.3 Million*, BIG BROTHERS BIG SISTERS, (Oct. 5, 2011) http://www.bbbs.org/site/apps/nlnet/content3.aspx?c=9iILI3NGKhK6F&b=6470175&ct=11261681#sthash.ZVaaMbTn.dpufBBBS.

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[15] *Something for Everyone*, BIG BROTHERS BIG SISTERS, http://www.bbbs.org/site/c.9iILI3NGKhK6F/b.5968195/k.7035/Something_for_everyone.htm (last visited Jan. 22, 2014).

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[24] BOYS AND GIRLS CLUBS OF AM., 2012 ANNUAL REPORT 3 (2012), *available at* http://www.bgca.org/whoweare/Pages/AnnualReport.aspx.

[25] *Career Opportunities*, BOYS AND GIRLS CLUBS OF AMERICA, http://www.bgca.org/careers/Pages/Careers.aspx (last visited Jan. 22, 2014).

[26] BRUCE & BRIDGELAND, *supra* note 1 at 12.

[27] *Id.* at 28.

[28] *Id.* at 29.

[29] OFFICE OF JUSTICE PROGRAMS, *supra* note 3.

[30] OFFICE OF JUV. JUSTICE & DELINQUENCY, U.S. DEP'T OF JUSTICE, CHILD DELINQUENCY: RISK AND PROTECTIVE FACTORS OF CHILD DELINQUENCY (2003), *available at* https://www.ncjrs.gov/pdffiles1/ojjdp/193409.pdf (hereinafter "Child Delinquency").

[31] *Id.*

[32] OFFICE OF JUSTICE PROGRAMS, *supra* note 3.

[33] *Id.*; Child Delinquency, *supra* note 30.

[34] BRUCE & BRIDGELAND, *supra* note 1 at 16.

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(analyses by Gary J. Gates, The Williams Inst. Univ. of Cal. L.A. Sch. of Law using the AskCHIS web tool *available at* http://ask.chis.ucla.edu/main/default.asp).

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[78] *See, e.g.*, U.S. ADMIN. FOR CHILDREN, YOUTH WITH RUNAWAY, THROWAWAY, AND HOMELESS EXPERIENCES: PREVALENCES, DRUG USE, AND OTHER AT-RISK BEHAVIORS (1995).

[79] Berberet, *supra* note 55, at 373 (showing in one survey that 39%of LGBT Youth ages 12-24 living out of the home had been forced to leave home due to sexual orientation or gender identity).

[80] MAJD ET AL., *supra* note 46, at 73; Whitbeck et al., *supra* note 47; Berberet, *supra* note 55, at 375; *Youth Homelessness Series Brief No. 2*, NAT'L ALL. TO END HOMELESSNESS (Dec. 8, 2008), http://www.endhomelessness.org/library/entry/incidence-and-vulnerability-of-lgbtq-homeless-youth; James M. Van Leeuwen, *Lesbian, Gay, and Bisexual Homeless Youth; An Eight-City Public Health Perspective*, 85 CHILD WELFARE 151 (2006); RANDI FEINSTEIN ET AL., JUSTICE FOR ALL? A REPORT ON LESBIAN, GAY, BISEXUAL AND TRANSGENDERED YOUTH IN THE NEW YORK JUVENILE JUSTICE SYSTEM 18 (2001), *available at* http://www.njjn.org/uploads/digital-library/resource_239.pdf ; SHAHERA HYATT, CAL. HOMELESS YOUTH PROJECT, STRUGGLING TO SURVIVE: LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND QUEER/QUESTIONING HOMELESS YOUTH ON THE STREETS OF CALIFORNIA, http://cahomelessyouth.library.ca.gov/docs/pdf/StrugglingToSurviveFinal.pdf (last visited Aug. 21, 2013).

[81] MAJD ET AL., *supra* note 46, at 77.

[82] *See, e.g.* LAURA E. DURSO, ANGELIKI KASTANIS, BIANCA D. M. WILSON, & ILAN H. MEYER, WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW PROVIDER PERSPECTIVES ON THE NEEDS OF GAY AND BISEXUAL MALE AND TRANSGENDER YOUTH OF COLOR (2013), http://williamsinstitute.law.ucla.edu/wp-content/uploads/ACCESS-final-rev-aug-2013.pdf (finding that Los Angeles-area GLBTQ youth of color face individual, organizational, and structural barriers to educational, health and social services); EMILY BRIDGES, ADVOCATES FOR YOUTH, THE IMPACT OF HOMOPHOBIA AND RACISM ON GLBTQ YOUTH OF COLOR (2007), http://www.lgbt.ucla.edu/documents/ImpactofHomophobiaandRacism_000.pdf (finding that GLBTQ youth of color are at high risk for homelessness and harassment); ELIZABETH M. DIAZ & JOSEPH G. KOSCIW, THE GAY, LESBIAN AND STRAIGHT EDUC. NETWORK, THE EXPERIENCES OF LESBIAN, GAY, BISEXUAL, AND TRANSGENDER STUDENTS OF COLOR IN OUR NATION'S SCHOOLS (2009), *available at* http://glsen.customer.def6.com/sites/default/files/Shared%20Differences.pdf (finding high levels of verbal harassment against LGBT youth of color in schools based on both sexual orientation or gender expression and race or ethnicity, leading to absenteeism and poor academic outcomes); MICHIGAN PROJECT FOR INFORMED PUBLIC POLICY, IN BRIEF: LGBT YOUTH OF COLOR AND MENTAL HEALTH (2013) http://www.mpipp.org/wp-content/uploads/2013/07/BRIEF.LGBT-Youth-of-Color.pdf (finding LGBT youth of color are at an increased risk of homelessness, experience more violence compared to their white LGB counterparts, and LGB Black and Latino youths could have 2.5-3 times the odds of a suicide attempt before age 24).

[83] GLSEN & NATIONAL CENTER FOR TRANSGENDER EQUALITY, MODEL DISTRICT POLICY ON TRANSGENDER AND GENDER NONCONFORMING STUDENTS (2013), *available at* http://www.transequality.org/PDFs/Trans_ModelPolicy_2013.pdf (finding high rates of bullying and discrimination against transgender youth in schools); Andrea L. Roberts et al., *Childhood Gender Nonconformity: A Risk Indicator for Childhood Abuse and Posttraumatic Stress in Youth*, 129 PEDIATRICS 410 (2012) (finding that gender nonconforming youth are at increased risk for sexual, physical, and psychological abuse); Arnold H. Grossman & Anthony D'augelli, *Transgender Youth*, 51 J. HOMOSEXUALITY 111 (2008) (finding that transgender youth often report lack of caregiving by their families and communities); Jody Marksamer, *And by the Way, Do You Know He Thinks He's a Girl? The Failures of Law, Policy, and Legal Representation for Transgender Youth in Juvenile Delinquency Courts*, 5 SEXUALITY RESEARCH & SOCIAL POLICY 72 (2008) (describing factors that put transgender youth at increased risk resulting in overrepresentation in juvenile justice system); Arnold H. Grossman & Anthony R. D'augelli, *Transgender Youth and Life-Threatening Behaviors*, 37 SUICIDE AND LIFE-THREATENING BEHAVIORS 527 (2007) (finding increased rates of suicide, parental verbal and physical abuse, and low self-esteem in transgender youth).

[84] MELISSA DUNN & JEFF KREHELY, CTR. FOR AM. PROGRESS, SUPPORTING GAY AND TRANSGENDER YOUTH MOST IN NEED: WHITE HOUSE CONFERENCE TURNS SPOTLIGHT ON HOUSING AND HOMELESS ISSUES IMPACTING GAY AND TRANSGENDER POPULATION 1 (2012), *available at* http://www.americanprogress.org/issues/2012/03/pdf/lgbt_homelessness.pdf.

[85] BUREAU OF JUSTICE STATS., U.S. DEP'T OF JUSTICE, SEXUAL VICTIMIZATION IN JUVENILE FACILITIES REPORTED BY YOUTH, 2012 (2013), *available at* http://www.bjs.gov/content/pub/pdf/svjfry12.pdf.

[86] Laura Garnette et al., *Lesbian, Gay, Bisexual, and Transgender (LGBT) Youth and the Juvenile Justice System*, in JUVENILE JUSTICE: ADVANCING RESEARCH, POLICY, AND PRACTICE 162-164 (Francine T. Sherman & Francine H. Jacobs eds., 2011).

[87] Katherine E. W. Himmelstein & Hannah Bruckner, *Criminal-Justice and School Sanctions against Non-Heterosexual Youth: A National Longitudinal Study*, 127 PEDIATRICS 49 (2011).

[88] *Id.* at 51-55.

[89] BRUCE & BRIDGELAND, *supra* note 1 at 3.

[90] *See, e.g.*, LINDA JUCOVY, MENTORING FOR SEXUAL MINORITY YOUTH, NATIONAL MENTORING CENTER (2000), *available at* https://www.nationalserviceresources.gov/files/m2332-mentoring-sexual-minority-youth.pdf; JUAN BARAJAS, MENTORING TACTICS: MENTORING LESBIAN, GAY, BISEXUAL, AND TRANSGENDER YOUTH (2005), *available at* http://www.emt.org/userfiles/LGBTYMENTAC.pdf; Ignacio David Acevedo-Polakovich et al*., Service Accessibility for Lesbian, Gay, Bisexual, Transgender and Questioning Youth*, 45 YOUTH SOCIETY 75 (2013); Kenta Asakura, *Queer Youth Space: A Protective Factor for Sexual Minority Youth*, 80 SMITH COLLEGE STUDIES IN SOC. WORK 361 (2010); Jason D.P. Bird et al., *The Impact of Role Models on Health Outcomes for Lesbian, Gay, Bisexual, and Transgender Youth*, 50 J. ADOL. HEALTH 353, 356 (2012); Julie A. Pryde & Edmund V. Mech, *Empowering Lesbian and Gay Foster Adolescents Through Mentoring Relationships*, J. GAY & LESBIAN SOC. SVCS. 59 (1995); Arnold H. Grossman & Anthony R. D'Augelli, *The Socialization of Lesbian, Gay, and Bisexual Youth: Celebrity and Personally Known Role Models*, *in* LEISURE, MEDIA AND VISUAL CULTURE: REPRESENTATIONS AND CONTESTATIONS 83 (Eileen Kennedy& Andrew Thornton, eds., 2004).

[91] Billie Gastic & Dominique Johnson, *Teacher Mentors and the Educational Resilience of Sexual Minority Youth*, 21 J. GAY & LESBIAN SOC. SVCS. 219 (2009). *See also* Stephen T. Russell, Hinda Seif & Nhan L. Truong, *School Outcomes of Sexual Minority Youth in the United States: Evidence from a National Study*, 24. J. ADOLESC. 111, 120 (2001).

[92] Bird et al., *supra* note 90at 356.

[93] Elaine M. Maccio & Howard J. Doueck, *Meeting the Needs of the Gay and Lesbian Community: Outcomes in the Human Services*, 14 J. GAY & LESBIAN SOC. SVCS. 55 (2002).

[94] HUMAN RIGHTS CAMPAIGN, *supra* note 44 at 6 (about 1/3 of LGBT youth reported that there was no adult they could talk to about their personal problems).

Acevedo-Polakovich et al*., supra* note 90.

[96] *Id.*

[97] Heather M. Berberet, *supra* note 55; Robb Travers & Margaret Schneider, *Barriers to Accessibility for Lesbian and Gay Youth Needing Addictions Services*, 27 YOUTH & SOC. 356 (1996).

[98] Berberet, *supra* note 55, at 380.

[99] *Id.*

[100] Boys and Girls Clubs of America's sexual orientation non-discrimination policy applies to employment. *Career Opportunities*, BOYS AND GIRLS CLUBS OF AMERICA, http://www.bgca.org/careers/Pages/Careers.aspx (last visited Jan. 22, 2014).

[101] *E.g., Id.*

[102] *Membership Standards Resolution*, BOY SCOUTS OF AMERICA, http://www.scouting.org/sitecore/content/membershipstandards/resolution/resolution.aspx (last visited Jan. 22, 2014).

[103] *See* Marcie Richter, *Boy Scouts Ready for Move to Allow Gay Scouts from 2014*, REUTERS, Dec. 31, 2013, *available at* http://www.reuters.com/article/2014/01/01/us-usa-boyscouts-idUSBRE9BU0N720140101.

[104] *Policies*, BIG BROTHERS BIG SISTERS, http://www.bemybig.com/4.4.html#c1q4 (last visited Jan. 22, 2014).

[105] Many LGBT people find the term offensive "because it implies that one chooses or that one can choose a specific sexual orientation." Shannon D. Smith, *Sexually Underrepresented Youth: Understanding Gay, Lesbian, Bisexual, Transgendered, and Questioning (GLBT-Q) Youth*, *in* THE PSYCHOLOGY OF PREJUDICE AND DISCRIMINATION 151, 158 (Jean Lau Chin, ed., 2004).

[106] *See* Jean Ann Esselink, *On Our Radar- An LGBQ Big Brother Big Sisters of America*, NEW CIVIL RIGHTS MOVEMENT, May 20, 2012, *available at* http://thenewcivilrightsmovement.com/on-our-radar-an-lgbtq-big-brother-big-sisters-of-america/families/2012/05/20/39778 (last visited Jan. 25, 2014); *BBBS Search*, BIG BROTHERS BIG SISTERS, http://www.bbbs.org/site/c.9iILI3NGKhK6F/b.6065577/k.7CD2/BBBS_Search/apps/s/search.asp (last visited Jan. 25, 2014).

[107] *About True Colors*, TRUE COLORS, http://www.ourtruecolors.org/About/index.html (last visited Jan. 24, 2014).

[108] *E.g.*, JUCOVY, *supra* note 90; BARAJAS, *supra* note 90.

[109] *E.g.*, JUCOVY, *supra* note 90; BARAJAS, *supra* note 108; Jeffrey M. Porier et al., Practice Guide: Providing Support and Services for Youth Who Are LGBTQI 2S (2008), *available at* http://nccc.georgetown.edu/documents/lgbtqi2s.pdf.

[110] *E.g.*, Acevedo-Polakovich et al*., supra* note 90; Asakura, *supra* note 90; Bird et al., *supra* note 90; Pryde & Mech, *supra* note 90.

[111] Elizabeth A. Wells et al., *Social Services for Sexual Minority Youth: Preferences for What, Where, and How Services Are Delivered*, 35 CHILDREN & YOUTH SVCS. REV. 312, 316 (2013).

[112] Tamara S. Davis, Susan Saltzburg & Chris R. Locke, *Supporting the Emotional and Psychological Well Being of Sexual Minority Youth Ideas for Action*, 31 CHILDREN & YOUTH SVCS. REV. 1030, 1037 (2009).

[113] Pryde & Mech, *supra* note 90.

[114] *Id.* at 64-65.

[115] Margaret M. Nauta, Amy M. Saucier & Leigh E. Woodard, *Students' Academic and Career Decisions: The Impact of Sexual Orientation*, 49 CAREER DEV. QUAR. 352 (2001).

[116] Julianne S. Lark & James M. Croteau, *Lesbian, Gay, and Bisexual Doctoral Students' Mentoring Relationships with Faculty in Counseling Psychology: A Qualitative Study*, 26 THE COUNSELING PSYCH. 754 (1998). *See also* Glenda M. Russell & Sharon G. Horne, *Finding Equilibrium: Mentoring, Sexual Orientation, and Gender Identity*, 40 PROF. PSYCH.: RESEARCH AND PRACTICE 194 (2009) (exploring the ways in which LGBT mentors and LGBT-affirming mentors can provide benefits to LGBT mentees).

[117] *About True Colors*, TRUE COLORS, http://www.ourtruecolors.org/About/index.html (last visited Jan. 24, 2014).

[118] *About, GUIDING* PROUD, http://guidingproud.wordpress.com/about/ (last visited Jan. 24, 2014).

[119] *About*, LYFE MENTORS, http://lyfementors.wordpress.com/about/ (last visited Jan. 24, 2014).

[120] *Protecting the Rights of Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) Individuals*, CIVIL RIGHTS DIV., U.S. DEP'T OF JUSTICE, http://www.justice.gov/crt/publications/lgbtibrochure.pdf (last visited Jan 22, 2014). The term "LGBTI" as used in the DOJ's policy stands for lesbian, gay, bisexual, transgender, and intersex.

[121] In fact, OJJDP already has grant solicitations that specifically indicate the importance of providing services to underserved youth. For example, the 2013 national mentoring solicitation program requests mentoring targeted towards "at-risk and underserved youth populations." U.S. DEP'T OF JUSTICE, OJJDP FY 2013 NATIONAL MENTORING PROGRAMS 3-4 (Feb. 6, 2013), *available at* http://www.ojjdp.gov/grants/solicitations/FY2013/NationalMentoring.pdf. OJJDP defines underserved youth as "those youth who demonstrate need but have not participated in mentoring services due to location; shortage of qualified mentors; special physical or mental challenges; having a parent in the military, including a deployed parent; being a tribal member; or other analogous situations that the community identifies." *Id.* at 4. The situation for many LGBTQ youth who may find a shortage of qualified mentors and higher exposure to a variety of risk factors is analogous to the other examples provided by the OJJDP. Therefore, the OJJDP can define underserved populations to include LGBTQ youth in grant solicitations for youth mentoring programs.

[122] Standing Funding Opportunity Announcement for Family Violence Prevention and Services/Grants to State Domestic Violence Coalitions, 78 FR 20648 (Apr. 5, 2013), *available at* https://federalregister.gov/a/2013-08027.

[123] Standing Funding Opportunity Announcement for Family Violence Prevention and Services Grants to States for Domestic Violence Shelters and Support Services, 78 FR 23263 (Apr. 18, 2013), *available at* https://federalregister.gov/a/2013-08711.

[124] *Family Violence Prevention and Services/ Improvements to Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Service Accessibility*, GRANTS.GOV, http://www.acf.hhs.gov/hhsgrantsforecast/hhs_m/index.cfm?switch=grant.view&gff_grants_forecastInfoID=64979 (last updated June 7, 2013).

[125] *See* Jennifer C. Pizer, Christy Mallory, Brad Sears & Nan D. Hunter, *Evidence of Persistent and Pervasive Workplace Discrimination against LGBT People: The Need for Federal Legislation Prohibiting Discrimination and Providing for Equal Employment Benefits*, 45 LOY. L. REV. 715, 744-50 (2012); Macy v. Holder, Appeal No. 0120120821 (EEOC, Apr. 20, 2012).

[126] In 2013, the DOJ issued guidance stating that the sex discrimination prohibitions in existing laws that apply to DOJ grantees' under various civil rights statutes "protect[] all people (including LGBTI people) from…discrimination based on a person's failure to conform to stereotypes associated with [a] person's real or perceived gender identity." CIVIL RIGHTS DIV., U.S. DEP'T OF JUSTICE, *supra* note 120. The guidance proposed in this section would expand this interpretation to prohibit all forms of discrimination based on gender identity and sexual orientation.

[127] For example, the United States Department of Agriculture has cited to its mission to be the "people's department" that should serve all Americans, and the Department of Health and Human Services has referred to its mission to "serve all individuals who are eligible for its programs without regard to any non-merit factor," in their civil rights and nondiscrimination policy statements, which both include sexual orientation and gender identity. *Civil Rights Policy Statement*, U.S. DEP'T OF AGRICULTURE. (2012), http://www.ascr.usda.gov/news_cr_policy.html; *Non-Discrimination Policy Statement*, U.S. DEP'T OF HEALTH & HUM SVCS. (2012), http://www.hhs.gov/asa/eeo/nondiscrimination/index.html.

[128] 24 C.F.R. §§ 5.105, 200.300, 203.33.

[129] Equal Access to Housing in HUD Programs, 77 Fed. Reg. 5,662, 5,672 (Feb. 3, 2012) (to be codified at 24 C.F.R. pts. 5, 200, 203, 236, 400, 570, 574, 882, 891 & 982).

[130] *See* Letter from Russlynn Ali, Asst. Sec. for Civ. Rights, U.S. Dep't of Educ., to Colleagues (Oct. 26, 2010), *available at* http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf. *See also* Pratt v. Indian River Cent. School Dist., 803 F. Supp. 2d 135, 274 Ed. Law Rep. 838 (N.D. N.Y. 2011) (holding that "harassment based on nonconformity with sex stereotypes is a legally cognizable claim under Title IX"); Doe v. Brimfield Grade School, 552 F. Supp. 2d 816, 233 Ed. Law Rep. 684 (C.D. Ill. 2008) (holding that peer harassment of a student for perceived failure to conform with gender stereotypes is actionable under Title IX); Theno v. Tonganoxie Unified School Dist No. 464, 377 F. Supp. 2d 952, 964, 200 Ed. Law Rep. 658 (D. Kan. 2005) (same); Snelling v. Fall Mountain Regional School Dist., 2001 DNH 57, 2001 WL 276975 (D.N.H. 2001) (same); 62 FR 12034 (2007), "Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties.".

[131] *See* Section III.D.1., *supra.*

[132] Equal Protection Clause: Courts have unanimously found, in all published decisions to address the issue, that employment discrimination based on sexual orientation violates the Equal Protection Clause even under the lowest standard of scrutiny, rational basis review. BRAD SEARS, NAN D. HUNTER & CHRISTY MALLORY, DOCUMENTING DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY IN STATE EMPLOYMENT 3-1 to 3-41 (2009), *available at* http://williamsinstitute.law.ucla.edu/wp-content/uploads/3_ConstitutionalRights.pdf. Additionally, the Eleventh Circuit, applying heightened scrutiny, has held employment discrimination based on gender identity violates the Equal Protection Clause. Glenn v. Brumby, 663 F.3d 1312 (11th Cir. 2011).

Due Process Clause: Courts have held that employment actions against LGBT employees violate the rights protected by the Due Process Clause of the Fourteenth Amendment both by discriminating against individuals based on protected activity that they engage in outside the workplace and by subjecting those people to invasive questioning and scrutiny that violates their privacy rights. SEARS, HUNTER & MALLORY, *supra.*

First Amendment: Courts have held that the First Amendment protects individuals from being discriminated against by their public sector employer because they have told someone at work about their sexual orientation or gender identity, attended political rallies in favor of LGBT rights, written about important court cases or political issues dealing with LGBT rights, or have displayed symbols in support of equality based on sexual orientation and gender identity. SEARS, HUNTER & MALLORY, *supra.*

For a fuller discussion of these constitutional protections, *see* SEARS, HUNTER & MALLORY, *supra.*

[133] *See State Non-Discrimination Laws in the U.S.*, NAT'L GAY AND LESBIAN TASK FORCE, http://www.thetaskforce.org/downloads/reports/issue_maps/non_discrimination_6_13_color.pdf (last visited Jan. 22, 2014).

[134] *See Local Non-Discrimination Ordinances*, MOVEMENT ADVANCEMENT PROJECT, http://www.lgbtmap.org/equality-maps/non_discrimination_ordinances (last visited Jan. 22, 2014).

[135] CAL. GOV. CODE §§ 12900-12996 (2013) (prohibits discrimination in employment and housing); CAL. WELFARE & INST. CODE § 10000 (2013); CAL. GOV. CODE § 11135 (2013) (prohibit discrimination in government services); CAL. CIV. CODE §§ 51-51.3 (2013) (prohibits discrimination in public accommodations); CAL. EDUC. CODE § 51500-51501 (2013) (prohibits discrimination in education).

[136] CITY OF ALBANY, N.Y., CODE art. III, § 48-26.

[137] H.R. 1755, 113th Cong. (2013).

[138] *See* NAT'L GAY AND LESBIAN TASK FORCE, *supra* note 133.