

LESSON 6

Respecting and Supporting Transgender Youth

INTRODUCTION

PURPOSE

The purpose of this lesson is to increase participants' understanding of transgender youth and explain how to provide transgender youth with equitable, respectful support.

OBJECTIVES

Participants will:

- Examine experiences of transgender youth in the juvenile justice system
- Learn the challenges transgender youth confront in the juvenile justice system
- Discuss health needs of transgender youth and the appropriate means of addressing these needs
- Learn to use appropriate terminology in written and verbal communication
- Identify professionally competent and legally sound strategies to ensure a safe, accepting environment for transgender youth in custody

SUGGESTED AUDIENCE

All juvenile justice providers, advocates, and personnel (e.g., anyone working in the juvenile delinquency system, such as judges, referees, magistrates, prosecutors, probation officers, defenders, detention and secure facility staff, court staff or personnel, facility caseworkers, social workers, mental health professionals, corrections personnel, forensic evaluators, policy advocates, etc.)

ESTIMATED LENGTH OF TIME NEEDED

4 hours 30 minutes

TRAINING MATERIALS

- Flipchart or white board and markers
- Computer with Internet access
- Projector and screen
- SOGIE Scale
- Optional: Photos of celebrities across the SOGIE spectrum

- **Videos and Audio: Available on The Equity Project YouTube Channel, accessible via www.equityproject.org**
 - Angie
 - In the Life excerpt (7:45-11:07), March 2011: Our Bodies, Our Rights—*Juvenile Injustice* Segment
 - Living a Transgender Childhood excerpt (0-9:00)
 - Interview with Dr. Johanna Olson
 - Audio, Mariah

- **Handouts:**
 - American Psychological Association Policy Statement on Transgender, Gender Identity, and Gender Expression Non-Discrimination, *available at* www.equityproject.org or at <http://www.apa.org/about/policy/transgender.aspx>
 - “Transgender Health Care in Correctional Settings, Position Statement,” National Commission on Correctional Health Care (NCCHC), adopted October 18, 2009, *available at* www.equityproject.org or at <http://www.ncchc.org/transgender-health-care-in-correctional-settings>
 - Excerpt from Cyryna, testimony to National Prison Rape Elimination Commission
 - Jane Doe’s Letter to Connecticut Governor Malloy
 - Case Summaries:
 - *R.G. v. Koller*
 - *Doe v. Bell*
 - Policy from “Hidden Injustice,” *available at*: www.equityproject.org/hiddeninjustice.pdf (Appendix E)
 - Local Policies, if they exist

ADDITIONAL RESOURCES:

- **Optional Alternative/Additional Videos**
 - arts4justice, *Unheard Voices of Transgender Youth*, YouTube (Dec. 4, 2011), <https://www.youtube.com/watch?v=JN2h6eko4iM>.
 - Gnetluvsreg, *11-Year-Old Transgender Girl JAZZ, Message to Obama*, YouTube (May 24, 2012), <https://www.youtube.com/watch?v=AelO2L4HneE>.
 - SBS2Australia, *Transgender Teen Life | The Feed*, YouTube (Sept. 17, 2013), <https://www.youtube.com/watch?v=4nGJpLzclr0E>.

- **Alternative/Additional Audio Clips:**
 - *Kelly’s Story, Resources*, URBAN JUSTICE CTR., <https://pcyp.urbanjustice.org/pcyp-resources> (last visited Oct. 20, 2014).
 - *Amanda’s Story, Resources*, URBAN JUSTICE CTR., <https://pcyp.urbanjustice.org/pcyp-resources> (last visited Oct. 20, 2014).

- AM. PSYCHOLOGICAL ASS’N, ANSWERS TO YOUR QUESTIONS ABOUT TRANSGENDER PEOPLE, GENDER IDENTITY, AND GENDER EXPRESSION (2011), <http://www.apa.org/topics/lgbt/transgender.pdf>.
- LAUREN MIZOCK ET AL., FACT SHEET: GENDER DIVERSITY AND TRANSGENDER IDENTITY IN ADOLESCENTS (2013), <http://www.apadivisions.org/division-44/resources/advocacy/transgender-adolescents.pdf>.
- COLT MEIER & JULIE HARRIS, FACT SHEET: GENDER DIVERSITY AND TRANSGENDER IDENTITY IN CHILDREN (2012), <http://www.apadivisions.org/division-44/resources/advocacy/transgender-children.pdf>.

- WORLD PROF'L ASS'N FOR TRANSGENDER HEALTH, STANDARDS OF CARE FOR THE HEALTH OF TRANSSEXUAL, TRANSGENDER, AND GENDER NONCONFORMING PEOPLE 16 (2012), http://www.wpath.org/uploaded_files/140/files/Standards%20of%20Care,%20V7%20Full%20Book.pdf. See Chapters VI and XIV for youth and institutional environment specifics.
- JODY MARKSAMER, A PLACE OF RESPECT: A GUIDE FOR GROUP CARE FACILITIES SERVING TRANSGENDER AND GENDER NON-CONFORMING YOUTH (2011), http://www.ncrights.org/wp-content/uploads/2013/07/A_Place_Of_Respect.pdf.
- KATAYOON MAJD ET AL., HIDDEN INJUSTICE: LESBIAN, GAY, BISEXUAL, AND TRANSGENDER YOUTH IN JUVENILE COURTS (2009), http://www.equityproject.org/pdfs/hidden_injustice.pdf. To request a hard copy, email info@equityproject.org.
- NAT'L CTR. FOR LESBIAN RIGHTS, THE LEGAL RIGHTS OF LESBIAN, GAY, BISEXUAL, AND TRANSGENDER YOUTH IN THE JUVENILE JUSTICE SYSTEM (2006), http://www.ncrights.org/wp-content/uploads/2013/07/LGBTQ_Youth_Juvenile_Justice_Legal_Rights.pdf.
- THE EQUITY PROJECT, LGBT YOUTH IN JUVENILE COURT: PRACTICE TIPS FOR JUVENILE DEFENDERS (2010) http://www.equityproject.org/pdfs/LGBT_Youth_in_Juvenile_Court.pdf.
- NAT'L CTR. FOR TRANSGENDER EQUALITY, TRANSGENDER AND GENDER NON-CONFORMING STUDENTS: YOUR RIGHTS AT SCHOOL (2012), http://transequality.org/Resources/EducationKnowYourRights_June2012.pdf.
- Katayoon Majd et al., *Redacted Court Order Regarding Transgender Youth*, in HIDDEN INJUSTICE: LESBIAN, GAY, BISEXUAL, AND TRANSGENDER YOUTH IN JUVENILE COURTS 157 (2009), http://www.equityproject.org/pdfs/hidden_injustice.pdf.
- *Doe v. Bell*, 754 N.Y.S.2d 846 (N.Y. Sup. Ct. 2003), *available at*: <http://www.equityproject.org/pdfs/doe%20v.%20bell.pdf>.
- *R.G. v. Koller*, 415 F. Supp. 2d 1129 (D. Haw. 2006), <http://www.equityproject.org/pdfs/RG%20v%20Koller%20-%20prelim%20injunction.pdf>.
- Nancy Jeffrey, *Transgender Girl: 'I Love This Life So Much Better'*, PEOPLE.COM (June 27, 2013, 4:00 PM), <http://www.people.com/people/article/0,,20712691,00.html>.
- *Transgender Youth*, NAT'L CTR. FOR LESBIAN RIGHTS, <http://www.ncrights.org/explore-the-issues/transgender-law/transgender-youth/> (last visited Oct. 20, 2014).
- *Know Your Rights: A Legal Guide for Trans People and Their Advocates*, LAMBDA LEGAL, <http://www.lambdalegal.org/know-your-rights/transgender> (last visited Oct. 20, 2014).
- *The Name Change Project*, TRANSGENDER LEGAL DEF. & EDUC. FUND, http://www.transgenderlegal.org/work_show.php?id=7 (last visited Oct. 20, 2014).
- TRANS YOUTH SUPPORT NETWORK, <http://www.transyouthsupportnetwork.org/> (last visited Oct. 20, 2014).
- GENDER SPECTRUM, <https://genderspectrum.org/> (last visited Oct. 20, 2014) (providing education, training, and support to help create a gender-sensitive and inclusive environment for all children and teens).
- FAMILY ACCEPTANCE PROJECT, <http://familyproject.sfsu.edu/> (last visited Oct. 20, 2014) (working to decrease health and related risks for lesbian, gay, bisexual and transgender youth, such as suicide, substance abuse, HIV, and homelessness, in the context of their families).
- TRANS YOUTH FAMILY ALLIES, <http://www.imatyfa.org/> (last visited Oct. 20, 2014) (serving as a resource for parents, educators, and healthcare practitioners).
- Sample policy provisions from selected states

LESSON OVERVIEW

This lesson overview is intended to be a simple road map for trainers to understand what the lesson covers, which sections are interactive, and how long each section is estimated to last. It should serve as a guide for highlighting key points, as well as a resource for trainers to decide whether they are capable of delivering the lesson, and whether the lesson is appropriate for the intended audience. Trainers may also find it a useful tool for keeping track of time and flow of the lesson as they deliver it.

TRAINER NOTE

Prior to facilitating this training, it is strongly recommended that the trainer read the Additional Resources materials: APA Q&A, the APA fact sheets, and Chapter 1 of “A Place of Respect” to ensure that they have an understanding of gender identity in youth and adolescence.

I. Introduction (10 minutes)

The trainer will introduce himself or herself to participants, review the lesson objectives, and set the ground rules for the training.

II. Overview of Key Vocabulary and Concepts: What Does “Transgender” Mean? (30 minutes)

The trainer will provide an overview of the key concepts and vocabulary relevant to gender identity and gender expression. The trainer will use visual aids and an interactive activity to reinforce learning.

- **Activity: SOGIE Scale review.** Participants will review the definitions of sex assigned at birth, gender identity, gender expression, and sexual orientation. Participants will also focus more on terminology and concepts related to being transgender.
- **Activity: True/False/It Depends.** The trainer will engage participants in an activity giving them statements about transgender youth to reinforce basic conceptual knowledge.

III. Experiences of Transgender Youth: Personal Stories (55 minutes)

The trainer will present the experiences of transgender youth in the juvenile justice system, using videos and facilitating discussion after each one.

- **Activity: Videos of Transgender Youth**
 - “Angie”
 - Excerpt from “In the Life”
 - Excerpt from “Living a Transgender Childhood”

The trainer will use the discussion questions provided after each video to engage participants in reflection on the experiences of the youth in the videos.

IV. Transgender Youth in the Medical Context—Professional Standards of Care (30 minutes)

The trainer will present information on diagnosis, social transition, mental health, and medical protocols. The trainer will use a video of a pediatrician who works with transgender youth in which she discusses gender identity, social transition, and reversible, irreversible, and partially reversible effects of medical transitions. After the video, the trainer will ask questions to reinforce the key takeaways.

- **Activity: Video Interview of Dr. Johanna Olson**

The trainer will also provide information and literature from leading research organizations about professional standards of care in the medical community.

V. Transgender Youth in School and Out-of-Home Placements (1 hour 15 minutes)

A. Transgender Youth in School

The trainer will share data on the experiences of transgender youth in schools as compared with their lesbian, gay, and bisexual peers.

B. Transgender Youth in Out-of-Home Placement

The trainer will share information about how transgender youth in placement face a high risk of physical and sexual assault, using audio clips and written statements from transgender youth.

- **Activity: Audio Clip, Mariah**
- **Activity: Written Testimony of Cyryna, read aloud**
- **Activity: Written letter from Jane Doe to Governor Malloy, read aloud**

C. Legal Protections

Participants will learn about some of the important legal cases regarding the standards of care for transgender youth in out-of-home placement: *R.G. v. Koller*, 415 F. Supp. 2d 1129 (D. Haw. 2006) and *Doe v. Bell*, 194 Misc. 2d 774, 754 N.Y. S. 2d 846 (N.Y. Sup. Ct. 2003).

Participants will also discuss relevant provisions of the Prison Rape Elimination Act (PREA) Juvenile Facility Standards.

D. State and Local Protections

If local policies or other standards regarding the standards of care for transgender youth in custody exist in the jurisdiction of the training, the trainer will briefly highlight those provisions for participants.

VI. Putting It into Practice (1 hour)

The trainer will work with participants to identify best practices for serving transgender youth in the juvenile justice system. The trainer will do this through an interactive exercise where participants will review excerpts from a model policy or their own policy if they have one.

- **Activity: Policy Review.** Participants will review a model policy and be assigned a section to discuss in groups, using guiding questions to explore how they might implement such practices or add to them.

VII. Wrap-Up (10 minutes)

The trainer will end with time for questions and an activity.

- **Activity: Head Heart Step.** Participants are given the opportunity to share one fact they learned, one value or guiding principle that is important when it comes to transgender youth, and one manageable and concrete action step they will take from the training.

FACILITATION NOTES

I. Introduction (10 minutes)



After introducing yourself to participants, engage in a general introduction of the lesson, reviewing the purpose and objectives of the lesson with participants. Explain the global purpose of this lesson and why there is a stand-alone lesson on transgender youth when there are no stand-alone lessons on gay, lesbian, or bisexual youth. Although information about transgender youth is incorporated throughout each of the lessons in *Toward Equity*, a specialized lesson on transgender youth exists for three reasons:

1. Due to the gender-segregated nature of the juvenile justice system, distinct issues arise for transgender youth.
2. Transgender youth and their needs are more likely to be misunderstood by juvenile justice stakeholders.
3. Because stakeholders are likely to have less exposure to people who are transgender, stakeholders often have many questions about what it means to be transgender and how to best work with transgender youth.

This lesson has three overarching goals:

- First, to explore what it means to be transgender and develop understanding of and sensitivity toward transgender youth.
- Second, to explore the unique issues transgender youth face in out-of-home confinement, both pre-trial and post-disposition, because transgender youth in the juvenile justice system often experience the greatest difficulties and encounter discrimination related to their gender identity or expression in placement facilities.
- Third, to offer resources to assist juvenile justice professionals in providing safe and affirming settings for transgender youth in their care.

II. Overview of Key Vocabulary and Concepts—What does “Transgender” Mean? (30 minutes)



This lesson is primarily intended for participants who have completed *Toward Equity: Lesson One – Understanding Sexual Orientation, Gender Identity, and Expression*, or some other introductory training. Ask how many people have ever had any sexual orientation, gender identity, and gender expression (SOGIE) training or training on LGBT youth in the juvenile justice system to determine whether this section is a review or new material. Either way, frame this lesson by briefly going over key concepts and vocabulary relevant to gender identity and gender expression. Although the lesson emphasizes gender identity and expression, the trainer should also discuss sexual orientation terminology, if only to clarify the distinction.

ACTIVITY: SOGIE SCALE REVIEW

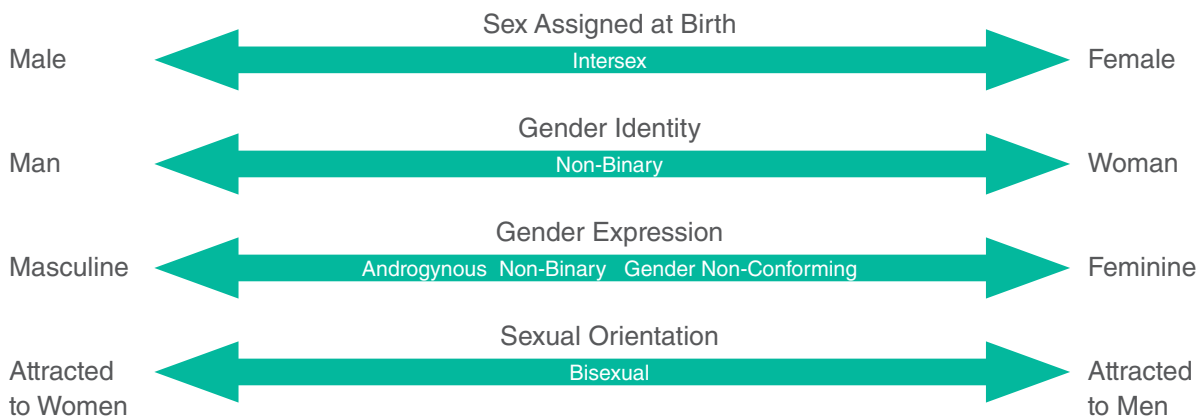
Hand out and review the SOGIE Scale. The purpose of this review is to explain and distinguish gender identity, sexual orientation, gender expression, and sex assigned at birth. Provide participants with a handout copy of the image and/or have it projected on a screen. Facilitate a discussion about the image, using the points about each term that follow as a guide. This is a good opportunity to explain that these dimensions of identity exist in every human being, and there is considerable variation within each dimension.



OPTIONAL
TOOL

Celebrity Photos: As an additional visual aid, trainers may wish to find photos of celebrities from across the SOGIE spectrum to make these points more vividly. If the trainer chooses to use this tool, it is important to point out that we only know the sexual orientation or gender identity of a celebrity when he or she has come out publicly.

SOGIE CHART¹



Sex: Assigned at birth, a biological construct based primarily on physical attributes such as chromosomes, external and internal genital and reproductive anatomy, and hormones.

Gender Identity: A person's internal identification or self-image as male, female, something in between, or outside of the male/female binary. Everyone has a gender identity. One's gender identity may or may not be consistent with one's sex assigned at birth.

- No one can determine another person's gender identity; we can only know if that person tells us.
- Gender identity is usually established by age three.²
- Many people do not think much about their gender identity when it is congruent with their sex assigned at birth. This is not true for every person.

¹ This chart is adapted from <http://www.thetrevorproject.org/pages/spectrum> and <http://www.gendersanity.com/diagram.html>.

² EDWARD L. SCHOR, AM. ACAD. OF PEDIATRICS, CARING FOR YOUR SCHOOL-AGE CHILD: AGES 5–12 (rev. ed. 1999) (excerpt compiled by TransYouth Family Advocates and available http://www.imatyfa.org/permanent_files/american-academy-of-pediatrics-6-2007.pdf).

Transgender: Describes a person whose gender identity and sex assigned at birth do not match. Trans or Trans* is sometimes used as shorthand for transgender.

- A transgender boy is someone whose gender identity is male but who was assigned a female sex at birth. He understands himself to be male and lives as or desires to live as a boy and, later, a man.
- A transgender girl is someone whose gender identity is female but who was assigned a male sex at birth. She understands herself to be female and lives as or desires to live as a girl and, later, a woman.
- A transgender person may know his or her gender identity at a very young age, as early as two or three years old. Some children, with supportive parents and adults, may start to express that gender identity through clothing, hairstyles, chosen names and pronouns, or even taking hormone blockers as children and adolescents. Other transgender people may not do any of these things until they are adults. The steps that people take to begin expressing their authentic gender are often referred to as “transition.” This will be covered in more detail later in the lesson.
- The medical community often refers to individuals who wish to alter their bodies to make their anatomy more in line with their gender identities as transsexuals. However, *transsexual* is not a term that is used very often among youth or by transgender community members.
- Transgender people may use different terms to identify themselves.

Gender Expression: Describes how individuals communicate their gender to others. People express and interpret gender through hairstyles, clothing, physical expression and mannerisms, physical alterations of their body, or by choosing a name that reflects their own idea of gender identity.

- Gender expression can be situational (e.g., expressing gender differently when at work or visiting with family than with friends). It may be purposeful, unknowing, or defined for someone by others.
- All people desire to communicate their gender identity through expression in a way that feels comfortable to them.

Gender Non-Conforming: Describes a person who does not subscribe to gender expression or roles imposed by society. Similar terms include: *gender creative*, *gender variant*, *genderfluid*, *genderqueer*, and *pangender*. One example is a girl or woman who, in the past, may have been referred to as a “tomboy.”

- Many transgender people after transition have a gender expression that conforms to their identified gender. One cannot tell if someone is transgender based on gender expression alone.

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

- Transgender people may be straight, lesbian, gay, bisexual, or asexual, just as cisgender people may be straight, lesbian, gay, bisexual, or asexual.

These four scales (Sex Assigned at Birth, Gender Identity, Gender Expression, and Sexual Orientation) are independent of one another. Cultural expectations are that men/boys occupy the extreme left ends of all of the scales and that women/girls occupy the right ends. However, in reality, a person may occupy different parts of each scale. Thus, a person with a male sex assigned at birth could be attracted to men, could have a gender identity of a woman, could have a feminine gender expression, or could have any combination of these. A person with a female biological sex could identify as a woman, have a more masculine gender expression, and be attracted to women, etc.

ACTIVITY: TRUE/FALSE/IT DEPENDS

This activity is designed to increase the comfort level of the participants by engaging them physically and mentally, encouraging group process, and creating a safe space to ask questions and express uncertainty.

Post signs evenly spaced along one side of the room. On one end, place a sign that reads “True,” and on the other end, place a sign that reads “False.” In the middle, place a sign that reads “It Depends.” Read a series of statements, and ask participants to physically go to the sign that corresponds with their best answer. If there are too many participants for everyone to stand up and move around, ask for a show of hands for each answer (True, False, and It Depends) instead. Give participants who decided on the same answer a minute to discuss with each other why they chose their answer. Then, give the participants the opportunity to change their answer if they wish. After people have selected their final answer, ask for a volunteer who feels confident about his or her answer to explain it to the group. Use this opportunity to discuss each statement and explain any ambiguity, as well as provide additional information to remove ambiguity. Suggested explanatory comments appear in italics.



This may be an opportune time to reiterate that this is a safe space, and this exercise is intended to surface a complete understanding of the terms and answer any questions, so that participants do not feel bad if they get any wrong.

I. Every person has a gender identity.

(True): We all identify as men, women, or some other category. Many people do not think much about their gender identity as distinct from their sex assigned at birth, because these are often congruent. The issue comes up more for people whose “brain sex” and sex assigned at birth are incongruent.

II. A 12-year-old boy who wears girls’ clothes is transgender.

(It Depends): Remember that gender identity and gender expression are not the same. Here, we do not know this boy’s gender identity. Not every gender non-conforming person is transgender. A person who identifies as female may dress or behave in a stereotypically masculine manner. Likewise, a person whose gender identity is male may have a female gender expression or presentation. The only way we will know if the boy identifies as transgender is if he tells us.

III. A 12-year-old girl who only wears masculine clothing is a lesbian.

(False/It Depends): Remember that gender expression and sexual orientation are also separate aspects of a person’s identity. Although there are many gay, lesbian, and bisexual people (GLB) who express their gender in a way that is gender non-conforming, there are also many GLB people who are gender-conforming. Likewise, straight men and women can be gender-conforming or gender non-conforming. This girl may be a lesbian, but the only way we would know would be if she told us.

ACTIVITY: TRUE/FALSE/IT DEPENDS (CONT.)

IV. Children under 12 are too young to know they are transgender.

(False): While transgender people may begin to understand or publicly express their gender identity at any age, research shows that gender identity is formed at a very early age, often emerging around the same time that a child begins to speak. When a child's gender identity and sex assigned at birth are not congruent, the child often begins voicing this discrepancy between the ages of two and four, although very young children are unlikely to use the term "transgender" to describe how they feel.³

V. Efforts to change a youth's gender identity are ineffective.

(True): There is agreement among health professionals that a person's gender identity is such an inherent aspect of who they are that efforts to change a person's "brain sex" are both ineffective and likely to cause harm.⁴ Although some youth who are chastised or abused when they express their gender incongruity may feel forced to hide who they understand themselves to be, this young person's identity has not changed. Similarly, a teenage girl who has always been very masculine, but has begun presenting herself in a more feminine manner because she wants to fit in with peers, has changed her gender expression not her gender identity.



It may be important here for the trainer to reinforce the difference between sexual orientation, gender identity, and gender expression, referring participants back to the SOGIE scale if necessary.

After the activity, make sure there are no lingering questions about the terminology before continuing.

III. Experiences of Transgender Youth: Personal Stories (55 minutes)



The goal of this section of the lesson is to humanize transgender youth and to increase understanding and empathy. Choose one or more videos to show in this section. The trainer should leave at least ten minutes after the videos for questions and discussion.

This section of the lesson will address the following questions:

- How and when do youth know they are transgender?
- How do parents, siblings, teachers, and friends react to youth coming out as transgender?
- What is the process of social transition like for youth in different settings?



If participants ask for more information, see the Additional Resources section, which contains resources for families, professionals, and transgender youth.

³ STEPHANIE BRILL & RACHEL PEPPER, THE TRANSGENDER CHILD: A HANDBOOK FOR FAMILIES AND PROFESSIONALS 16–17 (2008).

⁴ GIANNA E. ISRAEL & DONALD E. TRAVER II, TRANSGENDER CARE: RECOMMENDED GUIDELINES, PRACTICAL INFORMATION & PERSONAL ACCOUNTS 13–15 (1997).

ACTIVITY: VIDEOS OF TRANSGENDER YOUTH

Consider screening one or more short videos in which transgender youth discuss their experiences. Three video clips are recommended here with listed timing and discussion questions, but there are many others that are available from various online video services. Additional optional videos are listed after the discussion questions and in the Additional Resources section at the beginning of the lesson. It is important that the trainer view the videos prior to the training and select the specific videos he or she intends to use. All videos are available on The Equity Project YouTube Channel, accessible via www.equityproject.org.

Video 1: “Angie”

Discussion Questions:

- I. What does Angie mean when she states she “wasn’t born to think the way a man thinks,” but “to think the way a woman thinks”?
- II. Transgender youth are often met with resistance from outside social influences, such as family, school, and community—especially when they express their gender identity at a young age. What are some things we could do to make Angie’s space more welcoming?
- III. Angie briefly discusses the difference between sexual orientation and gender identity when she states, “My insides are not boy; they are woman.” How is sexual orientation different from gender identity?

Video 2: Show an excerpt from the video “In the Life,” March 2011: Our Bodies, Our Rights—Juvenile Injustice Segment (beginning at 7:45 and stopping at 11:07)

Discussion Questions:

- I. Lily discusses several instances where the juvenile justice system failed to affirm and protect her identity (e.g., staff at a group home did not intervene in fights, and Lily was placed in an all-boys facility). What could have been done differently?
- II. What risks did Lily face by being placed in an all-boys facility?

Video 3: Show an excerpt from “Living a Transgender Childhood” (starting at the beginning and stopping at 9:00)

Discussion Questions:

- I. How and at what age did Josie know she was transgender?
- II. What difference did having a supportive family make in Josie’s life?
- III. What issues was Josie struggling with regarding the development of her physical body in relation to her gender identity as a female?

Alternative/Additional Videos



OPTIONAL
TOOL

We have not drafted discussion questions for these alternative videos. Watch the videos in advance of the training and use the discussion questions from the other videos as a guide in order to develop your own. Videos are available through www.equityproject.org.

- *Unheard Voices of Transgender Youth from Children’s Hospital in Los Angeles*
- *11-year-old Jazz tells her story in a video message to Obama*
- *What’s It Like to Be a Teen and Transgender (Australia)*

IV. Transgender Youth in the Medical Context—Professional Standards of Care (30 minutes)

ACTIVITY: VIDEO INTERVIEW OF DR. JOHANNA OLSON⁵

Introduce the video clip by reminding people that being transgender has many psychological and physical implications for youth and telling people that they are going to see an interview with a physician about transgender youth and some common misconceptions.

Show the 13-minute video, available on The Equity Project YouTube Channel, accessible via www.equityproject.org.

After the video, the trainer should engage participants in a discussion by asking:

- What participants thought about the video
- If the participants found anything surprising
- If participants learned anything that they didn't know previously
- If participants know the different types of transition-related medical care
 - reversible
 - partially reversible
 - irreversible
- If participants know what *social transition* is
- If participants know at what age most youth start having an understanding of their gender identity

After the discussion, hand out the following Training Materials:

1. *American Psychological Association Policy Statement on Transgender, Gender Identity, & Gender Expression Non-Discrimination*⁶
2. *NCCHC Position Statement: Transgender Health Care in Correctional Settings*⁷



After providing the handouts, the trainer should use the following notes to provide participants with additional information regarding medical support for gender transition:

- Both the American Medical Association (AMA) and the American Psychological Association (APA) have adopted public statements recognizing the necessity of transition-related medical care, and calling for improved access to these treatments.⁸ Both groups reject the misconception that these treatments are “cosmetic” or “experimental” and recognize transition-related medical care as effective, therapeutic, and a “medical necessity...for appropriately evaluated individuals.”⁹
- In addition, these and other reputable organizations have adopted statements specifically regarding the need for transgender-specific care in institutional settings. For example, the APA has adopted a statement recognizing the necessity of providing transition-related care for transgender people in institutional settings and calls on institutions—including juvenile justice facilities—to provide such care.¹⁰

⁵ morganwhitemedia, *Transgender Youth 101*, YouTube (Oct. 30, 2013), <https://www.youtube.com/watch?v=dELA6CkO7bM&feature=youtu.be> (interview with Dr. Johanna Olson, Children's Hospital of Los Angeles).

⁶ *Transgender, Gender Identity, & Gender Expression Non-Discrimination*, AM. PSYCHOLOGICAL ASS'N, <http://www.apa.org/about/policy/transgender.aspx> (last visited Oct. 20, 2014) [hereinafter *APA Transgender Policy Statement*].

⁷ *Transgender Health Care in Correctional Settings*, NAT'L COMM'N ON CORR. HEALTH CARE, <http://www.ncchc.org/transgender-health-care-in-correctional-settings> (last visited Oct. 20, 2014) [hereinafter *NCCHC Position Statement*].

⁸ See AM. MED. ASS'N, RESOLUTION 122: REMOVING FINANCIAL BARRIERS TO CARE FOR TRANSGENDER PATIENTS (2008), http://www.tgender.net/taw/ama_resolutions.pdf; *APA Transgender Policy Statement*, *supra* note 6.

⁹ *APA Transgender Policy Statement*, *supra* note 6.

¹⁰ *Id.*

- Similarly, the National Commission on Correctional Health Care (NCCHC) has adopted a position statement that provides guidance to healthcare professionals in juvenile justice facilities, prisons, and jails about their responsibility to ensure the physical and mental health and well-being of transgender people in their custody.¹¹ According to NCCHC, the proper approach to transgender medical management is to follow the World Professional Association for Transgender Health (WPATH) Standards of Care.


TRAINER NOTE

Use the following questions and talking points to explain to participants what their role is with regard to identifying transgender youth and medical care. Participants should be aware of this responsibility and should understand they are *not* responsible for conducting assessments or determining treatment or transition needs themselves.

- Ask participants what their role is in ensuring transgender youth's access to medical care. Use the following points to facilitate a discussion:
 - All juvenile justice professionals play an important role in ensuring that youth in the custody or under supervision of the court have access to adequate medical and mental health care. If a youth says he or she is transgender, is distressed about his or her gender, or has a prior Gender Dysphoria diagnosis,¹² juvenile justice professionals should ensure that the youth has the opportunity to have an evaluation with a mental health provider with appropriate expertise in this area, if desired by the youth.
 - It is crucial to note that most juvenile justice professionals are not responsible themselves for determining a transgender youth's particular treatment needs. Decisions about what, if any, type of treatment a transgender youth should receive are medical decisions and can only be made by appropriately licensed professionals with relevant and current expertise and training in the treatment of young people who are transgender. All treatment decisions should be made in collaboration with the youth themselves.


PRACTICE TIP

Any specific questions that juvenile justice personnel have about hormone therapies, street drugs, or whether and how they should be continued while in custodial settings should be referred to a medical expert. Similarly, issues related to parental consent will vary from jurisdiction to jurisdiction and can also be addressed by medical personnel and/or an attorney.

After sharing the additional medical information, tell participants that, now that they have a basic understanding of what it means to be transgender, they are going to move to experiences of transgender youth in schools and out-of-home placements, including secure confinement within the juvenile justice system.

V. Transgender Youth in School and Out-of-Home Placements (1 hour 15 minutes)


TRAINER NOTE

Convey to participants the importance of treating youth congruent with their gender identity prior to entry into the juvenile justice system (at home, in school, etc.), using the discussion held after viewing the video of Dr. Johanna Olson to emphasize that point. Point out that treating youth congruent with their gender identity is a protective factor that may assist with preventing entry into the juvenile justice system. Additionally, treating youth according to their gender identity who are in out-of-home care placements is consistent with the rehabilitative goals of the juvenile justice system.

¹¹ See NCCHC Position Statement, *supra* note 7.

¹² See Mark Moran, *New Gender Dysphoria Criteria Replace GID*, PSYCHIATRIC NEWS (Apr. 5, 2013), <http://psychnews.psychiatryonline.org/newsArticle.aspx?articleid=1676226>. Gender dysphoria is a new diagnostic class in the *DSM (Diagnostic and Statistical Manual of Mental Disorders)*, which replaces the previously used "gender identity disorder" diagnoses. A diagnosis of gender dysphoria recognizes individuals who seek treatment related to gender and focuses on gender incongruence rather than cross-gender identification and is intended to limit the stigma previously associated with such a diagnosis.

A. Transgender Youth in School

- Compared to their LGB student peers, transgender students faced the most hostile school climates:
 - More than 50% of cisgender females and more than 50% of cisgender males surveyed reported they felt unsafe because of their sexual orientation.¹³
 - However, over 75% of transgender students nationwide¹⁴ report feeling unsafe at school because of their gender expression.
- Nearly 30% of transgender students report being physically harassed at school because of their gender expression, with one-third reporting they were physically assaulted.
 - Beyond actual safety concerns, this can also lead to poor grades, truancy, dropping out, depression, use of drugs, and low self-esteem.

B. Transgender Youth in Out-of-Home Placement

Transgender youth often also have a very difficult time in out-of-home placements.

- Transgender youth in secure settings are at particularly high risk of physical and sexual assault by staff and other youth.
 - Many transgender girls placed in all-boy facilities have experienced relentless abuse and mistreatment, in addition to being forced to live as a gender with which they do not identify.
 - Too often, facilities have used isolation as the primary way to keep transgender girls safe.
- Safety risks for transgender youth can also occur in non-secure, out-of-home placements. These settings, while they may provide a bit more freedom of movement, are typically gender-specific, can have many of the same challenges with regard to overall gender competency, and are often unable to accommodate the unique privacy concerns of transgender youth. This combination can heighten the safety concerns for transgender youth.

TRAINER NOTE



Explain that you are going to share some first-hand accounts from transgender youth who have experienced mistreatment and abuse while incarcerated in juvenile facilities. These youth stories are graphic and may be upsetting. After listening to the audio clip and hearing the written testimony read aloud, participants will be asked to reflect on what they heard. You will also review the legal rights of transgender youth in out-of-home placements and will ask participants to think about these first-hand accounts in the context of the law.

ACTIVITY: AUDIO CLIP, MARIAH

Play the three-minute audio clip of Mariah for participants and ask them to reflect afterwards. Mariah discusses how she was mistreated by the police, abused in a juvenile confinement facility, and forced to shower with the boys.

- Mariah (3 minutes): available on The Equity Project YouTube Channel, accessible via www.equityproject.org.

¹³ JOSEPH G. KOSCIW ET AL., GAY, LESBIAN & STRAIGHT EDU. NETWORK, THE 2013 NATIONAL SCHOOL CLIMATE SURVEY (2014), <http://www.glsen.org/sites/default/files/2013%20National%20School%20Climate%20Survey%20Full%20Report.pdf>.

¹⁴ See *id.*

ACTIVITY: AUDIO CLIP, MARIAH (CONT.)

After a few minutes for reflection (either silently or shared), read out loud the following excerpt from testimony given by Cyryna, a transgender girl, to the National Prison Rape Elimination Commission:

“I endured...verbal harassment nearly every day. When we were in the common area watching television, the boys would touch and rub my legs without my permission....They would say things like, ‘Why don’t you touch this?’ and threateningly say ‘I am going to touch you.’ On several occasions, they even masturbated in front of me. Other times they would come up from behind, grab my waist, and rub up against my buttocks. Staff were always present when these things were happening, but usually ignored it or failed to pay attention. In some instances [staff] heard what was being said and laughed or encouraged the boys’ conduct in some other way.”¹⁵

Ask participants for any reactions or thoughts based on the testimony and use the following discussion questions:

- What went wrong for Cyryna and Mariah?
- If professionals had become aware that this was going on in a juvenile facility in their jurisdiction, what are some things various stakeholders could have done to address it?



OPTIONAL
TOOL

Jane Doe Letter to Ct. Governor: If time allows, hand out “Jane Doe’s letter to Connecticut Governor Malloy,” and ask participants to take turns reading it aloud. Another way to facilitate this is to provide one or two sentences of the letter on individual index cards to participants and have them read those aloud. You may choose to use this instead of Cyryna’s testimony or Mariah’s audio clip. The trainer should tell participants that Jane Doe is a transgender girl who was in the custody of the Connecticut Department of Child and Family Services, with no criminal adjudication, who was held in an adult women’s prison and in a juvenile male facility. Also note that, because neither an adult prison nor a juvenile male facility was appropriate or safe placements, Jane Doe was housed in isolation during her entire stay.

Dear Governor Malloy, I am writing you to let you know that today is my anniversary. I have been sitting in this prison for a month now and there is no plan to get me out. I am suffering in here. I’m having trouble sleeping and I’m not eating much. I cry in bed every night. I can’t be myself in this place. I feel forgotten and thrown away. As you probably know, these feeling are not new for me. This is the way my life has been going since I was a little kid. My lawyer says that Commissioner Katz is the only one who can fix this but when I wrote her a letter it didn’t help. She has given up on me. If you’re her boss you can do something, right? Everyone says I need to be somewhere where I can get help and Katz keeps telling everyone that she is working to get me out of here but I don’t believe her. I think this is just another one of her stories that isn’t true. I want to call her a liar but people tell me that I shouldn’t say that about someone important like her. All I know is that she has said a lot of things about me that aren’t true. She was on TV telling people I blinded someone and broke their jaw. That was a lie. She said that she never asked that I go to Manson.

¹⁵ JODY MARKSAMER, A PLACE OF RESPECT: A GUIDE FOR GROUP CARE FACILITIES SERVING TRANSGENDER AND GENDER NON-CONFORMING YOUTH 37 (2011), http://www.ncirights.org/wp-content/uploads/2013/07/A_Place_Of_Respect.pdf.

That was a lie. She told everyone that I should be going to that new girls program at Riverview. That was a lie. Now she is telling people she is trying to get me out of here but nothing is happening. I hear people talking and they are saying that I am going to be here till I'm 18. I am done with DCF. They just want to make up stuff about me so that everyone thinks I am some kind of wild animal. Is it Ok for them to do this? To just lie about me and throw me in prison and forget about me? If I was in charge I wouldn't let this happen. If you're the Governor then you are in charge of everyone who works for the state. DCF is supposed to be helping me, right? If this is helping me then I'm all set with being helped. I would be a lot better off being on my own. It seems like you're my last chance to get out of here. Don't forget about me. I can't take another month of this.

Jane Doe

Allow participants an opportunity to reflect on the letter, either silently or sharing any thoughts aloud that they volunteer.

Use the following talking points to share information about transgender youth in out-of-home placement:

- Transgender youth have legal rights in out-of-home placements. While rights of incarcerated youth may be more limited, they do not disappear.
- The law has been clear for many years that youth in custody have the constitutional right to:
 - be free from unreasonable conditions of confinement
 - be safe from assault by other youth or adults
 - have equal access to programs, education, and facilities
 - have access to necessary medical care¹⁶
- A handful of court cases in recent years, as well as some new federal regulations, have helped explain how the law applies to the specific circumstances of transgender youth.

C. Legal Protections



Provide the following case summaries as a handout. If you are familiar with the cases and are comfortable discussing them, you can ask if there are questions. If not, refer participants to The Equity Project if they want more information or have specific questions. In either case, point out that, increasingly, the courts and the federal government are looking at how transgender youth are treated in the juvenile justice system, and that understanding transgender youth and the laws that protect them can inform how we as juvenile justice stakeholders approach our work with an eye toward best practices.

¹⁶ NAT'L INST. OF CORR., U.S. DEP'T OF JUSTICE, A QUICK GUIDE FOR LGBTI POLICY DEVELOPMENT FOR YOUTH CONFINEMENT FACILITIES 5 (2012), <https://s3.amazonaws.com/static.nicic.gov/Library/026701.pdf>.

- **R.G. v. Koller, 415 F. Supp. 2d 1129 (D. Haw. 2006)** In 2005, a 17-year-old transgender girl, an 18-year-old lesbian, and an 18-year-old boy perceived to be gay filed a lawsuit in federal court challenging the failure of the Hawaii Youth Correctional Facility (HYCF) staff to protect them from relentless harassment and verbal, physical, and sexual abuse that they suffered at the hands of staff and other youth. In 2006, the court granted the youth’s motion for preliminary injunction on due process grounds, finding that the conditions at HYCF were physically and psychologically unsafe for the youth. The court ruled that the defendants were deliberately indifferent to the health and safety of the youth in failing to provide (1) policies and training necessary to protect LGBT youth; (2) adequate staffing and supervision; (3) a functioning grievance system; and (4) a classification system to protect vulnerable youth. The court found that HYCF’s practice of isolating LGBT youth, ostensibly for their protection, violated the facility’s legal obligation to the youth. The court explained: “Consistently placing juvenile wards in isolation, not to impose discipline for violating rules, but simply to segregate LGBT wards from their abusers, cannot be viewed in any reasonable light as advancing a legitimate non-punitive governmental objective.” Experts for HYCF also noted in their report to the court that housing transgender girls on male wards was unsafe and inappropriate.
- **Doe v. Bell, 194 Misc.2d 774, 754 N.Y.S.2d 846 (N.Y. Sup. Ct. 2003)** In 2003, a New York State Supreme Court found that a boys’ group home was required to make an exception in its dress code policy to allow the plaintiff, a transgender girl housed in the home, to wear skirts and dresses. The court explained: “The evidence before the Court establishes that... Jean Doe experiences significant emotional distress if denied the right to wear...feminine clothing. Indeed, the treatment she has received for her [Gender Dysphoria] calls for her to wear feminine clothing.”

Share the following summary of key provisions of the Prison Rape Elimination Act (PREA) Juvenile Facility Standards that are particularly relevant to transgender youth:

- The 2012 Juvenile Facility Standards of PREA¹⁷ provide some very specific protections for transgender youth in confinement, which facilities across the country are required to implement, including:

 - Facilities must identify within 72 hours of arrival youth who may be vulnerable to sexual abuse because of their transgender status, gender non-conformity, sexual orientation, or intersex condition.
 - Decisions about whether to house a transgender youth in a girls’ or boys’ facility or unit must be made on a case-by-case basis, with the goal of ensuring the youth’s health and safety, and cannot be based solely on the youth’s physical anatomy or sex at birth. In addition, a transgender youth’s perception of his or her own safety must be given serious weight when making this determination.
 - Placement determinations for transgender youth must be reassessed at least twice per year to consider whether a change is necessary because of a lack of safety or other circumstances.
 - Transgender youth may only be placed in isolation for their safety on a temporary basis and as a last resort when all other less restrictive options are inadequate to keep them safe.
 - Facilities cannot consider transgender status as an indicator of likelihood of being sexually abusive.

¹⁷ Juvenile Facility Standards, 28 C.F.R. pt. 115 (2014), <http://www.prearesourcecenter.org/sites/default/files/library/preafinalstandardstype-juveniles.pdf>.

- Transgender youth should have the opportunity to shower separately from others in all circumstances.
- Staff cannot search or physically examine transgender youth for the sole purpose of determining their genitalia.
- Facilities cannot conduct cross-gender (*i.e.*, female staff and male youth, or male staff and female youth) visual body cavity searches, strip searches, or pat-down searches, except in exigent circumstances, which must be documented. In addition, cross-gender viewing of youth while unclothed is prohibited in most circumstances.
 - Staff must receive training on conducting cross-gender pat-down searches and searches of transgender and intersex youth in a professional and respectful manner and in the least intrusive manner possible.
 - Although PREA gives no clear guidance on what constitutes a cross-gender search or cross-gender viewing for transgender individuals, a solution for this has been offered by the PREA Resource Center (PRC), which is to allow the transgender resident to identify the gender or staff with whom they would feel most comfortable conducting the search.¹⁸



In the experience of The Equity Project staff, some detention staff are very resistant to this idea, believing that this is a violation of the “no cross-gender” search rules in PREA or their own state or local policies. If participants push back, it may be important to review basic terminology and concepts again about what it means to be transgender and encourage additional training. For example, if a girl who was assigned a male sex at birth asks to be searched by a female officer, that officer is not conducting a “cross-gender” search. The trainer may need to make the explicit connection and reiterate that sex assigned at birth is not the same as gender identity or gender expression.

- While the PREA Juvenile Facility Standards do not explicitly say anything about transportation (*e.g.*, transporting youth to and from court and, once in court, transporting youth to and from the courtroom), we believe the Juvenile Facility Standards that apply to housing and searches should be used in transporting transgender youth as well.
 - For example, many states require female corrections officers and court officers to transport girls, but in practice it is often male corrections staff and male court officers.
- Staff must also receive training on how to communicate effectively and professionally with LGBT and gender non-conforming youth.



Names and Pronouns

- When addressing or referring to youth, professionals should be consistent with all youth. If staff address youth by their first names, they should use the name chosen by the youth, as long as it does not compromise safety (*i.e.*, gang names).
- If professionals address youth by their last names, they should use the title that corresponds to the youth’s gender identity (Mr., Miss, Ms.) regardless of the youth’s housing or classification (*e.g.*, “Mr.” should be used to address a boy or a transgender boy even if he is housed primarily with girls).
- Pronouns (he, she, his, hers, they, ze, zir, zem) should be consistent with the youth’s affirmed gender. “It” should never be used to refer to a human being.

¹⁸ *Cross-Gender Supervision*, NAT’L PREA RESOURCE CTR., <http://www.prearesourcecenter.org/node/1069> (last visited Oct. 20, 2014) (question 3).



Toward Equity: Lesson Three –Enhancing Communication and Building Trust with LGBT Youth is entirely about communicating with youth about SOGIE. If the trainer wants to address the aspects of communication with transgender youth more explicitly, he or she may want to incorporate aspects of that lesson or facilitate it in conjunction with this lesson.



These are additional audio clips that the trainer may choose to play depending on time and audience.

- Kelly: http://www.urbanjustice.org/oral_history/kelly.mp3
- Amanda: http://www.urbanjustice.org/oral_history/amanda.mp3

D. State and Local Protections

Beyond federal legal standards, there are numerous jurisdictions across the country that have started to develop and implement some very detailed policies over the last ten years to ensure that transgender youth (as well as LGB youth) are treated fairly and respectfully while confined in juvenile facilities. There are also a handful of state non-discrimination laws that protect the rights of confined transgender youth.¹⁹

Ask participants if they are aware of any state or local laws, standards, regulations, or policies in their jurisdictions that protect the rights of transgender youth in juvenile facilities.

- If no one is aware of any, but the trainer is, then this is the time to hand out a copy of the law or policy to the group and provide a basic overview.
- If there are no local laws or policies, hand out the *Hidden Injustice* model policy and do a basic overview of what the policy addresses (topic headings), letting participants know that during the next exercise they will have the chance to explore the model policy or their own policy in greater detail.

VI. Putting It into Practice (1 hour 20 minutes)

Now that participants have an understanding of the experiences and rights of transgender youth, engage them in a discussion of best practices for serving transgender youth in the juvenile justice system using a sample model policy. If a jurisdiction has a policy, use that, as well. It is critical to tell participants that:

- Best practices are just that: the best way of addressing the issue sensitively, but in a way that still allows one to do his or her job.
- The participants may or may not have policies in place that comport with best practices. Even without a policy in place, professionals should strive to employ best practices as a means of ensuring the health and well-being of all youth in their custody.

¹⁹ See, e.g., CAL. WELF. & INST. CODE §§ 224.71(i), 224.73. (prohibiting harassment and discrimination based on actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, and HIV status in all California Department of Juvenile Justice (DJJ) facilities); MINN. STAT. § 363A.02(a)(4) (2014) (prohibiting discrimination in public services based on race, color, creed, religion, national origin, sex, marital status, disability, sexual orientation, and status with regard to public assistance); OR. REV. STAT. § 179.750(2) (2014) (prohibiting discrimination based on sexual orientation and gender identity in state institutions, including juvenile justice facilities); R.I. GEN. LAWS § 28-5.1-7(a) (2014) (“Every state agency shall render service to the citizens of this state without discrimination based on race, color, religion, sex, sexual orientation, gender identity or expression, age, national origin, or disability. No state facility shall be used in furtherance of any discriminatory practice nor shall any state agency become a party to any agreement, arrangement, or plan which has the effect of sanctioning those patterns or practices.”).

- Similarly, even with no local policy, an agency must — at a minimum — meet constitutional and statutory requirements, such as those found in PREA. However, constitutional and statutory provisions generally represent minimum standards. State regulations, local policy, and generally accepted professional practice often go further than these minimum standards.

ACTIVITY: POLICY REVIEW

Divide participants into five to ten groups of between two and five people. Assign each group one of the following headings:

- General Facility Operations
- Confidentiality
- Intake
- Youth Placement
- Names and Language
- Clothing and Gender Presentation
- Bathrooms and Showers
- Medical and Mental Health Care
- Search Issues
- Transportation

Each group will review the *Hidden Injustice* model policy (and the local policy if there is one). Together, they should examine the policies through the lens of their assigned topic area and reflect on specific questions that follow. After the small group has had a chance to discuss, they should prepare to report out to the full group.

Each group should read the assigned section of the policies and discuss using the following guiding questions:

- What are the current practices in your jurisdiction related to the policy?
- Is anything missing from the policy based on what you have learned or your own experiences with this population?
- Are there specific parts of these policies that would be difficult to implement? If so, what would need to happen to overcome these obstacles?
- What is the role of other systems stakeholders in ensuring compliance with this policy?



If there is a local policy in place, trainers need to be sensitive to the fact that front-line staff may not have the ability or willingness to “critique” policies they are required to follow. Also, trainers should be aware that organizers who are not anticipating such a critique may push back. Trainers should understand that a session like this in a competency-building curriculum is not typically the best venue for overt policy change. Instead, exercises like this one are intended to get participants thinking about best practices and, if a policy already exists, how they can use those best practices within the context of the existing policies. If the existing policy is problematic and actual policy reform is needed, efforts beyond working with front-line staff in a training are likely more appropriate.

ACTIVITY: POLICY REVIEW (CONT.)

If participants are interested in seeing examples other than the model policy of what varying jurisdictions have implemented, pass out the Additional Resources list of Other Policies/Policy Excerpts. Make sure to tell participants that The Equity Project does not necessarily endorse any one of these policies in their entirety as a model, but that each policy has good provisions.

Model Policy & Practice Guidelines for Providing Non-Discriminatory Services to Lesbian, Gay, Bisexual, and Transgender (LGBT) Youth in Juvenile Justice Facilities, taken from Hidden Injustice.

I. Purpose

In accordance with state and federal laws, each youth under the jurisdiction of [facility] has the right to live in an environment free of harassment and discrimination. [This facility] is committed to providing a healthy and accepting setting for all youth placed in its care by training staff, instituting policies, and educating youth to respect each other. [This facility] does not tolerate discrimination or harassment by employees, volunteers, contract providers, or youth.

The purpose of these Policy and Practice Guidelines is to establish operational practices that reinforce [this facility's] commitment to respect the dignity of lesbian, gay, bisexual, and transgender (LGBT) youth, create a safe environment for all members of the [facility] community, and ensure that all youth have equal access to all available services, placement, care, treatment, and benefits provided by [this facility].

II. Policy

- It shall be the policy of [facility] to maintain and promote a facility that provides the highest quality of services to youth regardless of their actual or perceived sexual orientation or gender identity. LGBT youth confined at [facility] shall receive fair and equal treatment, without bias and in a professional and confidential manner based on principles of sound professional practice.
- Employees, volunteers, and contractors that offer services to youth confined at [facility] shall not discriminate against or harass any youth in their care based on a youth's actual or perceived sexual orientation or gender identity.
- [Facility] employees shall protect youth from discrimination, physical and sexual harassment or assault, and verbal harassment by other youth, based on a youth's actual or perceived sexual orientation or gender identity.
- [Facility] will take all reasonable steps within its control to meet the diverse needs of all confined youth and provide an environment in which all individuals are treated with respect and dignity, regardless of sexual orientation or gender identity.

III. Practice Guidelines for Providing Services to LGBT Youth**A. General Facility Operations**

- All youth, regardless of sexual orientation or gender identity, need to feel safe in their surroundings in order to fully benefit from facility programming. [Facility] shall establish and maintain a culture where the dignity of every youth is respected and all youth feel safe. Employees shall create opportunities for dialogue with youth and staff about all forms of diversity to increase tolerance and respect.

ACTIVITY: POLICY REVIEW (CONT.)

- [Facility] will promote the positive adolescent development of all youth in its care. Actions that support positive adolescent development include: modeling desired behavior such as demonstrating respect for all youth; reinforcing respect for differences amongst youth, encouraging the development of healthy self-esteem in youth, and helping youth manage the stigma sometimes associated with difference.
- Employees should model positive behavior when interacting with LGBT youth and remind all youth that anti-LGBT threats of violence, actual violence, or disrespectful or suggestive comments or gestures will not be tolerated.
- [Facility] intends to provide a safe and non-discriminatory environment where youth can learn and grow. Employees of [facility] shall not prohibit or discourage communication or interaction between youth of the same sex that is not also prohibited or discouraged between youth of different sexes. Expressions of romantic or emotional attraction between youth of the same sex that do not include sexual activity are not prohibited and shall not result in punishment.
- [Facility] shall include LGBT-affirming books, magazines, movies, and other materials in [facility] library. All youth shall be made aware of these materials and shall have access to them when requested. Where possible, employees shall display materials, such as “safe zone” or “hate-free zone” posters that convey to youth that the facility maintains an LGBT-friendly environment. [Facility] shall ensure that employees are made aware of local LGBT resources and reach out to the LGBT community to find organizations the facility can contract with to provide supportive services to LGBT youth.
- [Facility] shall provide LGBT youth with access to educational, rehabilitative, recreational, and other programming on the same bases as other youth. Youth shall not be denied qualification for or access to programming based on sexual orientation or gender identity.

B. Confidentiality

- Employees shall not disclose a youth’s sexual orientation or gender identity to other youth at the facility or to outside parties, individuals, or agencies, such as health care or social service providers or a youth’s family and friends, without the youth’s permission, unless such disclosure is necessary to comply with state or federal law.
- Any disclosure of confidential information related to a youth’s LGBT identity shall be limited to information necessary to achieve the specific beneficial purpose.
- This confidentiality restriction does not prevent individuals working at [facility] from discussing a youth’s needs or services with other staff members or when resolving a grievance.

ACTIVITY: POLICY REVIEW (CONT.)**C. Intake**

- Staff should be aware that LGBT youth are in various stages of awareness and comfort with their sexual orientation and gender identity. Youth intake interviewers shall sensitively inquire about fears the youth may have of being harassed in the facility, but intake workers should not directly ask youth if they are LGBT. Some youth will disclose that they are LGBT. If a youth discloses their sexual orientation or gender identity, the intake worker should talk with the youth about it in an open and non-judgmental fashion and determine if the youth has particular concerns or needs related to being LGBT.

D. Youth Placement

- Placement decisions for LGBT youth shall occur as soon as possible after intake so the youth is not at risk while awaiting a decision regarding placement. All classification and placement decisions for youth confined at [facility] shall be individualized, based on good juvenile correctional practices, and shall prioritize the youth's physical and emotional well-being.
- Youth shall not be prohibited from having a roommate based on a youth's actual or perceived sexual orientation. If a youth is fearful of rooming with a particular youth, he or she will be provided a different roommate or a single room, if available. This assignment will be made in accordance with classification procedures and facility safety and security needs.
- LGBT youth shall not be placed in isolation or segregation as a means of keeping them safe from discrimination, harassment, or abuse. LGBT youth shall not be treated or classified as sex offenders unless required by a court.
- Transgender youth shall not automatically be housed according to their birth sex. [Facility] staff shall make housing decisions for transgender youth based on the youth's individualized needs and should prioritize the youth's emotional and physical safety taking into account the youth's perception of where he or she will be most secure, as well as any recommendations from the youth's health care provider. Generally, it is most appropriate to house transgender youth based on their gender identity. If necessary to ensure their privacy and safety, transgender youth shall be provided a single room, if available.

E. Names and Language

- Employees, volunteers, and contractors, when working with youth at [facility] shall use respectful language and terminology that does not further stereotypes about LGBT people.
- Employees, volunteers, and contractors of [facility], in the course of their work, shall not refer to youth by using derogatory language in a manner that conveys bias towards or hatred of LGBT people. In particular, employees of [facility] shall not imply to or tell LGBT youth that they are abnormal, deviant, or sinful, or that they can or should change their sexual orientation or gender identity.
- Transgender youth shall be referred to by their preferred name and the pronoun that reflects the youth's gender identity, even if their name has not been legally changed. All written documentation about a transgender youth shall utilize the youth's preferred name as well noting the youth's legal name recognized by the court.

ACTIVITY: POLICY REVIEW (CONT.)

F. Clothing and Gender Presentation

- Youth shall be allowed to dress and present themselves in a manner consistent clothing, including undergarments, appropriate for the youth's gender identity and gender presentation.
- Grooming rules and restrictions, including rules regarding hair, make-up, shaving, etc., shall be the same in male and female units. Transgender girls shall not be required to have a male haircut, or to wear masculine clothing. Transgender boys shall not be required to maintain a female hairstyle, to wear make-up, or to wear feminine clothing.

G. Bathrooms and Showers

- Consistent with the facility's reasonable and necessary security policies, [facility] shall provide transgender youth with safety and privacy when using the shower and bathroom and when dressing and undressing. Transgender youth shall not be required to shower or undress in front of other youth and shall be permitted to use single occupancy bathrooms and showers, if available. Such accommodation shall be provided in a sensitive manner.

H. Medical and Mental Health Care

- [Facility] shall provide transgender youth with access to medical and mental health care providers who are knowledgeable about the health care needs of transgender youth, if the youth requests assessment or treatment. [Facility] will provide all recommended transition-related treatments in accordance with the medical and mental health assessments performed by the youth's health care provider and will provide transportation for the youth to receive such treatments, if necessary.
- If prior to arriving at the facility a transgender youth has been receiving transgender-related medical care, such as hormone therapy or supportive counseling, [facility] medical staff shall consult with the youth's medical providers and shall continue to provide the youth with all transition related treatments that are medically necessary according to the youth's provider and accepted professional standards. Hormone therapy shall continue at current levels pending this consultation.
- [Facility's] health care providers shall facilitate exploration of gender or sexuality issues with LGBT youth in the same manner as with other youth: by being open and non-judgmental.
- In accordance with accepted health care practice which recognize that attempting to change a person's sexual orientation or gender identity is harmful, [facility] shall not employ or contract with mental health providers who attempt to change a youth's sexual orientation or gender identity.
- LGBT youth shall not participate in sex offender treatment or counseling unless required to do so by a court. All sex offender treatment shall not discriminate based on sexual orientation and gender identity and shall not criminalize or pathologize LGBT identity.

ACTIVITY: POLICY REVIEW (CONT.)**I. Search Issues**

- LGBT youth shall not be physically searched in a manner that is humiliating or degrading or for the purpose of determining the youth's physical anatomy.
- Transgender youth may request that either a male or female staff member conduct a strip search, if such search is required. [Facility] shall accommodate this request when possible and consistent with maintaining the security of the facility.

IV. Procedures**A. Training of Employees, Volunteers, & Contractors**

- In order for employees, volunteers, and contractors to have the awareness and capacity to effectively work with LGBT youth in this facility, all facility administrators, employees, volunteers, and contractors are required to attend training on working with LGBT youth. This training should teach participants: 1) the goals and requirements of the facilities Nondiscrimination Policy and Practice Guidelines Regarding LGBT Youth; 2) how to work with LGBT youth in a respectful and nondiscriminatory manner; and 3) how to recognize, prevent, and respond to harassment against LGBT youth.
- All employees and administrators of [facility] shall receive training about LGBT youth during their orientation and as part of their continuing education requirements. These trainings shall be taught by a qualified trainer with expertise in working with LGBT youth.
- All new facility administrators, employees, volunteers, and contractors shall receive a copy of the Policy and Practice Guidelines with their orientation materials. Current administrators, employees, volunteers, and contractors shall receive a copy of the Policy and Practice Guidelines before it is to go into effect.

B. Policy Dissemination to Youth

- At the time of intake, [facility staff] shall verbally inform all youth about the facility's Policy and Practice Guidelines, including the youth's rights and responsibilities under this policy and the procedures for reporting violations. Each youth shall receive a copy of the Policy and Practice Guidelines [and all other policies related to grievance procedures] during intake. Additional copies of the policy shall also be provided to youth when requested.

C. Responsibilities of Employees and Contractors to Respond to and Report Harassment

- Employees of [facility] shall promptly and appropriately intervene when a youth physically, verbally, or sexually abuses or harasses another youth based on the youth's actual or perceived sexual orientation or gender identity.
- All employees and contractors shall be required to report all incidents in violation of this policy in accordance with facility operating procedures. Failure to report an incident may result in disciplinary or other consequences.
- [Facility] employees have an obligation to report conduct by other employees and contractors that may be in violation of this policy to the other individual's supervisor and the [facility] administration.

ACTIVITY: POLICY REVIEW (CONT.)

D. Reporting Procedures for Youth

- Youth shall be able to report violations of this policy following established facility grievance procedures. Grievance procedures shall protect confidentiality of youth and contain other measures to prevent retaliation.

E. Enforcement

- Supervisory and management staff shall treat all reports of violations of this policy seriously. The [facility] administration shall promptly and effectively respond to grievances filed by youth and shall take swift action according to established procedures when employees or contractors report violations.

F. Scope

- This policy shall apply to all employees and volunteers of [facility], to employees or representatives of any agency providing services on behalf of youth at [facility], including but not limited to the Department of Health, Department of Education, their contractors, volunteers, and any other relevant agencies or departments which have contact with youth confined at [facility].

VII. Wrap-Up (10 minutes)

ACTIVITY: HEAD HEART STEP

On a flipchart or white board draw a large circle (head), a large heart below the circle, and two legs with feet, below the heart.

- Ask participants to think about one fact they learned about transgender youth. Write responses for people who wish to share their facts in the circle representing a head.
- Ask participants to think about one value or guiding principle they heard that feels important when it comes to transgender youth. Write responses for people who wish to share their values/principles in the heart.
- Ask participants to share one manageable and concrete action step they will take in their jurisdiction after this training to create safe and affirming environments for trans youth. Write responses for people who wish to share their steps in the legs.

The trainer should conclude the lesson by answering any questions and offering any additional resources.

