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## TESTIMONY

The Council of the City of New York Committee on Juvenile Justice and the Committee  
on Youth Services

Sarah M. Gonzalez, Chair  
Lewis A. Fidler, Chair

**“Oversight: Examining the Link Between Runaway and Homeless Youth and the  
Juvenile Justice System”**

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New York, New York

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We submit this testimony on behalf of the Legal Aid Society, and thank the Chairs of the Committees, Councilmember Gonzalez, and Councilmember Fidler, and all of the Committees' members for inviting our input regarding examining the link between runaway and homeless youth and the juvenile justice system. We applaud the Council for tackling this important subject, and look forward to the valuable contributions that we are sure the Council will make in this area of vital concern to our City's children. There is significant evidence that shows too many youth are served by both the juvenile justice system and runaway and homeless youth programs, but it is not only the juvenile justice system that shares this overlap, unfortunately, many of these youth also find themselves involved with the criminal justice system. For years Legal Aid has witnessed its clients cycle in and out of these systems that too often provide youth very poor outcomes.

The Legal Aid Society is the nation's oldest and largest provider of legal services to low-income families and individuals. Legal Aid's Juvenile Rights Practice provides comprehensive representation as attorneys for children who appear before the New York City Family Court in abuse, neglect, juvenile delinquency, and other proceedings affecting children's rights and welfare. Last year, our staff represented some 34,000 children, including approximately 4000 that were charged in Family Court with juvenile delinquency. At the same time, the Criminal Defense Practice represented clients in nearly 240,000 trial and post-conviction cases in the last year, many of whom are aged 14-21. We also have a special team of lawyers, social workers and investigators devoted to the unique needs of adolescents charged in adult court with certain enumerated crimes -- the Adolescent Intervention and Diversion Project. The Society's Civil Practice provides free direct legal assistance in some 38,000 legal matters annually through a network of 10 neighborhood and courthouse-based offices in all five boroughs and 23 city-wide and specialized units, including a Homeless Rights Project. Our perspective comes from our daily contacts with children and their families, and also from our frequent interactions with the

courts, social service providers, and State and City agencies, including the Police Department, Department of Probation, Administration for Children's Services/Division of Youth and Family Justice (ACS/DYFJ) and New York State Office of Children and Family Services. In addition to representing many thousands of children, youth and adults each year in trial and appellate courts, we also pursue impact litigation and other law reform initiatives on behalf of our clients.

### **Statistical Breakdown of the Link between the Juvenile Justice System and the Runaway and Homeless Youth**

The actual number of homeless youth in New York City is hard to capture but even conservative estimates are alarming. In 2008, the Empire State Coalition of Youth and Family Services, estimated on any given night over 3,800 young people are homeless.<sup>1</sup> Of those youth sampled, 15.24 percent reported they spent time in a juvenile justice facility in the past and 26.56 percent had been to jail or prison.<sup>2</sup> Homeless youth service providers have released stark statistics of what they witness. According to the Greenwich Village Youth Council, 42 percent of NYC homeless youth have been in a juvenile detention center, jail or prison. In a 2005 report, Covenant House reported that 30 percent of the youth it serves have been incarcerated or detained in the juvenile justice system. Of these youth, 68 percent lived with their families prior to their incarceration.<sup>3</sup>

It must be pointed out that two populations with significant overlap are overrepresented in the juvenile and criminal justice systems as well as the runaway and homeless youth population. These are youth of color and lesbian, gay, bisexual, transgendered, and questioning (LGBTQ) youth. NYC's

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<sup>1</sup> Freeman and Hamilton, "Empire State Coalition of Youth and Family Services: A Count of Homeless Youth in New York City." (2008)

<sup>2</sup> Id.

<sup>3</sup> *Back on Track: Supporting Youth Reentry from Out-of-Home Placement to the Community*, Youth Reentry Task Force of the Juvenile Justice and Delinquency Prevention Coalition (Fall 2009) quoting State of city's homeless youth report (New York: New York City Association of Homeless and Street-Involved Youth Organizations, 2005).

Division of Youth and Community (DYCD) reported a high representation of youth of color in its crisis shelter with 58 percent of homeless youth identifying as Black and 24 percent identifying as Hispanic.<sup>4</sup> Given the overrepresentation of youth of color in the juvenile justice and child welfare systems, discussed below, it is not surprising to know that this overrepresentation also exists in the homeless youth population.

Additionally, it has been estimated that up to 40 percent of the homeless youth population identify as LGBTQ, compared to 4 – 10 percent of the overall youth population.<sup>5</sup> A 2008 study showed 15.29 percent of lesbian, gay and bisexual youth had a history of juvenile detention and 32.68 percent of these youth had been in jail or prison. Similarly, of the transgendered youth surveyed 14 percent had been remanded to a juvenile detention facility and 32 percent had been to jail or prison.<sup>6</sup> These statistics are not surprising given that reports show 44 percent of gay and transgendered homeless youth “reported being asked by someone on the street to exchange sex for money, food, drugs, shelter, or clothes compared to 26 percent of straight homeless youth.”<sup>7</sup>

These two populations should not be studied or served independent of each other. “Among the homeless youth who identified as gay, 44 percent were black and 26 percent were Hispanic. The transgender homeless youth were even more likely to be people of color. Sixty-two percent were black and 20 percent were Hispanic.”<sup>8</sup> Therefore, outlined below are realities facing these populations and recommendations to better serve these youth comprehensively.

### **Background on New York’s Juvenile Justice System**

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<sup>4</sup>All Our Children: Strategies to Prevent Homelessness, Strengthen Services and Build Support for LGBTQ Youth.

<sup>5</sup> Justice for all? A report of lesbian, gay, bisexual, and transgendered youth in the New York juvenile justice system, Urban Justice center (2001); [www.americanprogress.org/issues/2010/06/homelessness\\_numbers.html](http://www.americanprogress.org/issues/2010/06/homelessness_numbers.html)

<sup>6</sup> Freeman and Hamilton, “Empire State Coalition of Youth and Family Services: A Count of Homeless Youth in New York City.” (2008)

<sup>7</sup> [www.americanprogress.org/issues/2010/06/homelessness\\_numbers.html](http://www.americanprogress.org/issues/2010/06/homelessness_numbers.html)

<sup>8</sup> On the Streets: The Federal Response to Gay and Transgender Homeless Youth, prepared by Nico Sifra Quintana, Josh Rosenthal, and Jeff Krehely (2010) quoting Freeman and Hamilton, “Empire State Coalition of Youth and Family Services: A Count of Homeless Youth in New York City.” (2008)

## **Disproportionate Impact on Youth of Color**

While some teenage behavior can be characterized as criminal, oftentimes the primary reason for the incarceration of children of color facing delinquency charges is not the severity of the crime, but rather the collateral social issues of truancy, school failure, mental illness, substance abuse and weak family structure. Shoplifting is a crime, trespassing is a crime, smoking marijuana is a crime, and fighting in school is a crime (often characterized as misdemeanor assault, attempted assault or even harassment). Many adolescents in communities across New York City and New York State commit these crimes but are not treated as criminals. For low-income children of color, the “crimes” listed above--trespassing, fighting, et cetera--are often seen as signs of a child being “out of control” and even evidence that a child cannot safely live in his community. For many middle-class and upper income white children, these same behaviors are routinely seen as a normal part of adolescence and are dealt with inside schools and homes even if they rise to the level of a “crime”. A first step in true reform is the acknowledgment that the same set of behaviors considered “typical teenage behavior” for one portion of the population is used to justify the widespread incarceration of another portion.

“Incarceration is not benign. Incarceration even for one day can harm a child.” This quote is from James Bell, Executive Director of the W. Haywood Burns Institute.<sup>9</sup> In fact we know that incarceration is harmful. It hurts educational development and social and family relationships. It leads to a much higher rate of future incarceration. A 2008 State Office of Children and Family Services longitudinal study of recidivism rates found that by age 28, 89 percent of boys and 81 percent percent of girls were rearrested following their OCFS placements.<sup>10</sup> We must work harder to level the playing field by addressing the insidious social issues that drive arrest, detention and placement rates that result in

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<sup>9</sup> [www.burnsinstitute.org](http://www.burnsinstitute.org). See also James Bell and Laura John Ridolfi, Adoration of the Question Reflections on the Failure to Reduce Racial and Ethnic Disparities in the Juvenile Justice System December 2008.

<sup>10</sup> Long-term Consequences of Delinquency: Child Maltreatment and Crime in Early Adulthood, Rebecca Colman, Do Han Kim, Susan Mitchell-Herzfeld, Theresa A. Shady; New York State Office of Children and Family Services.

racial disproportionality. We must work vigilantly to address and eliminate the underlying risk factors that lead to police contact with minority youth both in the communities and in their schools. In New York, children charged with delinquency are between the ages of 7 and 15, and 13-15 year olds can be charged as adults for certain crimes. Additionally we are one of only two states that charge 16 and 17 year-olds as adults. The truth is there is no magic number that deems someone ready to be an adult or be held criminally responsible, but it does seem incongruous that in so many public policy areas other than the penal law--the drinking and voting age, statutory rape laws, even the ability to sign school permission slips--we are able to see that adolescents are not adults. Adolescence is a time of learning, risks are taken and sometimes poor choices are made. An abundance of scientific research demonstrates that the adolescent brain is not fully developed and that, as a consequence, adolescents are less likely to be able to assess risk and consequence. Given this fact, punitive approaches that do not recognize the realities of adolescent development will not be effective and will neither help children nor protect communities.

### **The Needs of Youth Served by the Juvenile Justice System**

It is well known that the majority of children in detention have mental health needs, many have substance abuse problems, and a majority have special educational needs – these statistics are far greater than the numbers in the general population. DJJ reported, for example, that 83 percent of the children incarcerated in their facilities received mental health services in FY2008,<sup>11</sup> and that 44 percent received mental health services in FY2010.<sup>12</sup> We also know that the majority of young people detained by the Family Courts are accused of delinquent behavior involving nonviolent, misdemeanor offenses.<sup>13</sup>

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<sup>11</sup> Fiscal Year 2008 New York City Mayor's Management Report, [www.nyc.gov](http://www.nyc.gov).

<sup>12</sup> Preliminary FY 2010 New York City Mayor's Management Report, [www.nyc.gov](http://www.nyc.gov).

<sup>13</sup> While juvenile arrests and detention usage in New York City increased in 2006 as compared to 2005, for example, the largest increases were in misdemeanor arrests (11 percent increase) and usage of non-secure detention (NSD) group homes

Further, the staggering cost of detention -- \$651 per day, \$225,000 per year<sup>14</sup> -- is compounded by the fact that detention during the pendency of a court case is the greatest predictor of further detention or incarceration.<sup>15</sup> And in New York State, we know that children who are detained in DJJ's facilities are more likely than those in the community to be placed in upstate facilities operated by the State OCFS at the conclusion of their cases. ACS/DYFJ can and should play a crucial role in reducing DMC and keeping children in their communities by releasing children who may lawfully be released, protecting the health and safety of those children who are remanded to their custody by courts, and taking an active role in bringing to light the needs of children who cannot be adequately cared for in a detention setting. The great human and financial costs of incarceration make it imperative that the City avoid every single day of jailing children who could instead be at home in their communities receiving rehabilitative services at much lower cost and higher rates of demonstrated success.

The profile of children and families served by NYC's Administration for Children's Services (ACS) is almost identical to that of the children incarcerated by its new juvenile justice arm, the Division of Youth and Family Justice (DYFJ) in New York City. The majority of children and teenagers both in the custody of ACS and under its supervision as well as in New York City's juvenile jails are low income, African-American or Latino<sup>16</sup>, and live in under-resourced neighborhoods with low-performing schools and high rates of child abuse, neglect, exposure to trauma, substance abuse and mental illness. We are ever mindful of the fact that financial crises exacerbate the problems associated

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(11 percent increase). Data provided on March 12, 2007 to the Legal Aid Society by the NYC Mayor's Office of the Criminal Justice Coordinator.

<sup>14</sup> Fiscal Year 2008 New York City Mayor's Management Report, [www.nyc.gov](http://www.nyc.gov)

<sup>15</sup> Justice Policy Institute (Holman & Ziedenberg), *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and other Secure Facilities*, November 2006.

<sup>16</sup> Although the New York City Department of Juvenile Justice no longer posts statistics related to race on its website, almost the entire detention population consistently has been composed of youth of color -- approximately 60 percent of those detained pre-trial are African-American and 37 percent are Latino. Most delinquency offenses prosecuted in New York City would be misdemeanors if committed by adults.

with the lack of meaningful community-based treatment. As government budgets shrink, and agencies reorganize and restructure, we must remain vigilant to ensure that ACS in its new expanded role: (1) works to reduce the number of children entering its DYFJ facilities; (2) develops its own evidence-based risk assessment instrument and uses its authority to safely and swiftly release youth to their parents whenever possible; (3) diminishes its reliance on secure detention for children; (4) creates a respite program for those children remanded to DYFJ because they lack family support; and (5) increases its ability to provide supervision and services to children and their families in the community.

## **Background on LGBTQ Youth**

### **Poor Family Support**

It seems obvious to note that runaway and homeless youth and youth in the foster care and juvenile justice systems come from families that cannot provide adequate support. Often that lack of support is profound and can be caused, in part, by parents who are seriously mentally ill, suffering from addiction or incarcerated. In fact, for those LGBT youth who become involved in the court system, parental involvement is “particularly poor or [there is] no involvement at all.”<sup>17</sup> In one study, 45 percent of parents reported feeling angry, sick or disgusted when first learning of their LGBT child’s sexual orientation or gender identity.<sup>18</sup> Sometimes such feelings lead to dangerous circumstances for youth as another study shows that 30 percent of LGBT youth are physically abused by family members as a result of their sexual orientation or gender identity.<sup>19</sup>

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<sup>17</sup> Peter A. Hahn, *The Kids are not Alright; Addressing Discriminatory Treatment of Queer Youth in Juvenile Detention and Correctional Facilities*, 14 B.U. PUB. INT. L.J. 117, 121-22 (2004).

<sup>18</sup> Sonia Renee Martin, *A Child’s Right to Be Gay: Addressing the Emotional Maltreatment of Queer Youth*, 48 Hastings L.J. 167, at 172-3 (1996-1997); A.R. D’Augelli, *Parents’*

<sup>19</sup> Philadelphia Lesbian and Gay Task Force, *The 1999 Study of Discrimination and Violence against Lesbian and Gay Men in Philadelphia and the Commonwealth of Pennsylvania* [2000]

We all know that there is a troubling reality of overrepresentation of LGBTQ youth of color in our youth shelters, foster care placements and City and State juvenile justice facilities. Research provides some explanations as to why LGBTQ youth of color find themselves in these systems. “Because ethnic minority communities are important providers of essential emotional and practical support, their LGBT youth are particularly vulnerable to rejection. Many youth of color hide their sexual orientation and, as a result are often less visible than their Caucasian peers.”<sup>20</sup> Youth of color are significantly less likely to tell their parents they are LGBTQ. One study found that while about 80 percent of white GLBTQ youth were out to parents, only 71 percent of Latinos, 61percent of African-Americans, and 51 percent of Asians and Pacific Islanders (APIs) were out to parents.<sup>21</sup> These statistics should not be seen as proving that families of color are less accepting, rather they highlight that LGBTQ youth in these communities experience an internal pressure not to disclose their identities.

### **Mental Health Needs and Substance Abuse**

In early 2011, the Empire State Coalition of Youth and Family Services issued a study on the mental health needs of homeless youth in New York State.<sup>22</sup> The report acknowledges that homeless youth are more likely to suffer from a mental health diagnoses than youth in general, and it goes further to say the LGBTQ homeless youth are at a significant increased risk of developing a mental health disorder.<sup>23</sup> The executive summary states:

LGBTQ youth have significantly higher levels of depressive disorder than their heterosexual counterparts. These findings are not surprising as LGBTQ youth report the highest levels of physical, emotional and sexual

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<sup>20</sup> Ryan, C., & Hunter, J.: Clinical issues with youth. In: *A Provider's Guide to Substance Abuse Treatment for Lesbian, Gay, Bisexual, and Transgender Individuals*, Center for Substance Abuse Treatment/SAMHSA, Washington, DC, 2001.

<sup>21</sup> Grov C and Bimbi DS. Race, ethnicity, gender, and generational factors associated with the coming out process among gay, lesbian, and bisexual individuals. *Journal of Sex Research* 2006; 43(2) 115-121.

<sup>22</sup> <http://www.empirestatecoalition.org/main/pdf/MHpercent20REPORTpercent2012-13-10.pdf>

<sup>23</sup> Id at 10.

abuse with rates upwards of 80 percent. LGBTQ youth report the highest rates of street-victimization as well. Manifestation of mental health disorders for homeless LGBTQ youth include untenably high rates of self-mutilation (72 percent); suicide attempts (58 percent); and post-traumatic stress disorder, with most likely to suffer from two or more disorders. Eating disorders disproportionately affect LGBTQ youth, and these disorders can impact the neurochemistry in the brain. LGBTQ youth with eating disorders have high rates of co-occurring disorders such as anxiety and depression (66 percent), obsessive compulsive disorder (40 percent) and post-traumatic stress disorder (between 30 and 60 percent). Factors that contribute to LGBTQ youth's eating disorders include family difficulty, abuse, rejection, harassment and violence.<sup>24</sup>

Our experience tells us that youth in the foster care and juvenile justice systems have similar experiences.

Given the significant adversity these youth face, the ability for them to feel safe and trust a mental health provider does not come easy. There is a significant lack of mental health providers for most homeless youth and those youth in the foster care, juvenile justice and criminal justice systems, and almost no available providers whose particular focus is to address the needs of LGBTQ youth. Without consistent treatment, structure and services, these teens cannot complete their education or hold meaningful jobs. There is an insufficient number of residential beds in our youth shelters and foster care and juvenile justice placements that can meet the needs of LGBTQ who suffer from multiple diagnoses causing young people to have to remain in hospitals or worse be discharged from the hospital into homelessness, with some eventually ending up in the criminal justice system. Once court-involved, this population suffers from a void of mental health evaluators with specialized knowledge or training.<sup>25</sup>

In addition to suffering from higher rates of mental health diagnoses, LGBTQ youth are at significantly higher risk of substance abuse. To cope with the isolation and depression of being on the

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<sup>24</sup> Id at 11 – 12.

<sup>25</sup> "Seventy-seven percent of Equity Project survey respondents reported that they were unaware of any [mental health] evaluators in their jurisdictions who have specialized knowledge in working with LGBT youth." *Hidden Injustice*, at 86.

streets, many LGBTQ youth resort to drug use and other self-medicating behaviors. A 2008 meta-analysis study found that LGBTQ youth are 190 times more likely to engage in substance abuse with the greatest odds for bisexual (340 times) and lesbian youth (400 times).<sup>26</sup>

### **Homeless and Runaway LGBTQ Youth and the Current Crisis in the NYC Shelter System**

“The child welfare system needs a better understanding of what LGBTQ homeless youth experience on the streets and why they are there in the first place—like fleeing abusive homes and not feeling safe in their homes.”<sup>27</sup>

Young people who identify as LGBTQ are statistically proven to be disproportionately overrepresented among the runaway and homeless youth population in New York City and nationwide. Many of these young people have been and continue to be rejected by their families based on their sexual orientation, gender identity or gender expression and have been pushed out of their homes—some, at a very early age. Many of these young people have experienced homophobic environments and treatment in the child welfare and juvenile justice systems which are charged with protecting them, caring for them, rehabilitating them and helping them achieve permanency as they reach adulthood.

It has been estimated that 40-50 percent of youth who become homeless each year are LGBTQ,<sup>28</sup> and in June 2010 the City acknowledged that at least 20 percent but as much as 40 percent of its homeless youth population identifies as LGBTQ,<sup>29</sup> compared with 5 – 10 percent of the youth

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<sup>26</sup> Marshal, M.P., Friedman, M.S., Stall, R., King, K.M., Miles, J., Gold, M.A., Bukstein, O.G., & Morse, J.Q. (2008). Sexual orientation and adolescent substance use: A meta-analysis and methodological review. *Addiction*, 103, 546-556.

<sup>27</sup> Youth participant, quoted in Child Welfare League of America and Lambda LDEF, *Out of the Margins: A Report on Regional Listening Forums Highlighting the Experiences of Lesbian, Gay, Bisexual, Transgender, and Questioning Youth in Care* (2006)

<sup>28</sup> National Center for Lesbian Rights, [www.nclrights.org](http://www.nclrights.org) (citing several reports and service agency estimates).

<sup>29</sup> All Our Children: Strategies to Prevent Homelessness, Strengthen Services and Build Support for LGBTQ Youth; NYC COMMISSION ON LESBIAN, GAY, BISEXUAL, TRANSGENDER AND QUESTIONING RUNAWAY AND HOMELESS YOUTH – June 2010

population overall.<sup>30</sup> In a 2008 study of NYC homeless youth, the Empire State Coalition of Youth and Family Services reported a mean average age of an LGB youth leaving home as 14.4 years of age and a mean average age of transgender youth leaving home as 13.5 years of age. LGBTQ young people frequently end up on the streets and engage in at-risk behaviors just to survive.<sup>31</sup> They may resort to sex work and other illegal activity as a desperate means of financial support.<sup>32</sup>

LGBTQ youth who are forced into shelters are at particular risk because of the current crisis state of New York City's shelter system. Shelter capacity for homeless men and women has continued to be tight, with a particular shortage of beds in youth shelters. Further, the City continues to routinely and erroneously deny shelter to homeless couples and homeless families through its complicated eligibility process. Without experience navigating bureaucracies and complex application processes -- as well as without access to the extensive documentation that is demanded, LGBTQ youth are at grave risk of being subject to these eligibility errors as well.<sup>33</sup>

Although it has since been restored, it was disturbing that the City intended to cut aid to homeless and runaway youth shelters in late 2010. This occurred despite the NYC Department of Youth and Community Development's (DYCD) own testimony before the Council on September 21, 2010, in which it acknowledged an awareness of waiting lists at the City's youth shelters. In the same hearing, the Council heard from representatives of the shelters themselves who testified that they have upwards

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<sup>30</sup> Freeman and Hamilton, "Empire State Coalition of Youth and Family Services: A Count of Homeless Youth in New York City." (2008)

<sup>31</sup> Urban Justice Center, *Justice for All? A Report on Lesbian, Gay, Bisexual and Transgendered Youth in the New York Juvenile Justice System*, p.1 (citing Laurie Schaffner, *Violence and Female Delinquency: Gender Transgressions and Gender Invisibility*, 14 Berkeley Women's L. J. 40 (1999)).

<sup>32</sup> Fifty percent of gay or bisexual young men who are forced out of their homes because of sexual orientation resort to sex work to survive: Woronoff, Rob et. al., *Out of the Margins: A Report on Regional Listening Forums Highlighting the Experiences of Lesbian, Gay, Bisexual, Transgender, and Questioning Youth in Care* 34-35 (Child Welfare League of America 2006)

<sup>33</sup> See, *Advocates Say City Is Running Out of Beds for the Homeless*, The New York Times, December 10, 2009.

of 200 children on their waiting lists every night. LGBTQ youth who do get a placement in one of DYCD's larger shelters often experience homophobia and transphobia or they find that the shelter cannot meet their unique needs, but the smaller more specialized shelters for LGBTQ youth do not have the capacity to meet the demand in our City.

### **Overrepresentation in the Criminal and Juvenile Justice Systems**

Tragically, many LGBTQ are arrested based on survival behavior – finding themselves charged with prostitution, shoplifting, trespass or loitering. Because of the lack of family support and insufficient foster care and other residential programs for this population, they also face incarceration. One study found that self-identified LGB youth are 50 times more likely to be stopped by the police, with bisexual and lesbian girls reporting twice as many arrests than teens overall.<sup>34</sup> The Equity Project, an initiative to ensure that LGBT youth in juvenile delinquency courts are treated with dignity, respect, and fairness, released a national study in November 2009 which found that approximately 13 percent of youth in detention facilities nationwide identify as LGBTQ. New research shows that number has reached 15 percent.<sup>35</sup> In addition to acknowledging the high percentage of risk factors for LGBTQ youth who enter the juvenile justice system, the report highlights the lack of LGBTQ cultural competency among State and local agencies as well as those professionals charged with advocating for youth. These inadequacies lead to unmet rehabilitative needs for LGBTQ youth, prolonged detention, and often insufficient discharge planning which frequently results in homelessness.<sup>36</sup>

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<sup>34</sup> "Criminal Justice and School Sanctions against Nonheterosexual Youth: A National Longitudinal Study," Kathryn E.W. Himmelstein, B.A., and Hannah Brückner, Ph.D. Pediatrics, January 2011 (published online December 6, 2010).

<sup>35</sup> Irvine, Angela, Ceres Policy Research, *The Inappropriate Use of Secure Detention for Lesbian, Gay, Bisexual, Transgender, and Queer Youth*, presented at the Columbia University Gender on the Frontiers Symposium [Apr. 10, 2009]. Results of this study will appear in 19 *Columbia Journal of Gender & Law* in 2010.

<sup>36</sup> Katayoon Majd, Jody Marksamer & Carolyn Reyes, *Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts*, p. 85 (2009).

For LGBTQ youth in foster care aged 16 and older, charged with crimes in adult court, the New York City Department of Probation, for the most part, does not have probation officers specially trained in adolescent development and community services. They lack the necessary knowledge base to refer young people to age- and need-appropriate service providers, shelters, and education providers. As a result, inappropriate referrals lead to non-compliance, which can result in incarceration.

The lack of alternatives to detention and incarceration is a nationwide problem. The Equity Project's survey found that "approximately 63 percent of the professionals surveyed stated either that the diversion programs in their jurisdiction were not competent to work with LGBT youth or that they did not know of any LGBT-competent diversion programs." Just 37percent of those surveyed "knew of disposition programs or resources in their jurisdictions that they believed could serve LGBT youth appropriately." And "approximately 82 percent of all Equity Project survey participants reported that the lack of LGBT-competent placements was a serious problem for LGBT youth in the juvenile justice system. In addition, 74 percent identified lack of placements that would accept LGBT youth as a serious problem."<sup>37</sup>

In its new initiative to realign the juvenile justice system for our City, the Administration must ensure all its programs are LGBTQ culturally competent. For those youth at home or with other family in their communities, ACS' Division of Youth and Family Justice (DYFJ) needs to evaluate what supportive services for families are needed and create such services to reduce parental and familiar rejection for the LGBTQ youth it serves. The LGBTQ court-involved youth who cannot be at home or in supportive family structures need supportive, residential services where they can develop skills that will enable them to become self-sufficient adults. These placements must include some combination of mental health, educational and substance abuse services. DYFJ has begun an evaluation of its anti-

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<sup>37</sup> *Hidden Injustice*, p. 85 (2009).

discrimination policy and changes are expected. DYFJ met, upon request, with the advocacy community and sought assistance and guidance on the development of guidelines, best practices and training for working with LGBTQ youth. They have also committed to the advocacy community that they will follow the example of the New York State Office of Children and Family's (OCFS) groundbreaking LGBTQ policy. We are cautiously optimistic that DYFJ will do this in a timely manner and hope that ACS' unacceptable delays in its own progress will serve as a learning tool.

### **Recommendations**

As evidenced above, there is little difference between the youth served by ACS/DYFJ and DYCD. The City needs to recognize that many of these young people require more therapeutic support than what is currently available. Homeless youth need education and job skills, and access to substance abuse and mental health services in the community. Investments in these services will help teenagers and young adults become healthy, functioning adults. Specific placements and programs for LGBTQ teens must be expanded, and adequately staffed with professionals well-trained on the issues facing this population. Specifically, we recommend that the various City agencies work collaboratively to jointly provide these services to youth and also work with relevant State agencies to address these needs:

- Additional residential programs must be established for all runaway and homeless youth. These programs should provide services, prevent court involvement and offer an alternative to incarceration for those who become involved in the court system. Programs must include specific attention to the service needs of LGBTQ youth.
- The increase of ACS presence in juvenile delinquency cases and the provision of liaisons to the adult criminal court system so that homeless or destitute youth may be referred on-site for assessment for services.
- Preparation for independent living and discharge planning for young people in foster care and the juvenile justice system must be meaningful and significantly more supportive. ACS must not discharge youth from foster care or to temporary shelter.

- ACS should welcome runaway and homeless youth, under the age of eighteen, without viable family resources into foster care.
- There should be liaisons provided by The New York State Office of Mental Health to facilitate assessment and provision of services – both community-based and residential – to youth with mental illness who are homeless.
- There should be required anti-discrimination policy and accompanying guidelines for all City agencies and their contract agencies serving youth in NYC that are accompanied by mandated and on-going LGBTQ cultural competency training.
- The creation of LGBTQ-specific preventive services programs that work with families to reduce the number of youth rejected from their homes.
- In all temporary shelters, LGBTQ homeless youth must be safe from discrimination and harm from both staff and other residents.

Thank you for the opportunity to address this important topic.

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