

**Backgrounder Memo for the Alternatives to Incarceration Work Group on
People who Identify as Lesbian, Gay, Bisexual, and/or Queer (LGBQ+)¹
Submitted January 31, 2020**

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Introduction

In Los Angeles County, like most jurisdictions around the country, there is little data or research on how many people who identify as lesbian, gay, bisexual, and/or queer (LGBQ+) are in jail and the drivers of their incarceration. While Million Dollar Hoods analyzed LA County Sheriff's Department (LASD) arrest and booking data on cisgender women, equivalent data was not available for LGBQ+ people.² We do know that there is a small unit in the LA County Jail system for people who both identify as "LGBT" and request placement there; limited jail programming for "gay and transgender people;" and LASD policy guidance regarding the treatment of transgender and gender-non-conforming people that includes some sexual orientation information.³ However, there is no publicly available information on how many LGBQ+ people are incarcerated daily or related data like charges, booking status (e.g. pre-trial), homelessness, etc.

Nonetheless, based on the limited data available and lived experiences shared by members of the Gender and Sexual Orientation Ad Hoc Committee, the demographics and drivers of incarceration for LGBQ+ people in LA County appear consistent with what is happening across the country. Many of the LGBQ+ people in jail are people of color; survivors of violence and trauma; have unmet health needs; and endure discrimination because of sexual orientation

¹ The Gender and Sexual Orientation Ad Hoc Committee developed recommendations pertaining to people who identify as cisgender women; lesbian, gay, bisexual, and/or queer (LGBQ+); and transgender, gender-non-conforming, and/or intersex (TGI). The Ad Hoc Committee included people directly impacted by the LA County criminal justice system, County employees, service providers, non-profit advocates, and interested community members, among others. As a committee, we convened ten times to prepare the recommendations, including several meetings focused only on people who identify as LGBQ+. The associated recommendations are the result of consensus built among Committee members about the issues driving incarceration for the aforementioned populations and possible solutions.

Throughout this memo, we will use the acronym LGBQ+ to refer to people who identify as lesbian, gay, bisexual and/or queer. As the plus sign indicates, this acronym is meant to be inclusive beyond the listed identities. Also, while there is significant overlap in issues related to the incarceration of each sub-group within the Ad Hoc Committee, directly impacted community members and service providers noted the importance of space to focus on transgender, gender-non-conforming, and intersex people specifically. So, there is a separate but related memorandum on TGI people as well as one focused on cisgender women.

² According to Million Dollar Hoods data analysis of booking data, the LA County Sheriff's Department (LASD) does not currently collect or make publicly available arrest/booking information on sexual orientation or transgender and gender-non-conforming populations. Moreover, LASD Custody Division Population Quarterly & Yearly Reports only note the number of people incarcerated in the "LGBT" unit but does not include any other data related to this population or those who identify as LGBQ in the jail more broadly.

³ Alex Villanueva, *Los Angeles County Sheriff's Department Custody Division Population Year End Review* (Los Angeles: Los Angeles County Sheriff's Department, 2018), 14-15, 36; and LASD Manual of Policy and Procedures section - 5-09/560.00 – "Interactions with Transgender and Gender Non-Conforming Persons," <http://shq.lasdnews.net/shq/mpp/5-09.pdf>.

and/or gender expression.⁴ They often experience housing instability or homelessness and participate in survival economies to meet basic needs; these circumstances increase the chances of arrest.⁵ Many LGBTQ+ people then endure violence and harassment in the criminal justice system—from arrest through incarceration—and thus LA County’s efforts to develop and scale alternatives to incarceration for LGBTQ+ people are critical.⁶ Below, we discuss what we know about incarcerated LGBTQ+ people from research and promising approaches to divert LGBTQ+ people from jail.

What Do We Know about LGBTQ+ People and Incarceration?

To develop ATI recommendations tailored to the needs and strengths of LGBTQ+ people, the Gender and Sexual Orientation Ad Hoc Committee convened to discuss what we know about the LGBTQ+ people incarcerated in LA County and what has driven their incarceration. We developed the following information through the expertise of people in LA County with lived experience of the criminal justice system who joined the Ad Hoc Committee as well as available research on national trends.

LGBTQ+ people are disproportionately incarcerated; while they are less than 4% of the general public, they are more than 7% of people in jails and prisons.⁷

There are significant disparities in the incarceration of people who identify as LGBTQ+. (See Figure 1.)

Figure 1

⁴ Jason Lydon, Kamaria Carrington, Hana Low, Reed Miller, and Mahsa Yazdy, *Coming Out of Concrete Closets: A Report on Black and Pink's National LGBTQ Prisoner Survey* (Omaha, NE: Black and Pink, 2015); National LGBT/HIV Criminal Justice Working Group, Lambda Legal, and National Center for Transgender Equality, “Policing and the LGBTQ community,” (September 19, 2019), <https://docs.house.gov/meetings/JU/JU00/20190919/109952/HHRG-116-JU00-20190919-SD042.pdf>; Catherine Hanssens, Aisha C. Moodie-Mills, Andrea J. Ritchie, Dean Spade, and Urvashi Vaid, *A Roadmap for Change: Federal Policy Recommendations for Addressing the Criminalization of LGBT People and People Living with HIV* (New York: Center for Gender & Sexuality Law at Columbia Law School, 2014); National Coalition of Anti-Violence Programs (NCAVP), *Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-Affected Intimate Partner Violence in 2016* (New York, NY: Emily Waters, 2017); Jaime M. Grant, Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling, *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey* (Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011); and Center for American Progress and Movement Advancement Project, *Unjust: How the Broken Criminal Justice System Fails LGBT People* (Denver: Movement Advancement Project, 2016).

⁵ Of the 1,000+ respondents to Black and Pink’s survey of incarcerated LGBTQ people, over a third reported being unemployed prior to their incarceration, nearly 7 times the 2014 national unemployment rate. 39% reported that they had traded sex for survival. Over half had sold drugs for money to meet basic needs. Lydon et al., 2015, 3. See also Hanssens et al., 2014.

⁶ See National LGBT/HIV Criminal Justice Working Group, et al., 2019. Black and Pink conducted a national survey of over 1,000 incarcerated LGBTQ people. Black, Latin@/Hispanic, mixed-race, and Native American/American Indian respondents were twice as likely to have been in solitary confinement at the time of the survey than white respondents. Lydon et al., 2015, 5. See also Hanssens et al., 2014.

⁷ Center for American Progress and Movement Advancement Project, 2016, iii.

% of INDIVIDUALS IDENTIFIED AS LESBIAN, GAY OR BISEXUAL ⁸		
In general public (acc. to Gallup)	In state & federal prisons	In city & county jails
3.8%	7.9%	7.1%

This disproportionate incarceration includes LGBTQ+ people who identify as women. Data from the National Inmate Survey, analyzed by the Williams Institute at UCLA School of Law, noted that 33% of incarcerated women identify as lesbian or bisexual, which is nearly ten times greater than the percent of lesbian or bisexual women in the U.S. population.⁹

For many LGBTQ+ people, especially people of color, this contact with the criminal justice system starts at a young age.¹⁰ Black and Pink, a nonprofit LGBTQ advocacy organization, surveyed over 1,000 incarcerated LGBTQ people and found that 58% of respondents' first arrests took place when they were under the age of 18.¹¹ Black and Latinx respondents were more likely to have their first arrest occur when they were under 18 compared to white respondents.¹²

Members of the Ad Hoc Committee discussed how rejection by family because of sexual orientation and gender expression often contributes to early system involvement. They described how a lack of safety and nurturing from family often leads LGBTQ+ people to leave home at a young age, causing repercussions like poor mental health, lack of housing, and trauma. Additionally, some talked about how this amplified the other challenges LGBTQ+ people face—for example, finding a job in the face of discrimination or without having completed high school.

Many LGBTQ+ people are economically marginalized because of pervasive discrimination based on sexual orientation and experience housing instability or homelessness. Many then make money for survival in ways that increase chances of arrest.

Based on various surveys, LGBT people, especially LGBT people of color, have higher rates of unemployment and are more likely to live in poverty than non-LGBT people.¹³ For incarcerated LGBT people, histories of unemployment and poverty are common; among respondents to Black

⁸ Ibid.

⁹ Ilan H. Meyer, Andrew R. Flores, Lara Stemple, Adam P. Romero, Bianca D.M. Wilson, and Jody L. Herman, "Incarceration Rates and Traits of Sexual Minorities in the United States: National Inmate Survey, 2011–2012," *American Journal of Public Health* 107, no.2 (2017), 238.

¹⁰ LGBTQ+ connotes lesbian, gay, bisexual, transgender, queer and other identities related to gender and sexual orientation. Some research includes TGI people in this larger acronym rather than breaking out statistics that are particular to TGI people, but nonetheless LGBTQ+ research can provide some useful context on the LGBTQ+ experience. Throughout this memo, when citing statistics or research, we use the acronym from the cited work for accuracy.

¹¹ Lydon, et al., 2015, 3.

¹² Ibid.

¹³ Center for American Progress and Movement Advancement Project, 2016, 27-8.

and Pink's survey, 36% had been unemployed before being incarcerated.¹⁴ Additionally, while there is no definitive estimate of how many LGBQ+ adults are homeless, various surveys show that many LGBQ+ people experience housing instability, including as young adults.¹⁵ Of Black and Pink survey respondents, 13% reported being homeless prior to incarceration, a higher rate than that of the general prison population.¹⁶ Members of the Ad Hoc Committee described how safety nets designed to help homeless people often alienate and exclude LGBQ+ people, with many feeling that shelters and residential service providers oversexualized and discriminated against them because of sexual orientation or gender expression.

Given financial and housing difficulties, LGBQ+ people sometimes turn to work for survival that increases the chances of arrest, including sex work and selling drugs.¹⁷ 39% of respondents to Black and Pink's survey reported that they had traded sex for survival; selling drugs was also a frequent means of survival: over half of respondents have sold drugs for money.¹⁸ This combination of disadvantages often fuels cycles of incarceration, with LGBQ+ then experiencing higher chances of law enforcement contact, survival work, and arrest.

For many LGBQ+ people, trauma and unmet health needs contribute to system involvement by undermining pillars of stability and the ability to thrive.

Mental health and substance use treatment needs are common among incarcerated people, including LGBQ+ people. The need for mental health care often starts at a young age for LGBQ+ people, especially those experiencing homelessness and with criminal justice system contact.¹⁹ This is interrelated with the relatively high rates of substance use by gay and transgender people, who often drink or use drugs to cope with daily discrimination based on sexual orientation or gender identity; in fact, research estimates that 20 to 30% of gay and transgender people engage in problematic substance use.²⁰ Ad Hoc Committee members talked about the need for community-based therapists and medical professionals who identify as LGBQ+ and people of color to encourage engagement with mental health care and treatment. They also discussed the desire for treatment programs—especially in residential settings—that understand, welcome, and affirm LGBQ+ people, ideally led by LGBQ+ people.

LGBQ+ people often experience discrimination, harassment, and violence in the criminal justice system. System involvement is a source of trauma for LGBQ+ people and alternatives to incarceration are crucial to wellness and sustained access to care.

¹⁴ Lydon et al., 2015, 21.

¹⁵ Center for American Progress and Movement Advancement Project, 2016, 28-9.

¹⁶ Lydon et al., 2015, 20.

¹⁷ Hanssens et al., 2014, 63-4; and Lydon, et al., 2015, 3.

¹⁸ Lydon, et al., 2015, 3.

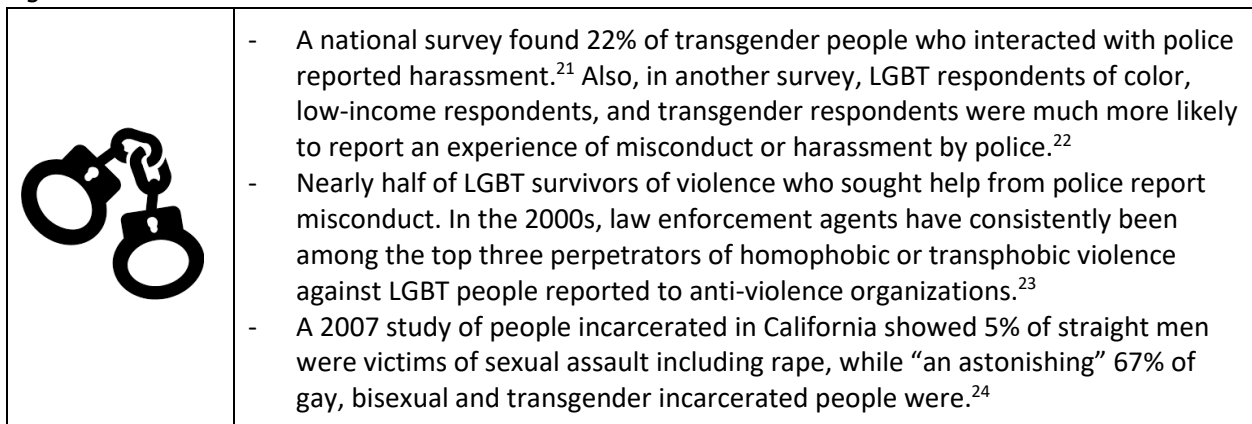
¹⁹ Soon Kyu Choi, Bianca D.M. Wilson, Jama Shelton, Gary Gates, *Serving Our Youth 2015: The Needs and Experiences of Lesbian, Gay, Bisexual, Transgender, and Questioning Youth Experiencing Homelessness* (Los Angeles: The Williams Institute with True Colors Fund, 2015).

²⁰ Jerome Hunt, *Why the Gay and Transgender Population Experiences Higher Rates of Substance Use: Many Use to Cope with Discrimination and Prejudice* (Washington, DC: Center for American Progress, 2012).

In the Ad Hoc Committee, members talked in vivid detail about traumatic experiences with law enforcement and incarceration due to sexual orientation or gender identity. This included recollections of aggressive comments and physical searches by police because of bias against gender-non-conforming and queer people. People talked about LGBQ+ people of color being harassed and arrested for engaging in sex work. Members also noted that LGBTQ+ people are often not believed by law enforcement but instead blamed, even when LGBTQ+ people are victims of crime. For example, some discussed how police often arrested both partners when LGBQ+ people called for help related to intimate partner violence, exacerbating the trauma of the situation.

The deep trauma people described extended from initial arrest all the way through mistreatment during incarceration. Traumatic experiences included dismissiveness from public defenders and judges, and discrimination and bias from reentry service providers and probation officers. These experiences, which are consistent with national surveys (see Figure 2), reflect an urgent need to divert LGBQ+ people from jail and to tailored resources.

Figure 2



Changing the Trajectory

LA County is taking an important step in creating, expanding, and scaling alternatives to incarceration for LGBQ+ people. While increased community-based systems of care can benefit all people, the availability of tailored resources affirming of all sexual orientations and gender identities is crucial to helping system-involved LGBQ+ people, who are often excluded or alienated from services. Additionally, reevaluating criminal justice system policies and practices through a lens specific to LGBQ+ people will be important to meaningfully addressing drivers of incarceration. The following are some promising approaches to diverting LGBQ+ people from jail before and after arrest.

²¹ Grant, Mottet, and Tanis, 2011, 6.

²² Hanssens et al., 12.

²³ Ibid.

²⁴ Valerie Jenness & Cheryl Maxson, *Violence in California Correctional Facilities: An Empirical Examination of Sexual Assault* (Irvine: Center for Evidence-Based Corrections, 2007), 54.

Ensure community-based services and alternatives to incarceration programming are affirming of all sexual orientations and gender identities, trauma-informed, and rooted in harm reduction.

For many people, including those who identify as LGBQ+, trauma is at the root of criminal justice system involvement, and the path to recovery from issues like substance use disorder is complex. Thus, expanding trauma-informed, harm-reduction systems of care overall can help many LGBQ+ people. However, given the persistent and widespread discrimination LGBQ+ people face in accessing services and healthcare, best practices call for ensuring that available services do not discriminate against LGBQ+ people because of sexual orientation and that there are ample opportunities that are affirming of and tailored to the needs of LGBQ+ people.

While the federal government and many local governments have laws against discrimination based on gender identity or sexual orientation, the reality is that it persists for LGBQ+ people. Thus, governments should use all available mechanisms—including contracting and legislation—to establish anti-discrimination policies for community-based services receiving funding and develop ways to enforce said policies.²⁵ Some have suggested these policies should be part of a general equity strategy, and should also explicitly prohibit discrimination against TGI populations, who are particularly vulnerable to discrimination. Policies should also proactively include guidance on how to affirm gender identity (e.g. ensuring full access to gendered areas of facilities, use of preferred pronouns/names, etc.).²⁶ And finally, there should be easy ways to report violations of policy—possibly coupled with immediate offers of services—and meaningful accountability if programs discriminate.²⁷ Such policies are especially crucial to impose upon life-saving resources like emergency housing shelters.

One important way to ensure access to LGBQ+-affirming care is to fund organizations led by LGBQ+ peers and designed for LGBQ+ people. As with all uniquely impacted populations, peer-led organizations are well-positioned to offer services tailored to the needs of LGBQ+ people, including finding appropriate care placements, obtaining identity documents, and advocating on behalf of people who have experienced discrimination.²⁸ These programs can also be tailored

²⁵ Center for American Progress and Movement Advancement Project, 2016, 133-35 (noting that governments should require organizations receiving government funding for reentry programs to have non-discrimination provisions around gender identity and non-discrimination legislation should also be considered to ensure equal access to programs and services).

²⁶ Michaé Pulido, *#TransPolicy Agenda: Our Fight for Equality* (Los Angeles: TransLatin@ Coalition, 2019), 39; and Hanssens et al., 2014, 56 (noting efforts in New York City to promote residential substance use programs that are respectful of gender identities of participants through anti-LGBT discrimination guidelines).

²⁷ Tanvi Misra, “How To End Housing Discrimination Against Transgender People,” *Citylab*, March 31, 2017, <https://www.citylab.com/equity/2017/03/how-to-end-housing-discrimination-against-transgender-people/521265/> (suggesting that housing discrimination issues be addressed by making it easier to complain about violations, including not requiring victims to travel to pursue legal actions and making complaint centers more geographically accessible).

²⁸ Pulido, 2019, 20.

effectively to certain groups, like young LGBQ+ people who have experienced homelessness or families looking to support LGBT relatives/children.²⁹

Prioritize the creation or expansion of safe housing and services for LGBQ+ people to address some of the root causes of system involvement.

Many LGBQ+ people with criminal justice system involvement are at high risk of homelessness or housing instability. Yet, many shelters discriminate, and few are explicitly inclusive of LGBQ+ people or competent at providing services to LGBQ+ people.³⁰ This leads to lack of shelter and care in crisis, feeding the cycle of system involvement. Across the country, jurisdictions are building shelters and residential programs specifically to meet the needs of LGBQ+ people, including in Los Angeles; LA County should build upon this success to create a more robust system of options locally.³¹ Such a system should account for those with special needs like young people and people who are HIV-positive.³² There should be mandatory training for staff on affirming all sexual orientations and gender identities, as well as policies requiring a standard of care and inclusion. Finally, local governments can play an important role in creating and enforcing anti-discrimination laws and policies for residential service providers, private landlords, and housing authorities alike.³³

Accessing timely and appropriate care for medical and behavioral health needs can also play a large role in disrupting cycles of system involvement for LGBQ+ people. Thus, governments should employ anti-discrimination policies for healthcare providers and provide training on LGBQ+-appropriate care as part of a broader commitment to equity and cultural humility.³⁴ Access to inclusive care can improve health outcomes for LGBQ+ people and address crises before they happen.

Reconsider law enforcement practices that disproportionately impact LGBQ+ people, especially LGBQ+ people of color.

It is clear from national reports, literature, and the lived experiences shared in the Ad Hoc Committee that many LGBQ+ people are distrusting of law enforcement due to harassment,

²⁹ Center for American Progress and Movement Advancement Project, 2016, 11, 17 (describing the Family Acceptance Project, using research, intervention, education and policy to help diverse families support their LGBT children as well as the Lesbian, Gay, Bisexual & Transgender Community Center in New York City helping LGBT youth).

³⁰ Ibid., 20.

³¹ Ibid., 30 (noting the “patchwork” of LGBT-focused shelters across the country, including in Los Angeles, among other cities). See also TransLatin@ Coalition, *The State of Trans Health: Trans Latin@s and their Healthcare Needs* (Los Angeles: TransLatin@ Coalition, 2016), 39 (identifying housing needs for transgender Latinx women in Southern California specifically and suggesting investment in various types of housing for “TransLatin@s”).

³² Center for American Progress and Movement Advancement Project, 2016, 5; and Pulido, 2019, 20-1 (noting replicable program model – Housing Opportunities for Persons with AIDS (HOPWA) – developed by U.S. Department of Housing and Urban Development (HUD)).

³³ Misra, 2017; and Hanssens et al., 2014, 54-7.

³⁴ TransLatin@ Coalition, 2016, 41-43; and Hanssens et al., 2014, 56.

misconduct, and profiling—including feeling discomfort in even asking police for help.³⁵ Increasingly, jurisdictions, like LA County and City, have started to tackle this fraught relationship through policies and trainings for officers on respectful interaction with LGBQ+ people, including transgender people, and led by organizations focused on LGBTQ advocacy.³⁶ These approaches, when paired with accountability mechanisms, are important to addressing the homophobia and transphobia by law enforcement that has harmed LGBQ+ community members.

Some have pushed for jurisdictions to go beyond these basic policies for effective communication. Organizations have suggested bans on discriminatory policing practices like profiling LGBQ+ people as engaging in sex work (i.e. “walking while transgender”).³⁷ In a number of jurisdictions, including Washington D.C., LGBTQ and other advocates have started introducing landmark legislation to eliminate criminal penalties for consensual adult sex work in a move to decriminalize something that so often lands LGBQ+ people in jail.³⁸ Though the

³⁵ Sandy E. James, Jody L. Herman, Susan Rankin, Mara Keisling, Lisa Mottet, and Ma-ayan Anafi, *The Report of the 2015 U.S. Transgender Survey* (Washington, DC: National Center for Transgender Equality, 2016), 14 (survey results of TGI people showed respondents experienced high levels of mistreatment, harassment, and profiling by police and 57% reported they would feel uncomfortable asking the police for help); and Hanssens et al., 2014, 10-16.

³⁶ Brenda Gazzar, “How transgender inmates are treated has become a problem for police, so here’s what’s being done about it,” *Press Telegram* (January 10, 2019), <https://www.presstelegram.com/2019/01/10/how-transgender-inmates-are-treated-has-become-a-problem-for-police-so-heres-whats-being-done-about-it/>; LASD Manual of Policy and Procedures section - 5-09/560.00 – “Interactions with Transgender and Gender Non-Conforming Persons;” and LAPD Chief of Police, April 20, 2012, guidelines to “All Department Personnel” on “Police Interactions with Transgender Individuals,” http://assets.lapdonline.org/assets/pdf/OCOP_04-10-12.pdf; Gregory Yee, “How Charleston police are using gender identity training to serve the LGBTQ community,” *The Post and Courier*, Jan 22, 2019, https://www.postandcourier.com/news/how-charleston-police-are-using-gender-identity-training-to-serve/article_92771aa6-18fa-11e9-897b-0f0d4512ea49.html; and Alyson Ward, “HPD will train officers to protect transgender Houstonians,” *Houston Chronicle*, April 11, 2018, <https://www.houstonchronicle.com/houston/article/HPD-will-train-officers-to-protect-transgender-12825571.php> (on Houston Police Department’s new “transgender competency training” after deadly violence against LGBTQ people was at a 2-year high in 2018).

³⁷ National Center for Transgender Equality, *Police Department Model Policy on Interactions with Transgender People* (National Center for Transgender Equality: Washington, D.C., 2019) (see #2, “Nondiscrimination and profiling based on gender identity,” which includes the following language: Consider an individual’s gender identity, gender expression, or actual or perceived sexual orientation as a reason to stop, question, search or arrest that individual, a basis for reasonable suspicion, or as prima facie evidence that the individual is, has or is about to engage in a crime, including, but not limited to, prostitution or lewd conduct.); Center for American Progress and Movement Advancement Project, 2016, 50-51 (describing how transgender women often report that police assume they are engaged in sex work when they are simply “walking while transgender”); and Hanssens et al., 2014, 15-19.

³⁸ National Center for Transgender Equality, *LGBTQ Criminal Justice Reform: Real Steps LGBTQ Advocates Can Take to Reduce Incarceration* (Washington, D.C.: National Center for Transgender Equality, 2018), 5 (including a summary of efforts to expand and reduce criminalization of sex work, including reference to the 2017 legislation introduced in Washington D.C.). In 2019, the D.C. bill lacked support to survive a committee vote. There have been similar proposals in New York and Massachusetts, among other states, but they have yet to gain traction to passage. Nonetheless, TGI people and others who engage in sex work have started to meet with members of Congress to educate officials on decriminalization efforts. See Marissa J. Lang, “D.C. effort to decriminalize sex work won’t move forward

bills have yet to pass, LGBQ+ people and others who have engaged in sex work are increasingly strategizing and working with elected officials to advance decriminalization efforts.

Finally, given the perils of arrest and jail for LGBQ+ people, best practices call for increased diversion opportunities for LGBQ+ people at the earliest point during contact with law enforcement. For jurisdictions like Los Angeles that are already expanding ATI services for cisgender women, it is suggested that programs—including gender-specific ones—are equipped to work effectively with LGBTQ people.³⁹ Also, consistent with the broader push for peer-led outreach models, organizations led by LGBQ+ peers that are comfortable working with law enforcement may provide a supportive landing place for pre-booking diversion.⁴⁰

Consult with system-impacted LGBQ+ people to consider intake and ATI screening processes that are safe, voluntary, and maximize connections to tailored ATI programs.

For all entities seeking to decrease the incarceration of LGBQ+ people and increase positive outcomes through community-based care, one of the challenges is the lack of data that would help identify the drivers of incarceration, racial disparities, and possible solutions. It is unclear how sexual orientation data is being collected systematically in LA County, if at all; whether it is linked to broader system data; and to whom the information is accessible. While there is an LGBT unit in the jail, the screening process for the unit can be alienating to some LGBQ+ people. The lack of readily available data leads to the erasure of LGBQ+ people who likely experience disparities in arrests, prosecutions, ATI opportunities, and outcomes. Nonetheless, protocols for collecting data and identifying LGBQ+ people for diversion opportunities cannot be done without considering safety and ethics.

LA County would need to lead the way in developing a safe, ethical data collection system that helps divert LGBQ+ people from jail.⁴¹ For some, it is suggested that questions related to gender identity and sexual orientation be added to existing data collection efforts and be included in analysis of existing programs.⁴² It may be ideal to consider first a safe and respectful data collection process that allows for self-disclosure—especially if law enforcement is involved, as some LGBQ+ people may feel unsafe or uncomfortable sharing such information.⁴³ Whatever process is developed should be done so in consultation with impacted community members to

after 14-hour hearing,” *Washington Post*, November 17, 2019, https://www.washingtonpost.com/local/dc-politics/dc-effort-to-decriminalize-sex-work-wont-move-forward-after-tense-14-hour-hearing/2019/11/16/b7c77358-06ef-11ea-ac12-3325d49eacaa_story.html.

³⁹ National Center for Transgender Equality, 2018, 4.

⁴⁰ Pulido, 2019, 30.

⁴¹ TGI advocacy organizations have encouraged the federal government to improve its own data collection to improve policies around gender identity and sexual orientation. *Ibid.*, 17.

⁴² *Ibid.*; and Center for American Progress and Movement Advancement Project, 2016, 41 (noting that, despite the success of diversion programs in cities like Seattle’s Law Enforcement Assisted Diversion (LEAD), there is very little research about how LGBT people interact with these programs).

⁴³ The Fenway Institute and Center for Prisoner Health and Human Rights, *Emerging Best Practices for the Management and Treatment of Lesbian, Gay, Bisexual, Transgender, Questioning, and Intersex Youth in Juvenile Justice Settings* (Boston: The Fenway Institute, 2018), 40-43 (on safe and respectful intake processes for voluntary opportunities to identify as LGBTQI).

ensure it is safe, ethical, and productive. The ATI Work Group's efforts to tackle data collection and include issues related to LGBQ+ people is an important foundational step to developing a better system for diversion.

Train all court actors to engage with LGBQ+ people in ways that are affirming and non-discriminatory.

In addition to law enforcement and service providers, LGBQ+ people frequently face barriers to diversion opportunities because of bias from different court actors, including lawyers, judges, and probation officers. These court actors should receive training to communicate effectively with and understand the needs of LGBQ+ people.⁴⁴ Also, it is suggested to analyze the treatment of LGBQ+ people by probation and reentry programs to promote fairness, improve services (e.g. by taking into consideration the discrimination LGBT people experience in employment, housing, etc.), and minimize violations fueled by bias.⁴⁵ This aligns well with efforts by the ATI Work Group to ensure that system actors are all trained to promote equity, including around LGBTQ+ communication and service provision.

Conclusion

LGBQ+ people are disproportionately arrested and incarcerated in the United States. Contact with law enforcement is often a source of trauma amidst a sea of challenges related to discrimination. In implementing the ATI Work Group vision, LA County will begin to more systematically divert LGBQ+ people from jail and offer care that promotes inclusion and wellness. The ATI roadmap, including recommendations developed specifically by the Gender and Sexual Orientation Ad Hoc Committee, reflects progress in the right direction.

⁴⁴ Lydon et al., 2015, 7-8 (suggesting training court-appointed attorneys and judges on LGBTQ issues and appropriate communication).

⁴⁵ National Center for Transgender Equality, 2018, 4 (suggesting various strategies for addressing the discrimination and unfair conditions many LGBTQ people face on probation, including training on bias); and Center for American Progress and Movement Advancement Project, 2016, 118-9.