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REDUCING SYSTEM CROSSOVER FOR BLACK LGBTQ+ GIRLS AND NONBINARY YOUTH

MARCH 2021 // BY MADELINE STERN



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The Center for Juvenile Justice Reform at Georgetown University supports and educates leaders across systems of care to advance a balanced, multi-system approach to improving outcomes for, and promoting the positive development of, youth at risk of juvenile justice involvement.

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**REDUCING SYSTEM
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PREFERRED CITATION

Stern, Madeline. 2021. *Reducing System Crossover for Black and LGBTQ+ Girls and Nonbinary Youth*. Center for Juvenile Justice Reform, McCourt School of Public Policy, Georgetown University.





ACKNOWLEDGEMENTS

This paper was inspired by the Crossover Youth LGBTQ+ Workgroup in Clackamas County, Oregon. The County is the first Crossover Youth Practice Model site to create a workgroup that addresses the needs of LGBTQ+ dual system youth. The recommendations within derive not only from research, but from the personal experiences of the Clackamas County Crossover Youth LGBTQ+ Workgroup members, their ideas, and their passion for improving the wellbeing of vulnerable youth.

I would like to acknowledge Alex Miller, Macon Stewart, Michael Umpierre, Angela Irvine, and Aisha Canfield for their help in review and Alex Perry for layout and design.

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Currently a second-year master's student at the McCourt School of Public Policy, her policy interests lie in racial justice, LGBTQ+ rights, and poverty mitigation.





INTRODUCTION

Crossover youth (CY) is a term used to describe youth who have experienced maltreatment and engaged in delinquency, and includes those who are dually-involved in both the juvenile justice and child welfare systems. Within and across each of these systems, it has become evident that lesbian, gay, bisexual, transgender, and questioning (LGBTQ+) youth are overrepresented compared to their heterosexual, cisgender peers (Irvine and Canfield 2015). Further, Black girls are disproportionately represented in the CY population when compared to their White counterparts who are only involved in either the child welfare or juvenile justice systems (Herz et al. 2012; Herz, Ryan, and Bilchik 2010). It follows that, when examined in tandem, Black girls and Black nonbinary and gender nonconforming youth who are LGBTQ+ (hereafter referred to as “Black LGBTQ+ girls and nonbinary youth”), are at a higher risk for crossover than their non-Black, non-LGBTQ+, male peers. However, this particular population has yet to be studied through research (Daughtery 2005; Halemba and Siegel 2011; Herz et al. 2012, 2010; Moore 2016).

KEY TERMS & DEFINITIONS

- **Cisgender:** Identifying as the same gender that was assigned at birth; not transgender
- **Transgender:** Umbrella term that signifies identifying as any other gender than the one assigned at birth
- **Nonbinary:** Falls under the transgender umbrella term; identifying as neither a man nor a woman
- **Gender nonconforming:** Falls under the transgender umbrella term; presenting oneself in a way that is not traditionally aligned with the gender one was assigned at birth

Although data exist that demonstrate the disproportional risk for crossover among Black LGBTQ+ girls and nonbinary youth, the accuracy of this research is questionable due to challenges with gathering information that relies on youths' comfort and opportunity to disclose their status as LGBTQ+. Even if youth disclose this information, systems often lack the ability to document it. Furthermore, if documentation capacity does exist, it is likely difficult to revise should a youth's identity change, which is common during adolescence. Because of this, the actual prevalence of Black LGBTQ+ girls and nonbinary youth in the crossover population is assumed to be higher than reported.

In addition to being overrepresented in the child welfare and juvenile justice systems, Black LGBTQ+ girls and nonbinary youth are known to be subjected to traumatic experiences, including physical, verbal, and sexual abuse, at higher rates than their peers in these systems (Saar 2015; Wilson et al. 2017). Research shows that outcomes for the dually-involved youth population are worse than those of their single-system involved and non-system involved peers. Such outcomes include, but are not limited to: homelessness, difficulty finding employment, and school dropout (Young et al. 2015). These consequences are exponentially more likely to occur for CY with marginalized identities. Because of the disproportional risk for crossover and the outcomes that marginalized CY face, we must further develop our understanding of Black LGBTQ+ girls and nonbinary youth. By appreciating how aspects of their identities intersect in society and learning to prevent and mitigate their entanglements with the child welfare and juvenile justice systems respectively, we are better equipped to decrease their likelihood of crossover.



BACKGROUND

INTERSECTIONALITY

Black LGBTQ+ girls and nonbinary youth have multiple marginalized identities which leave them exponentially more vulnerable to the societal risks of systems-involvement and crossover. When people are associated with multiple identities (e.g., race, gender, sexual orientation), they are affected by the systemic and societal disadvantages and advantages that accompany each. Individuals who have multiple marginalized identities often face greater injustices than their peers with fewer or no marginalized identities. A salient example of this is that Black LGBTQ+ girls and nonbinary youth face the highest rates of human and sexual trafficking of all youth (Sonoma 2019). Black LGBTQ+ girls and nonbinary youth are more likely to be trafficked than Black cisgender girls, non-Black cisgender girls, and non-Black LGBTQ+ girls and nonbinary youth. This demonstrates the impact that multiple marginalized identities can have on an individual. Additionally, one recent study with a sample size of 1,400 reports that 85 percent of LGBTQ+ CY were youth of color (Irvine and Canfield 2017). Strategies for reducing crossover among Black LGBTQ+ girls and nonbinary youth, then, must consider every aspect of an individual's identity and how they intersect with regards to systemic effects on a population.

DISPROPORTIONATE REPRESENTATION IN SYSTEMS

LGBTQ+ Youth. Twenty percent of all youth in the juvenile justice system identify as LGBTQ+ and 19 percent of all youth in the child welfare system identify as LGBTQ+ despite that only 5 to 7 percent of the overall U.S. youth population identifies as such (Center for American Progress et al. 2017; Griffith 2019; Irvine and Canfield 2017; Quintana, Rosenthal, and Krehely 2010). These statistics are even more disparate for systems-involved girls, as demonstrated by the fact that 40 percent of girls in the juvenile justice system identify as LGBTQ+ (Irvine and Canfield 2015). Similar statistics are unavailable for youth in the child welfare system as minimal research exists on LGBTQ+ girls in this system.

Black Youth. Similar to data on LGBTQ+ young persons, Black youth represent 23 percent of the foster care population and 34 percent of the juvenile justice population, yet they compose just 14 percent of the overall youth population (Annie E Casey Foundation Kids Count 2018; Conron and Wilson 2019; National Center for Juvenile Justice 2018). As noted above, youth of color make up 85 percent of the LGBTQ+ CY population, though Black people only compose 12 percent of the population of LGBTQ+ people in the U.S. (youth-specific data do not exist). This demonstrates the significant disproportionality in systems among youth of color and especially among LGBTQ+ girls and nonbinary youth of color (Irvine and Canfield 2015; Irvine, Jordan, and Soto 2019; The Williams Institute 2019). Simply existing as an LGBTQ+ youth of color makes youth vulnerable to structural racism, LGBTQ+ stigma, and adultification that increase their risk of system-involvement — often through the mechanisms of poverty and homelessness.

ADULTIFICATION

Prejudice towards racial and ethnic minority youth, particularly those who identify as Black, often leads to their being "adultified" or perceived by adults as being older, more experienced, and/or threatening as opposed to vulnerable children in need of care (Conron and Wilson 2019). Children who are adultified are less likely to be viewed (often subconsciously) as needing and deserving the support that all children need, such as stable housing, quality schooling, emotional support, and safety. Even if they are seen by system personnel as deserving of these basic necessities, placing youth of color in foster care is often more difficult than placing their White counterparts due to such biases. Adultification also increases Black LGBTQ+ girls' and nonbinary youth's susceptibility to trafficking and sexual abuse, and they are seen as more culpable than their White peers when they are victims of such crimes (Morris 2018). Due to this susceptibility, Black LGBTQ+ girls and nonbinary youth are more likely to become involved in the child welfare system and due to the perception of culpability, these youth are more likely to cross over to the juvenile justice system as well.

POVERTY

Poverty is a risk-factor for systems involvement and crossover. De facto policies (i.e., informal policies that are not legally implemented but that are practiced) and de jure policies (i.e., practices that are written into law) promote racial segregation and concentrated poverty within neighborhoods in every state across the country, placing many Black youth at risk for systems-involvement simply due to the nature of where they reside (Massey and Denton 1993; Sharkey 2013; Wilson 1987). These are known as neighborhood effects, a term coined by William Julius Wilson that refers to individuals' behaviors and outcomes associated with their neighborhood of residence. Neighborhood effects lead to negative circumstances for Black youth, such as a lack of access to jobs, increased police surveillance in neighborhoods, and educational achievement gaps, which perpetuate the cycle of poverty. These difficulties are exacerbated for Black youth with intersecting marginalized identities (e.g., Black LGBTQ+ girls and nonbinary youth), whose simple act of existence results in more police surveillance, less educational achievement, and fewer opportunities than their White, cisgender, heterosexual counterparts due to the implicit societal and systemic biases perpetuated against such identities. Further, by virtue of their caregivers' income and thus living situations, Black LGBTQ+ girls and nonbinary youth – more so than Black youth in similar circumstances who are heterosexual and male - face an increased risk of systems-involvement, particularly referral to the child welfare system, and an exacerbated risk of homelessness (Edwards 2019; Irvine and Canfield 2017; Smoot and Irvine 2016; Wilson 1987).

HOMELESSNESS

A 2012 report published by the Center for American Progress (CAP) found that homelessness is a strong predictor of youth involvement with the juvenile justice system and that LGBTQ+ youth are overrepresented in the homeless youth population, accounting for 20 to 40 percent of homeless youth in 2009 (Hunt and Moodie-Mills 2012; Majd, Marksamer, and Reyes 2009; Ray 2006). These statistics are even more dire for LGBTQ+ youth of color, particularly Black youth. In 2014, the Homeless Youth Provider Survey found 31 percent of the LGBTQ+ youth they surveyed identified as African-American or Black (Choi et al. 2015), yet Black youth made up only 14 percent of the general youth population (Griffith 2019).

Additionally, LGBTQ+ youth of all races face high rates of family rejection and conflict due to their sexual orientation and/or gender identity and expression, making them susceptible to homelessness and/or child welfare involvement. Homelessness amongst youth often necessitates involvement with the child welfare system, and homeless youth commonly engage in status offenses and low-level misdemeanors out of necessity making them vulnerable to involvement in the juvenile justice system as well (Griffith 2019).

Youth of color are overrepresented in the child welfare system, in part, because of the imbalance of family preservation services for White families versus Black families. Black families often look less “traditional” than White families. For instance, in many non-White cultures, family is more than just the nuclear sense of the word; grandparents, close friends, and neighbors all often act as part of the family. Because this may not look the same as White culture, Black children are often removed from family situations in which remaining would actually be the best option for the youth (Sangoi 2020).

OUTCOMES RELATED TO SYSTEMS INVOLVEMENT

There are many factors that affect the outcomes of individuals' lives. Black LGBTQ+ girls and nonbinary youth face systemic challenges that can lead to negative experiences such as homelessness, joblessness, and poverty—and involvement in the child welfare and/or juvenile justice systems can exacerbate these risks. Adjudication in the justice system often leads to negative outcomes, both immediately and later in life, and being Black and LGBTQ+ can create a compounding effect (Hunter et al. 2018). Individuals who enter the justice system as youth, for example, may later experience housing instability due to legalized housing discrimination against individuals with certain criminal records. Difficulty in finding public housing is only made harder when youth are members of the LGBTQ+ community as they tend to face levels of discrimination unseen by their cisgender and heterosexual peers (Levy et al. 2017). Furthermore, having a juvenile record can also make finding a job difficult for formerly incarcerated youth depending on the disclosure laws in their state of residence.

In addition to housing and employment difficulties, most youth who interact with the juvenile justice system and/or the child welfare system have or will experience trauma (Flores et al. 2018). This risk is often bolstered by the child's status as Black and LGBTQ+ due to the systemic and implicit biases, discrimination, and treatment that youth within the Black LGBTQ+ community face (Wilson et al. 2017). Though studies have focused on LGBTQ+ youth incarceration (e.g. (Conron and Wilson 2019); (Irvine and Canfield 2017); (Wilber, Reyes, and Marksamer 2006); (Wilber and Szanyi 2019)), there is little to no research regarding the long-term effects of justice system involvement and how they percolate within the LGBTQ+ community. People who identify as LGBTQ+ are at higher risk for depression, homelessness, and poverty, among other negative outcomes, but how this may correspond to their overrepresentation in the juvenile justice system is unstudied.

Unfortunately, systems involvement is cyclical for many. For example, if an individual is unemployed due to legal discrimination against hiring people with criminal records, that individual may have no way to pay for food. This can lead to resorting to illegal activities for survival, and thereby becoming reinvolved with the justice system. All of these outcomes make recidivism more likely, which increases the likelihood of unemployment, homelessness, and low education attainment thus perpetuating the cycle of justice system-involvement.

RECOMMENDATIONS

The recommendations that follow are designed for child welfare and juvenile justice personnel with the primary purpose of reducing crossover for Black LGBTQ+ girls and nonbinary youth and the secondary purpose of reducing their overrepresentation in both the child welfare and juvenile justice systems. Because youth cross over more often from the child welfare to the juvenile justice system (Herz et al., 2019) than vice versa, these recommendations are structured in a way that mirrors this pathway to demonstrate crossover prevention along a continuum.

RECOMMENDATIONS SUMMARY

- 1 Acknowledge** disparities within child welfare agencies and implement trainings with anti-racist and anti-discriminatory components to combat these disparities.
 - Develop a wider range of individualized services for youth.
 - Preserve the family unit and address homelessness.
- 2 Increase and improve** foster care options and commit to achieving permanency for Black LGBTQ+ girls and nonbinary youth.
- 3 Develop and implement** anti-racist and anti-discriminatory policies in juvenile justice agencies.
 - Identify alternatives to adjudication and system involvement.
- 4 Consider data collection** to promote understanding of this population.

- 1 Acknowledge disparities within child welfare agencies and implement trainings** with anti-racist and anti-discriminatory components to combat these disparities.

DEVELOP A WIDER RANGE OF INDIVIDUALIZED SERVICES FOR YOUTH

In order to adequately meet the needs of LGBTQ+ youth who are involved with the child welfare system, appropriate supports must be made available. Research demonstrates that peer support for the broader LGBTQ+ youth community (i.e., those in the general population who may not necessarily be systems-involved) is effective in creating a support system and a safe community for LGBTQ+ youth—one that can be provided through community service agencies, queer-youth focused drop-in locations, and web-based services (Martin, Down, and Erney 2016; Wells et al. 2012). When youth access peer supports, they are less likely to experience adverse outcomes related to systems involvement (Moses and Villodas 2017). For example, LGBTQ+ peer support models that are used in schools can be adapted to child welfare system-sponsored groups that meet at scheduled times.

A barrier to developing and/or connecting youth to individualized services is the time and resource constraints that many child welfare agencies face. However, the importance of a tailored approach for Black LGBTQ+ girls and nonbinary youth cannot be overstated. Consider, for instance, the specific need for LGBTQ-specific sex education (Wells et al. 2012). When a youth is in the custody of the child welfare system, sex education becomes the job of their guardian—the child welfare system. LGBTQ+ youth need specific guidance on dating and relationship issues and should be provided with resources for the prevention of dating violence as they are particularly susceptible to this (Martin et al. 2016).

Finally, because gender nonconforming and transgender youth of color often face worse outcomes than their LGB counterparts, it is important to provide specialized services for stress reduction, self-defense, and how to deal with family issues in order to promote positive mental health outcomes.

Child welfare agencies should identify or develop wraparound services that emphasize youth and family voice and promote problem-solving skills and self-esteem. To do this, child welfare workers will need to spend time with the youth in situations that allow for empathetic, open discussions that result in genuine relationship building. There is no way to emphasize youth voices without first listening to them. Similar strategies and services have proven effective in improving outcomes, such as increased educational attainment, reduced recidivism rates, and improved mental health among Black LGBTQ+ girls and nonbinary youth (Martin et al. 2016).

Creating safe, understanding, and educational spaces in the child welfare system for LGBTQ+ youth will minimize the likelihood of crossover for this population. When problem-solving skills, coping skills, and self-efficacy are promoted alongside community support, youth engage in fewer problem behaviors and are met with more appropriate responses if and when they do.

RECOMMENDATION RECAP:

- ☒ Create or connect Black LGBTQ+ girls and nonbinary child welfare youth to peer and community supports
- ☒ Develop LGBTQ+ specific education resources and curricula
- ☒ Provide opportunities for youth to learn strategies for stress relief and self-defense
- ☒ Incorporate youth and family voice into all decisions, and prioritize healing of the family unit

RESOURCE: THE RUTH ELLIS CENTER, MICHIGAN

The Ruth Ellis Center provides trauma-informed services for LGBTQ+ youth, particularly youth of color, youth experiencing homelessness, and youth who are system-involved. Their five core programs include a Health & Wellness Center, Ruth's House (a residential care facility), and a Drop-in Center. The Drop-in Center can be used to model the services recommended in the preceding paragraph, specifically for transgender youth. It provides a safe space for LGBTQ+ youth and has services specifically catering to transgender youth including beauty kits, an open clothes closet, and safer sex supplies.

<http://www.ruthelliscenter.org/>

PRESERVE THE FAMILY UNIT AND ADDRESS HOMELESSNESS

YOUTH RECEIVING PREVENTATIVE SERVICES

While best practices emphasize preservation of the family unit, this becomes more complicated with LGBTQ+ youth. Often, these youth are in the child welfare system because their very identity makes it unsafe for them to remain at home with their families. However, child welfare workers may be able to assist with family preservation for LGBTQ+ youth by recommending and providing family therapies, educational material for parents, community support for families with LGBTQ+ children, and connecting LGBTQ+ youth with safe spaces and mentors. Additionally, LGBTQ+ youth often have “chosen families” and this familial system should be considered as an option for legitimate placement.

RESOURCE: THE FAMILY ACCEPTANCE PROJECT, CALIFORNIA

The Family Acceptance Project developed research-based materials for families, social workers, and other adults who may need them in order to “help diverse families learn to support their LGBTQ children.” They also developed a model of family-related care aimed at protecting and promoting the mental and physical health of LGBTQ youth.

<https://familyproject.sfsu.edu/>

YOUTH IN CONGREGATE CARE PLACEMENTS

Black youth are more likely to be placed in congregate care than their White counterparts (Palmer et al. 2020; Wulczyn 2019). Congregate care placements can be hotspots for crossover because they often lack individualized services and personnel are not commonly trained in de-escalation or therapeutic interventions for challenging behaviors. As such, police are often called either for avoidable situations or situations in which their presence would be unnecessary if youth were living at home with family or guardians (Fremon 2018; Maestre 2015).

To reduce crossover in congregate care settings, staff should be highly trained in both de-escalation and therapeutic intervention. Providers should be equipped to handle behaviors resulting from trauma, post-traumatic stress disorder, adjustment disorders, and normal adolescent boundary testing (Daniels 2020; Maestre 2015). This training should include an anti-racism and anti-discriminatory component. When anti-racism training is coupled with behavioral response training, coaching, and expectations for behavioral change, it has been shown to be effective in minimizing bias (Chang et al. 2019; Sloat 2019). Through professional training in conflict de-escalation and behavioral intervention, with a focus on racial equity and implicit biases, congregate care personnel will become better equipped to reduce crossover, particularly for Black LGBTQ+ girls and nonbinary youth.

RECOMMENDATION RECAP:

- ☒ Emphasize preservation of the family unit when possible through family acceptance
- ☒ Provide educational, research-based materials to families with LGBTQ+ youth
- ☒ Train congregate care providers in de-escalation and therapeutic interventions

- 2 **Increase and improve** foster care options and commit to achieving permanency for Black LGBTQ+ girls and nonbinary youth.

FOSTER CARE

Black LGBTQ+ girls and nonbinary youth comprise a disproportionately large share of the homeless youth population (Choi et al. 2015; Griffith 2019). To reduce the crossover that occurs through illicit activities associated with homelessness, the child welfare system should act as a mitigating force by providing stable and accepting places to live for Black LGBTQ+ girls and nonbinary youth. Child welfare services should engage LGBTQ+ advocacy groups. These groups are perfectly positioned to engage adult members of the LGBTQ+ community who are well-suited to be foster and/or adoptive parents (especially to older teens), serve as mentors, and offer apprenticeships within their workplaces.

It is vital that Black LGBTQ+ girls and nonbinary youth be placed in affirming, safe placements. Children who are in foster placements rather than group homes have better outcomes and are less likely to cross over (Wulczyn 2019). Despite that young people in foster homes are less likely to cross over than those in congregate settings, Black youth are less likely to be placed in foster homes oftentimes due to adultification and other implicit biases (Palmer et al. 2020; Wulczyn 2019). Additionally, LGBTQ+ youth are more likely to be placed in congregate care than their non-LGBTQ+ counterparts (Martin et al. 2016). The Family First Prevention Services Act (FFPSA) has created a new paradigm in which all congregate care services must meet qualified residential treatment program (QRTP) status. It is difficult to know how this will affect Black LGBTQ+ youth specifically, but because FFPSA encourages the use of foster care over congregate care there is reason to believe this population may benefit (though there is always the possibility that disparities could worsen).

RESOURCE: LAMBDA LEGAL

Lambda Legal is one of the nation's largest LGBTQ+ civil rights organizations. They provide a fact sheet on their website regarding LGBTQ+ foster youth and published a toolkit on the same topic in partnership with The Child Welfare League of America. They also offer support and information to individuals who contact them.

<https://www.lambdalegal.org/know-your-rights/article/youth-foster-parents>

Child welfare agencies should connect with the LGBTQ+ adult community in the area. LGBTQ+ couples are six times as likely to raise foster children than their non-LGBTQ+ counterparts and are often the most appropriate candidates to care for LGBTQ+ youth (The Williams Institute 2013). Similarly, attempts should be made to place youth with people who understand their culture in all aspects possible; this is of particular importance for Black LGBTQ+ girls and nonbinary youth who face intersecting marginalized identities. Black LGBTQ+ girls and nonbinary youth who are placed in foster care should have access to the following supports:

1. Clothing that is aligned with the youth's gender identity
2. Use of personal pronouns that the youth has requested
3. Ensuring use of the child's chosen name
4. Access to health services that specialize in gender identity needs
5. Guardians who will follow the treatment plan set out by the health care provider with special attention to any gender-related medical conditions
6. Support and advocacy for Black LGBTQ+ youth in social and educational settings; and
7. Regular communication with youth to ensure they feel supported and accepted in their placement (Martin et al. 2016)

Access to these supports helps prevent traumatization and re-traumatization, enables youth to feel confident that they are supported by the adults with whom they live, and promotes communication and requests for help rather than engaging in behaviors that lead to juvenile justice system involvement.

RECOMMENDATION RECAP:

- ☒ Place youth in foster homes rather than congregate care whenever possible
- ☒ Engage LGBTQ+ advocacy groups regarding foster care and mentorship opportunities
- ☒ Always be cognizant of cultural differences in family form and function
- ☒ Provide specific supports for Black LGBTQ+ girls and nonbinary youth in foster care (see list above)

ACHIEVING PERMANENCY

Black youth and LGBTQ+ youth are less likely to achieve permanency than their non-LGBTQ+ counterparts, and “as many as one out of every four LGBTQ+ youth in foster care will exit foster care without having achieved permanency from a congregate setting” (Child Welfare Information Gateway 2016; Martin et al. 2016). When these young adults exit the child welfare system without achieving stability, they are subject to increased risk for entering the justice system (Courtney et al. 2010; Courtney and Dworsky 2006; Shook et al. 2013). A prominent reason for this is that these individuals do not have the same support network as their peers who achieved permanency and are thus more likely to fall into poverty and homelessness, both of which are risk factors for crossover. Child welfare departments should commit to and emphasize achieving permanency for Black LGBTQ+ girls and nonbinary youth. A commitment and emphasis on achieving permanency for Black LGBTQ+ girls and nonbinary youth requires different approaches than their non-Black, non-LGBTQ+ counterparts. These recommendations include:

1. Promote service provider competency and understanding of racial and LGBTQ+ specific challenges to permanency
2. Create strategies focusing on permanency for older youth
3. Explore family engagement and kinship designation models as defined by the youth (Martin et al. 2016).

These three recommendations can be unpacked further. For instance, the utilization of permanency pacts—an agreement by an adult to provide support and development of a lifelong, familial relationship with a youth in foster care—can aid in creating stable, permanent relationships for Black LGBTQ+ girls and nonbinary youth, particularly those who are close to aging out of the child welfare system (FosterClub provides a free permanency pact toolkit). Due to adultification and the fact that they may have been required to grow up quickly, there are often fewer familial or kin-like supports for older Black LGBTQ+ girls and nonbinary youth than for their peers.

There are myriad barriers to kinship placements and family engagement for Black LGBTQ+ girls and nonbinary youth. The three recommendations above promote the incorporation of youth-defined supports and the maintenance of family engagement in an effort to identify successful kinship placements and connections. Strategies such as these are flexible and create opportunities for Black LGBTQ+ girls and nonbinary youth to experience family acceptance and/or kinship placements that facilitate a safety net for when youth are no longer under the care of the child welfare system.

RECOMMENDATION RECAP:

- ☒ Commit to achieving permanency for Black LGBTQ+ girls and nonbinary youth
- ☒ Promote service provider competency and understanding of specific challenges faced by Black LGBTQ+ girls and nonbinary youth
- ☒ Be open to alternative kinship designation models, particularly those defined by the youth

3 **Reduce discrimination** in the juvenile justice system

EDUCATION AND TRAINING



The reduction of discrimination against LGBTQ+ youth and youth of color in the juvenile justice system necessitates education and training, including implicit bias training. This training should include information about the range of LGBTQ+ youth to highlight the heterogeneity of these groups and the need for more individualized services instead of a “one-size fits all” approach (Center for American Progress et al. 2017). Anti-racism and anti-discrimination trainings should include intersectionality awareness and focus on judges, magistrates, probation officers, attorneys, and social workers.

Educating individuals in these positions improves knowledge on issues related to minority populations, which can increase the likelihood that empathetic authority figures exist for Black LGBTQ+ girls and nonbinary youth in the system. Pairing this training with coaching, modeling, and expectations for behavioral change is vital; instituting regular discussion among those present for training is also important. Discussion topics can include: changing expectations, modeling the values youth should strive towards (including understanding, empathy, and patience), and frank conversations regarding what else staff and others in positions of authority need to continue the personal work of dismantling their own biases. Additionally, the overrepresentation of Black LGBTQ+ girls and nonbinary youth may be mitigated through implicit bias training helping to increase diversionary tactics for Black LGBTQ+ girls and nonbinary youth. Implicit bias training should not be a one-time experience but, rather, should be ongoing to promote knowledge and continued understanding.

While training and education are necessary, it is important to recognize that there is mixed evidence on the effectiveness of diversity training alone in its capacity to reduce explicit and implicit bias and discrimination. However, it is considered best practice to engage youth system workers in these trainings (Center for Substance Abuse Treatment. 1995; Chang et al. 2019; Sloat 2019). Because the evidence is mixed regarding training alone, it is recommended that training be used in conjunction with the other recommendations outlined in this paper as part of a commitment to reduce crossover for Black LGBTQ+ girls and nonbinary youth.

From a harm-reduction standpoint, diversity training allows individuals to engage with anti-discriminatory ideas and begin the important work of improving outcomes for system-involved Black LGBTQ+ girls and nonbinary youth. Unfortunately, there are very few extant trainings focused on LGBTQ+ youth in the juvenile justice system (see insert for one example). However, increased demand for such trainings will both increase their availability and encourage jurisdictions to partner with experts to develop their own training programs.

RECOMMENDATION RECAP:

-  Attend and require anti-racism and anti-discrimination trainings regularly
-  Do not be complacent with training—it only works when paired with modeling, coaching, and widely acknowledged expectations for behavioral change

RESOURCE: CENTER FOR JUVENILE JUSTICE REFORM CERTIFICATE PROGRAMS, WASHINGTON, D.C.

The Center for Juvenile Justice Reform offers several intensive training opportunities or “Certificate Programs” to help system practitioners and partners improve the ways in which they serve youth and families. Held in partnership with Ceres Policy Research, Inc. and the National Center for Lesbian Rights, CJJR’s “Supporting the Wellbeing of LGBTQ Youth Certificate Program,” for example, is designed to help juvenile justice, child welfare, and other system partners enhance outcomes for at-risk LGBTQ youth. CJJR’s “Reducing Racial and Ethnic Disparities in Juvenile Justice Certificate Program,” co-hosted with the Center for Children’s Law and Policy, supports leaders to reduce the over-representation and disparate treatment of youth of color in the juvenile justice system. After completing these programs, with the support of CJJR and its partners, participants develop and implement Capstone Projects in their respective jurisdictions designed to improve outcomes for youth, families, and communities.

<https://cjjr.georgetown.edu/certificate-programs/>

ALTERNATIVES TO ADJUDICATION AND SYSTEM INVOLVEMENT

Black LGBTQ+ girls and nonbinary youth are at a higher risk for adjudication in the justice system than their peers because they are viewed as more culpable for illicit activities, as greater threats to society, and more in need of protection from their child welfare-involved peers (Morris 2018). Courts, public defenders and other attorneys who represent youth, and juvenile justice agencies should put intersectional, anti-discriminatory policies in place to help staff unlearn their biases against Black LGBTQ+ girls and nonbinary youth and reshape the false perception that this population is more culpable and more threatening than their peers. Furthermore, Black LGBTQ+ girls and nonbinary youth are occasionally incarcerated “for their own protection” when they are facing discrimination or threat from their peers within the child welfare system. The juvenile justice system (along with the child welfare system) must commit to establishing strategies to protect these children without incarcerating them (refer to recommendations 3a regarding education and training, 2a regarding foster care, and 1a regarding individualized services).

RESOURCE: YOUTH LAW ENFORCEMENT ASSISTED DIVERSION (LEAD), TEXAS

LEAD is a community-based approach to diversion that was originally designed for adult offenders and has been adopted in Houston as a youth program that targets young people who commit low-level offenses at school or on school properties. The goal of the program is to “reduce unnecessary involvement in the justice system.”

https://leadbureau.org_

The Crossover Youth Practice Model, which was developed by the Center for Juvenile Justice Reform at Georgetown University's McCourt School of Public Policy, presents diversion as an indispensable tool for mitigating system crossover. Among other benefits, diversion programs and efforts can:

- allow youth to maintain active engagement with the child welfare system and the supports it offers;
- provide community-based programming and services, as opposed to formal justice system involvement and/or incarceration, that promote positive youth behavior and decision-making;
- advance family involvement and empowerment;
- and engage multi-system teams and court models that focus on developmentally appropriate and restorative justice responses to behaviors rather than ones steeped in punishment, control or fear.

Additionally, diversion can aid Black LGBTQ+ youth to form relationships with mentors and reengage with family by facilitating youth and family participation in family therapy.

If there is a systematic focus on developing and providing alternatives to justice system involvement and adjudication, crossover can be reduced. Furthermore, when a multi-system approach is utilized and there is frequent and clear communication between child welfare, juvenile justice, and court system personnel, opportunities for diversion and an array of service options are more likely to be identified. Alternatives to adjudication help ensure that young people are receiving treatment to meet their needs as opposed to being punished for their identities and circumstances that may be beyond their control.

RECOMMENDATION RECAP:

- ☒ Do not incarcerate youth for their own protection—find an alternative
- ☒ Utilize a multi-system approach to diversion
- ☒ Consider developmentally appropriate behavioral interventions rather than adjudication

4 **Consider data collection** to promote understanding of this population.

Martin et al. recommend data collection as a way to “normalize LGBTQ+ self-identification by acknowledging that all people have a sexual orientation and gender identity” (Martin et al. 2016). Data collection can also aid in understanding the potential volume of need that exists for specialized services. Decision point analyses, which examine the prevalence of disparities at various system junctures, can be useful in understanding if and why there is overrepresentation of Black LGBTQ+ girls and nonbinary youth in the CY population. By noting trends in data regarding crossover, system responses (e.g., detention, out-of-home placement, discipline), and opportunity deficits, individuals may be more understanding of the systemic disadvantages faced by Black LGBTQ+ girls and nonbinary youth. Recognizing the true reach of the overrepresentation of Black LGBTQ+ girls and nonbinary youth in the CY population and becoming educated on common pathways to crossover is vital to developing and modifying strategies for reducing their prevalence in systems.

While data collection can lead to a better understanding of why and how crossover is occurring among Black LGBTQ+ girls and nonbinary youth, we must be cognizant of the possibility for ethical issues. Youth should never be pressured or forced to disclose their sexual orientation or gender identity. Additionally, by answering questions posed by child welfare or juvenile justice workers about their sexual orientation and gender identity, youth are not protected by HIPAA rights as they would be with a doctor or psychologist. Youth are protected by the code of ethics binding certified members of the National Association of Social Workers to receive consent before sharing confidential information (Lambda Legal and Child Welfare League of America 2015).

These protections may not be as strong as those present in a health care setting, so it is absolutely vital that child welfare workers understand and adhere to the responsibility they have to not disclose information regarding the youth’s sexual orientation or gender identity without the youth’s explicit permission.

RECOMMENDATIONS

RECOMMENDATION RECAP:

- ✓ Never pressure or force youth to disclose their gender identity or sexual orientation
- ✓ Utilize data collection opportunities to normalize LGBTQ+ self-identification
- ✓ Try to collect data that not only describe the overrepresentation of Black LGBTQ+ girls and nonbinary youth, but also clarify why it exists

CONCLUSION

Black LGBTQ+ girls and nonbinary youth are overrepresented in the CY population. They most commonly cross over from the child welfare system to the juvenile justice system. Unfortunately, this vulnerable group has not received the care, understanding, and focus necessary to reduce such crossover and improve their outcomes post-system involvement. It is vital to understand the intersectional identities this population holds, how they affect youth, and the proper response, training, and practices required of adults involved in their care. Only by reaching this understanding and following evidence-based recommendations and policies will this disproportional representation shrink.

The recommendations presented within this paper provide a road map to acknowledge and thus challenge this problem of overrepresentation. We all need to recognize the disparities within child welfare and juvenile justice agencies and implement trainings with anti-racist and anti-discriminatory components to combat these disparities. Personnel must develop a wider range of targeted, individualized services for youth, emphasize preservation of the family unit, and address homelessness within the population of Black LGBTQ+ girls and nonbinary youth. There must also be increased and improved foster care options for this population and a commitment to achieving permanency. Furthermore, all individuals who work with Black LGBTQ+ girls and nonbinary youth within the child welfare and juvenile justice systems must take part in the development and implementation of anti-racist and anti-discriminatory policies and practices within their place of work. This includes identifying alternatives to justice system involvement and adjudication such as diversion, behavioral and therapeutic interventions, and peer- and mentor-supported activities. Finally, local child welfare and juvenile justice agencies should consider data collection as a way to not only measure disproportionality and determine trends, but to understand why such phenomena occur in order to fashion effective solutions to identified challenges.

Black crossover LGBTQ+ girls and nonbinary youth are an extremely vulnerable population who are often the victims of systemic inequality; it is imperative that we begin immediate action to address these inequities.

ACTIONABLE RECOMMENDATIONS

1

Acknowledge disparities within child welfare agencies and implement trainings with anti-racist and anti-discriminatory components to combat these disparities.

Develop a wider range of individualized services for youth.

- Create or connect Black LGBTQ+ girls and nonbinary child welfare youth to peer and community supports
- Develop LGBTQ+ specific education resources and curricula
- Provide opportunities for youth to learn strategies for stress relief and self-defense
- Incorporate youth and family voice into all decisions, and prioritize healing of the family unit

Preserve the family unit and address homelessness.

- Emphasize preservation of the family unit when possible through family acceptance
- Provide educational, research-based materials to families with LGBTQ+ youth
- Train congregate care providers in de-escalation and therapeutic interventions

ACTIONABLE RECOMMENDATIONS

- 2** **Increase and improve** foster care options and commit to achieving permanency for Black LGBTQ+ girls and nonbinary youth.

Foster care

- Place youth in foster homes rather than congregate care whenever possible
- Engage LGBTQ+ advocacy groups regarding foster care and mentorship opportunities
- Always be cognizant of cultural differences in family form and function
- Provide specific supports for Black LGBTQ+ girls and nonbinary youth in foster care

Achieving permanency

- Commit to achieving permanency for Black LGBTQ+ girls and nonbinary youth
- Promote service provider competency and understanding of specific challenges faced by Black LGBTQ+ girls and nonbinary youth
- Be open to alternative kinship designation models, particularly those defined by the youth

ACTIONABLE RECOMMENDATIONS

- 3** **Develop and implement** anti-racist and anti-discriminatory policies in juvenile justice agencies.

Education and training

- Attend and require anti-racism and anti-discrimination trainings regularly
- Do not be complacent with training—it only works when paired with modeling, coaching, and widely acknowledged expectations for behavioral change

Alternatives to adjudication and system involvement

- Do not incarcerate youth for their own protection—find an alternative
- Utilize a multi-system approach to diversion
- Consider developmentally appropriate behavioral interventions rather than adjudication

- 4** **Consider data collection** to promote understanding of this population.

- Never pressure or force youth to disclose their gender identity or sexual orientation
- Utilize data collection opportunities to normalize LGBTQ+ self-identification
- Try to collect data that not only describe the overrepresentation of Black LGBTQ+ girls and nonbinary youth, but also clarify why it exists

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