

**Core Recommendations from *Hidden Injustice***

To meet the rehabilitative needs of LGBT youth in delinquency and status offense cases, the Equity Project recommends the following:

1. Juvenile justice professionals (including judges, defense attorneys, prosecutors, probation officers, and detention staff) must treat—and ensure others treat—all LGBT youth with fairness, dignity, and respect, including prohibiting any attempts to ridicule or change a youth’s sexual orientation or gender identity.
2. Juvenile justice professionals must promote the well being of transgender youth by allowing them to express their gender identity through choice of clothing, name, hairstyle, and other means of expression and by ensuring that they have access to appropriate medical care if necessary.
3. Juvenile justice professionals must receive training and resources regarding the unique societal, familial, and developmental challenges confronting LGBT youth and the relevance of these issues to court proceedings. Trainings must be designed to address the specific professional responsibilities of the audience (i.e., judges, defense attorneys, prosecutors, probation officers, and detention staff).
4. Juvenile justice professionals must develop individualized, developmentally appropriate responses to the behavior of each LGBT youth, tailored to address the specific circumstances of his or her life.
5. All agencies and offices involved in the juvenile justice system (including courts, as well as prosecutor, defender, and probation offices, and detention facilities) must develop, adopt, and enforce policies that explicitly prohibit discrimination and mistreatment of youth on the basis of actual or perceived sexual orientation and gender identity at all stages of the juvenile justice process, from initial arrest through case closure.
6. Juvenile courts must commit to using the least restrictive alternative necessary when intervening in the lives of youth and their families and avoid unnecessary detention and incarceration.
7. Juvenile courts must collaborate with other system partners and decision makers to develop and maintain a continuum of programs, services, and placements competent to serve LGBT youth, ranging from prevention programs to alternatives to detention to nonsecure and secure out-of-home placements and facilities. Programs should be available to address the conflict that some families face over the sexual orientation and gender identity of their LGBT child.
8. Juvenile justice professionals and related stakeholders must ensure adequate development, oversight and monitoring of programs, services, and placements competent to serve LGBT youth.
9. Juvenile courts must ensure the timely appointment of qualified and well-resourced counsel to provide zealous defense advocacy at all stages of delinquency proceedings.
10. Juvenile justice professionals must take responsibility for protecting the civil rights, and ensuring the physical and emotional well being and safety, of LGBT youth placed in out-of-home placements.
11. Juvenile justice professionals must adhere to all confidentiality and privacy protections afforded LGBT youth. These protections must prohibit disclosure of information about a youth’s sexual orientation and gender identity to third parties, including the youth’s parent or guardian, without first obtaining the youth’s consent.

## **Strategies for Reform for Juvenile Courts, Judges, and Bench Officers**

Each stakeholder within the juvenile justice system has responsibility for implementing practice and policy reforms to ensure that all youth, including LGBT youth, are treated with dignity, fairness, and respect. The strategies below provide guidance specific to juvenile delinquency courts, judges, and bench officers:

### **Support the creation of a continuum of community-based, LGBT-competent resources**

- Ensure that all court-based services such as mental health programs, drug or alcohol abuse services, and status offender programs, provide effective and nondiscriminatory services to LGBT youth.
- Keep informed of community-based programs and resources (including diversion program, out-of-home placements, and aftercare services) that are equipped to work with LGBT youth and provide effective nondiscriminatory services. Ensure that defense attorneys, prosecutors, and probation officers are familiar with these resources as well.
- Require mental health professionals with whom the court contracts to obtain training in competently providing services to LGBT youth.

### **Insist on decorum and respect in the courtroom**

- Ensure that all professionals, regardless of their personal views, treat LGBT youth with dignity and respect in court. Immediately respond to instances of discrimination, including comments made in court that belittle, ridicule, or otherwise demonstrate bias towards LGBT youth.
- Where applicable, indicate on court documents a transgender youth's preferred name along with the legal name.

### **Adhere to constitutional and statutory due process provisions**

- Ensure the timely appointment of well-resourced, qualified counsel to represent LGBT youth at all stages of a delinquency cases.
- Conduct all judicial colloquies using developmentally appropriate language and insist that any waivers of rights by youth meet the knowing, voluntary, and intelligent standard.

### **Reduce the over-reliance on detention and incarceration**

- Make detention decisions based on appropriate legal standards (i.e., risk of dangerousness or flight). In cases in which these standards are not met but returning home is not an option, explore viable alternatives to detention.
- Support the creation of alternatives to detention that will keep LGBT youth in their communities with the lowest level of supervision necessary, such as informal daily reporting centers, curfews, placement in foster homes, or counseling.
- Where applicable, participate with other stakeholders on committees that develop or adopt screening tools used to make detention decisions. Any such tools must be based on objective, evidence-based factors and should not have a disparate impact on LGBT youth.



**National Juvenile Defender Center**  
[www.njdc.info](http://www.njdc.info)

**Legal Services for Children**  
[www.lsc-sf.org](http://www.lsc-sf.org)

**National Center for Lesbian Rights**  
[www.nclrights.org](http://www.nclrights.org)

## ***Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts***

### **Practice Tips: Identifying LGBT Competent Programs and Services**

Programs and placements that are competent to work with LGBT youth ensure LGBT youth are safe, treated fairly, and have their needs met. Specifically, competent programs:

- are designed with the understanding that at least some of the youth served will be LGBT;
- do not make assumptions about the sexual orientation and gender identity of individual youth;
- do not rely on gender, race, or other stereotypes but make individualized assessments of the strengths and needs of each client;
- unequivocally prohibit any attempts to change a youth's sexual orientation and gender identity;
- adopt and enforce non-discrimination policies;
- implement protocols that maintain confidentiality of information regarding youths' sexual orientation and gender identity;
- require training of all service providers on issues related to sexual orientation and gender identity;
- address developmental, physical, social and emotional concerns of LGBT youth;
- understand and address the impact of societal bias on LGBT youth development;
- provide LGBT youth with help to address family rejection, school harassment, and societal stigma.; and
- provide support to families of LGBT youth or refer families to appropriate programs.

### **Practice Tips: Interventions to Strengthen Families**

In appropriate cases, the juvenile justice system should provide families with interventions that will help resolve familial conflicts stemming from a child's sexual orientation or gender identity. In particular, juvenile courts should:

- Engage families in the court process; don't let families simply disengage because their child is LGBT;
- Provide support and guidance to families to help them adjust to their child's sexual orientation or gender identity;
- Educate families on the positive impacts of family acceptance, as well as the negative impacts of family rejection;
- Refer parents and caregivers to counseling to address feelings, attitudes, and behaviors toward their children's sexual orientation and/or gender identity;
- Provide intensive home-based services to address any crisis situation presented by the family's discovery of the youth's sexual orientation and/or gender identity; and
- Support LGBT youths' connections to their extended families.

### **Practice Tips: Names and Pronouns for Transgender Youth**

The following list provides tips for juvenile court professionals on appropriate use of names and pronouns for transgender youth:

- Juvenile justice professionals should call transgender youth by the name and pronoun that the youth prefers, even if it differs from their legal name;
- If unsure of a youth's gender identity, court professionals should simply ask the youth about his or her gender identity and what pronoun and name the youth uses;
- Court professionals should never refer to a transgender youth as "he-she" or "it"; and
- All court-related records can include reference to a youth's legal name, but should use the youth's preferred name and pronoun throughout.