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Revolving Doors: LGBTQ Youth at the Interface of the Child Welfare and Juvenile Justice Systems

by Sarah Mountz

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Given their capacity to mask, mute, and bureaucratize the human voice, institutional settings remain particularly potent spaces for the interpersonal and systemic enactment of homophobia and transphobia. Tremendous obstacles exist in providing effective, high-quality services to lesbian, gay, bisexual, transgender, and queer (LGBTQ) adolescents in the child welfare and juvenile justice systems. This article reviews and critically analyzes the small body of literature pertaining to LGBTQ youth in the foster care system within the United States. It identifies systemic biases shared between the child welfare and juvenile justice systems and argues that they have jointly become warehouses for LGBTQ youth trapped within their midst. The article concludes with suggestions for policy reform and argues for the need to embrace an intersectional lens in child welfare and juvenile justice research, policy, and practice.

Unlike adults, who are relatively capable of protecting themselves, queer youth, based on their legal age and status, are often effectively silenced. In the introduction to "Queer Kids: A Comprehensive Annotated Legal Bibliography," Sarah Valentine argues that queer youth "can face every sort of legal or non-legal problem that a queer adult may face while operating under the distinct handicap of their age" particularly with respect to dealing with verbal harassment and physical or sexual assault (2008). A recent cluster of suicides by lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth and the surrounding media attention have illuminated what academic research, community testimony, and other anecdotal evidence collectively asserted since the mid-1990s: school bullying and harassment remain chronic and pervasive problems for LGBTQ youth, and the public health implications are dire (Birkett et al. 2009; Wright 2008; Grossman and D'Augelli 2007; Wyss 2004; D'Augelli et al. 2002).

The tragic death of Rutgers University student Tyler Clementi in September 2010 following a particularly heinous case of cyberbullying drew a media storm of attention to the issue of LGBTQ youth bullying and suicide, igniting national discourse. Absent from this conversation thus far has been the recognition that increased risk for suicide is but one of many poor outcomes of relentless and uninterrupted bullying for this community of young people. Other issues include increased risk for substance abuse and HIV/STD infection (Garofalo et al. 1998); Hanlon 2004; Saewyc et al. 2006) as well as school truancy and worse academic outcomes (Kosciw and Diaz 2006; O'Shaughnessy et al. 2004; Ryan and Rivers 2003; Savin-Williams 1994). As this piecemeal understanding of the risks to LGBTQ youth indicates, structural analyses of the systems of oppression that create the conditions for homophobic and transphobic bullying are lacking.

While the capacity of institutional settings like schools to mask, mute, and bureaucratize the human voice increases their salience as spaces fostering the systematic enactment of interpersonal homophobia and transphobia that silence LGBTQ youth voices, this phenomenon is not unique to schools. Recent research reveals that queer and transgender (trans) youth are disproportionately represented among homeless youth populations (Cochran et al. 2002; Van Leeuwen et al. 2006) as well as in the child welfare and juvenile justice systems (Wilber et al. 2006; Majd et al. 2009). Although the pathways onto the streets and into the child welfare and juvenile justice systems are complex, a lack of queer- and trans-affirming social services as well as a multitude of rejections by hostile family environments and peer networks substantially influence the entry of LGBTQ youth into these systems.

Moreover, the conflation of homosexuality and gender nonconformity with social deviance is a contributing factor to the institutional criminalization and community-level profiling of LGBTQ youth—particularly LGBTQ youth of color—that results in their disproportionate representation in the very institutions and child “protective” systems that are the least affirming of their lives and identities (Majd et al. 2009; Mogul et al. 2011). In navigating their environments, state-involved LGBTQ youth face the daily dialectic of being shut out or unsafe within the context of family life, social and spiritual enclaves, and educational environments (Ragg et al. 2006; Mallon 1998) even as the capacity of youths to actualize their voices and identities in these systems is a testament to their fortitude (Gwadz et al. 2006; Lankenau et al. 2005).

Despite these dire conditions, this article will indicate the possibilities for change through an examination of the extant literature, an identification of shared systemic biases between the child welfare and juvenile justice systems, and an assessment of policy options. Specifically, I argue that efforts toward change should always include supporting the considerable local and national organizing efforts of LGBTQ youths themselves (e.g., FIERCE at www.fiercenyc.org and Queer Youth Space at www.queeryouthspace.com) and honoring the fire behind the voices they sustain (Johnson 2007). I also contend that, on a systemic level, services need to be revamped in order to accommodate the unique risk and resiliency factors of LGBTQ youth and their families, creating programs to identify and train LGBTQ-affirming foster parents and refining the ability of social workers and attorneys to engage families of origin around issues of sexual orientation and gender identity. Additionally, institutional responses should tailor programming to promote family reunification when appropriate and honor a vast array of family and kinship configurations. Finally, developing culturally responsive interventions demands that we identify and utilize research methodologies that honor listening and striving to level the power imbalances that characterize research processes, while simultaneously honoring LGBTQ youth and their families and support networks as experts in their own rights (Harper et al. 2007; Clatts et al. 2005).

Part I: LGBTQ Youth in the Foster Care System

As explored in this section, tremendous obstacles exist in providing effective, high-quality services to LGBTQ adolescents in the child welfare system.

LGBTQ Pathways to the Child Welfare System

Older children in foster care, such as many queer adolescents, face barriers like mitigated success in being placed in a permanent setting or with a family; the stigma of child welfare involvement; and the increased risk for substance abuse and mental health issues that are connected to long-term out-of-home placement (Jacobs and Freundlich 2006). LGBTQ youth in care cope with additional discrimination and safety issues in and out of care, including disruption of foster family placements and increased distancing or conflict with families of origin related to their sexual orientation and/or gender identity as well as harassment and violence within congregate care facilities (Mallon 1998; Mallon et al. 2002).

Service providers, moreover, frequently lack sensitivity to the unique needs and aspirations of LGBTQ youth, making collaboration within and across systems challenging. This insensitivity also diminishes the capacity for the provision of safe, sensitive, and efficacious mental health, medical, and educational services. LGBTQ youth in care face multiple layers of discrimination and stigmatization, the psychosocial stress from which

may place them at increased risk for substance use, sex work, and other activities related to daily survival and may make the quest for an integrated identity and sense of home difficult to fulfill (Ragg et al. 2006).

Underlying Bias and Barriers in Child Welfare System

Safety, Visibility, and Stigma

Gerald Mallon (1998) describes three categories of child welfare-involved LGBTQ youth: (1) youths who are forced from their homes because of family of origin issues related to the discovery or disclosure of their sexual orientation or gender identity and who consequently enter the foster care system; (2) youths who leave, or are rejected or removed from, the homes of their family of origin for reasons that appear unrelated to their sexual orientation or gender identity (e.g., sexual abuse, educational neglect, etc.) and that may or may not reveal themselves to be a by-product of sexual orientation or gender identity; and (3) youths who come of age and become aware of their sexual orientation or gender identity while in the foster care system.

Heterosexism, homophobia, and transphobia pervade child welfare service provision and policy, resulting in a consequent invisibility of LGBTQ youth and, not uncommonly, a lack of acknowledgement by agencies and workers that there are, in fact, LGBTQ youth in their care (Mallon 1998). Visibility, however, often results in outright hostility and discrimination by both workers and other youth (Berberet 2006). The disproportionate rates at which LGBTQ youth in care are subjected to verbal and physical harassment as a result of their sexual orientation and/or gender identity have been well-documented (Mallon 1998; Jacobs and Freundlich 2006; Saewyc et al. 2006). Significant attention has also been afforded to the many ways in which child welfare settings are structurally unsupportive or poorly equipped to meet the developmental needs of LGBTQ young people (Wilber et al. 2006; Van Leeuwen et al. 2006). By virtue of their sexual orientation and/or gender identity (Mallon 1998), LGBTQ youth in foster care experience stigma on many different levels, including because they are youth in care (Hochman et al. n.d.); because they are frequently survivors of trauma (Ragg et al. 2006); and because their lives are commonly shaped by interlocking forms of oppression and multiple marginalized identities (Estrada and Marksamer 2006; Mallon and Woronoff 2006; Mallon et al. 2002). Mark Ragg, Dennis Patrick, and Marjorie Ziefert (2006) note that for LGBTQ youth in foster care, integrating multiple layers of stigma into the already complicated task of adolescent identity formation is a process that is shaped by interactions with workers, other youth in care, foster parents, members of their families of origin, and the juvenile justice system. All of these players hold the capacity either to foster wellness and resiliency or to exacerbate the capacity for internalizing social attitudes toward delegitimized and denigrated aspects of their being (Ragg et al. 2006).

Heteronormativity of Child Welfare System

In the introduction to a volume of Child Welfare dedicated to LGBTQ youth and adults involved with the child welfare system, Gerald Mallon and Rob Woronoff note that "the affirmation and protection automatically afforded to most children, youth, and families are rights not guaranteed by child welfare agencies to most gay and lesbian children, youth, and families" (2006). Existing literature documents that LGBTQ populations have been acknowledged to a greater extent by social services directed toward runaway and homeless youth than within child welfare settings (Mallon and Woronoff 2006). Many youth who receive services within the spectrum of care of providers who work with the homeless have child welfare histories, and many are living on the street because they deem this to be a safer environment than child welfare settings where they have been subjected to verbal or physical harassment and a general atmosphere of insensitivity (Van Leeuwen et al. 2006; Woronoff and Estrada 2006).

Child welfare systems have an extensive history of regulating the lives of families and communities, particularly those that are marginalized within the United States by virtue of race, class, citizenship, and family structure. In a society in which the male-headed, heterosexually grounded nuclear family is held as the gold standard, child welfare environments stand out among social services as sites where the enforcement and reproduction of heterosexism, homophobia, transphobia, and the hegemonic system of gender binaries lead to LGBTQ invisibility and negative outcomes for LGBTQ youth. In Mallon's sample of

child welfare workers, for example, the majority of those interviewed insisted that they had no LGBTQ youth in their care (Mallon 1998).

Similarly, while many studies document negative foster parent attitudes and their impact upon LGBTQ youth placement options, permanency, and well-being, only one empirical study has focused on these attitudes (Clements and Rosenwald 2007). By analyzing focus group data from twenty-five foster parents at a private foster care agency, Jennifer Clements and Mitchell Rosenwald (2007) identified the following four central themes: (1) misconceptions about LGBTQ youth; (2) fears of gay children molesting the parents' own children; (3) large perception differences regarding lesbian or bisexual children in comparison to gay children; and (4) religious beliefs that neither accept nor tolerate nonheterosexual identities or gender nonconformities. For example, misconceptions included beliefs that a youth's sexual orientation could be "cured" through social worker activity; beliefs conflating gender identity and/or gender nonconformity with sexual orientation; and the belief that children are gay because they have been sexually abused. While seven of the twenty-five foster parents had had a gay child placed in their home, six of these requested that the child be removed from their home upon learning of their sexual orientation. The study also notes the linkage between implicit case worker bias and foster parent bias; it reveals that social workers placed LGBTQ youth in the homes of foster parents whose bias was known beforehand, essentially placing gay children with parents known to be homophobic, which indicates either some bias or apathy on the part of case workers. Such a practice all but ensures failed placement (Clements and Rosenwald 2007).

Creating and providing safer and more inclusive services therefore necessitates understanding and changing not only the attitudes of workers and others who interact with the individuals and families that the child welfare system services, but also the mechanisms by which social attitudes and systems of oppression become institutionalized via social welfare policy.

Family connection and support, when achievable, can be protective against many health risk behaviors and may help combat some of the consequences of psychosocial stress experienced by LGBTQ youth. Engagement with families of LGBTQ youth—families of origin, foster and adoptive families, and extended family kinship networks—should be meaningfully offered at every stage and level of care and in every social service setting. Youths' own perceptions of their safety need to be centered and to guide this process. The model based upon the results of the Family Acceptance Project (FAP), a mixed methods participatory research project, is a strong example of family engagement that takes into consideration family attitudes toward youth sexual orientation and gender identity across cultures (Ryan 2010). Conducted in both Spanish and English and using a design that included families, youths, pediatricians, nurses, social workers, teachers, and community advocates across multiple geographies and from an array of experiences, FAP's research and counseling model focuses on family adaptation, risks, strengths, and resiliency. It synthesized family responses and behaviors, classified them as either accepting or rejecting, and then explored their correlation with measures of adolescent well-being (Ryan 2010). Based on these findings, interventions were developed to facilitate family support and child well-being among ethnically, religiously, and socially diverse families. With its proven impact on significantly enhancing LGBTQ youth well-being, these services need to be implemented in every setting that services LGBTQ youth and their families, including the child welfare and juvenile justice systems.

Lack of Permanency Resources

While recent foci independently emphasize creating permanency for youth in the foster care system and enhancing services to LGBTQ youth in care, these currents have enjoyed few points of confluence (Jacobs and Freundlich 2006). The passage of the U.S. Adoption and Safe Families Act in 1997 established stricter mandates for states to assure permanency and safety for all youth in the foster care system, but LGBTQ youth have largely been left out of initiatives for identifying permanency resources for older youth in care, and the issue of permanency tends to lack rigor within agendas established to improve services for LGBTQ youth in care (Jacobs and Freundlich 2006). Leaving the foster care system without having established trusting and sustainable relationships with family or committed adults, meanwhile, puts youth at increased risk for poverty, homelessness, and victimization. As Jill Jacobs and Madelyn Freundlich (2006) have noted,

“for LGBTQ youth, the failure to achieve permanence also heightens the risk of social isolation, loneliness, discriminatory treatment and harassment, and physical and sexual abuse.”

Attempts to Address Problems for LGBTQ Youth in Child Welfare Systems

Queer Congregate Care

While researchers and advocates have begun to explore the merits of broad shifts in the culture of agencies versus specialized services for LGBTQ youth residing in out-of-home care (Wilber et al 2006), since 2000 specialized services have been created in a handful of metropolises. Youth accounts indicate that these young people feel safer and more affirmed after moving into these environments following harassment or violence enacted against them in previous settings as a result of their sexual orientation (Mallon et al. 2002). The facilities, however, are all congregate settings, which are among the most restrictive, least family-like environments and have been associated with the lowest levels of contact with family of origin and higher levels of homelessness for youth who come of age within them (U.S. Department of Health and Human Services 2006).

LGBTQ youth are frequently placed within these settings despite an accepted child welfare practice that youth be placed in the least restrictive environment possible, which raises questions about what barriers may exist in the process of placing LGBTQ youth with foster families (Wilber et al. 2006; Jacobs and Freundlich 2006). Moreover, there is a large-scale “outing” to service providers, schools, peers, and families that occurs for youth who reside in these settings, which may have an impact upon youths’ safety within the community and at school (Jacobs and Freundlich 2006). Finally, it remains unclear whether the presence of these facilities results in a paradigm shift within the agencies that house them or create a safe, but separate, enclave for LGBTQ youth while leaving interpersonal and systemic agency bias unchallenged.

Extant literature explores alternatives to current practice that hold the potential to enhance permanency outcomes for child welfare-involved LGBTQ youth. Jacobs and Freundlich (2006), for example, highlight efforts for reunification with families of origin that are specific to LGBTQ youth, as well as culturally specific practices relevant in connecting youth to extended family members as viable permanency resources. Current efforts also target unique issues that arise for LGBTQ youth as they transition to adulthood or independent living, such as LGBTQ adult mentors or affirmative allies, noting that LGBTQ youth in care are also older youth, requiring specific sensitivities to facilitate permanency.

Queer Parent Foster Care Adoption and Mentorship

In their review of the Model Standards Project, Shannan Wilber, Carolyn Reyes, and Jody Marksamer (2006) make recommendations for remedying LGBTQ youths’ fragile placement context, including enlarging the pool of potential staff, caregivers, and providers by increasing the number and retention of both LGBTQ-identified and LGBTQ-affirming, competent caregivers. The authors additionally recommend providing ongoing support and training regarding the needs and care of this community of young people and emphasize prompt and constructive response to problems that arise within placements through a dispute resolution process. This can only be achieved, they argue, through the implementation and enforcement of nondiscrimination policies, including sanctioning and/or providing follow-up training, supervision, and technical assistance to staff members who violate the policies. Finally, they note that ensuring placement staff awareness and provision of the least restrictive, most family-like range of placement options, including LGBTQ-affirming foster families, is of paramount importance in determining positive LGBTQ youth outcomes.

“Goodness of Fit”: Unstable Housing and Homelessness

Multiple Placements

LGBTQ youth are particularly vulnerable to repeated movement and unstable placements within child welfare and juvenile justice systems that are overburdened, under-resourced, and suffer from a chronic shortage of competent staff, caregivers, and service providers to care for the more than 500,000 young people who are residing outside of the homes of their birth families (Wilber et al. 2006). In a sample of forty-five LGBTQ youth, Gerald Mallon, Nina Aledort, and Michael Ferrera (2002) found that the average number of placements for LGBTQ youth was 6.35, a result the researchers associate with nonaffirming placements that either passively encourage LGBTQ youth to leave their placements by neglecting their needs or actively discriminate against them, resulting in premature ejection or departure. Addressing their heightened risk for multiple, unstable placements, Mallon, Aledort, and Ferrera attribute the frequent moves for LGBTQ youth to four factors: (1) staff members not accepting or not affirming youths' sexual orientation; (2) youths feeling unsafe because of their sexual orientation; (3) youths' sexual orientation being seen as a "management problem"; and (4) youths not being accepted by peers because of their sexual orientation (2002).

LGBTQ Youth Homelessness

Research indicates that 52 percent of homeless youth have had some involvement with the foster care system at some point in their lives (Byrne et al. 2005). Multiple studies have also found that LGBTQ youth are disproportionately represented among homeless youth populations and face additional risks as a result of individual and institutional homophobia (Ray 2006; Van Leeuwen et al. 2006). Les B. Whitbeck et al. (2004) estimate that LGBTQ youth make up approximately 20 percent on average of homeless youth in urban areas, with slightly lower representation in non-urban areas. In another eight-city public health survey of homeless youth, 22.4 percent of 670 youth participants identified as lesbian, gay, or bisexual (Van Leeuwen et al. 2006).

In a sample of homeless youth, 58 percent of LGBTQ youth reported having been sexually assaulted compared to 33 percent of heterosexual homeless youth (Whitbeck et al. 2004). Elsewhere, 44 percent of LGBTQ youth reported being asked by someone on the street to exchange sex for money, food, drugs, shelter, or clothing as compared to 26 percent of straight homeless youth (Van Leeuwen et al. 2006).

These characteristics, alongside LGBTQ youths' higher likelihood of having attempted suicide, having at one time been enrolled in a substance abuse program, and having been in the child welfare system, as well as being significantly more likely to have been tested for HIV and hepatitis C, highlight the exacerbated public health risks associated with homelessness for LGBTQ youth (Van Leeuwen et al. 2006). These findings, furthermore, support earlier claims that LGBTQ youth move frequently between their families of origin, child welfare placements, the street, residential treatment programs, shelters, and other informal living arrangements as they seek out a good support system and living situation among persistently hostile social service systems that fail to understand their experiences and are ill-equipped to meet their needs.

Part II: The Revolving Door: Onto the Streets and Into the Juvenile Justice System

Strong parallels between the child welfare system and the juvenile justice system indicate that many of the stereotypes, biases, discriminatory practices, and structural barriers that shape the lives and experiences of LGBTQ youth are shared across both systems, with projections indicating the likelihood that LGBTQ youth are overrepresented in both (Estrada and Marksamer 2006; Majd et al. 2009; Sullivan et al. 2001).

Juvenile Justice Systems and LGBTQ Youth

Specific manifestations of the criminalization of LGBTQ youth within the juvenile justice system include the increased likelihood that youth will be detained prior to sentencing and a pathologizing of their sexuality that at times results in inappropriate "sex offense" (e.g., lewd conduct) charges. These charges then impact not only hearings and sentencing but also eventual disproportionate placement of LGBTQ youth in juvenile justice systems (Estrada and Marksamer 2006; Majd et al. 2009; Sullivan et al. 2001; Laver and Khoury 2008).

The Equity Project (Majd et al. 2009) has conducted 414 surveys as well as sixty-five interviews with juvenile justice professionals and fifty-five LGBTQ youth currently or previously involved in the juvenile justice system. LGBTQ youth were found to have been overcharged with sex offenses related to age-of-consent laws when compared to their heterosexual counterparts, an occurrence that paves the way for further potential systemic abuses, including unnecessary sex offender treatment. Consequences sometimes include court-ordered reparative or, in more extreme cases, conversion therapy, which has been condemned by every major health and mental health organization, including the American Medical Association, American Psychological Association, and the American Academy of Child and Adolescent Psychiatry (Jenkins and Johnston 2004; Majd et al. 2009). Additionally, findings from research conducted by both Amnesty International (2005) and the Equity Project (Majd et al. 2009) indicate large-scale profiling of LGBTQ youth, particularly youth of color, who are disproportionately targeted and apprehended for “quality of life” offenses (e.g., loitering, littering, public drunkenness) when compared to their heterosexual counterparts. Institutional mistreatment and abuse within the systems are reflected in the findings that nearly 70 percent of Equity Project survey respondents indicated that police mistreatment was a “very serious” or “somewhat serious” problem for LGBTQ youth (Majd et al. 2009).

These findings illustrate the conflation of homosexuality and gender nonconformity with deviance, which is a contributing factor to the criminalization of LGBTQ youth, as is school bullying, family rejection, lack of social services, the hostility of the child welfare system, and LGBTQ youths’ disproportionate representation and increased vulnerability among homeless youth populations. All of these challenges land LGBTQ youth in public spaces where they are likely to be targeted by police and ensnared in a juvenile justice system whose structural and explicit homophobia and discrimination based upon gender identity subject LGBTQ youth to further violence and victimization while mitigating access to opportunity and creating pathways with poor outcomes (Estrada and Marksamer 2006; Majd et al. 2009; Hanhardt 2008; Agathangelou et al. 2008). Essentially, as with the mental health institutions of the 1970s, juvenile detention facilities have become spaces where LGBTQ youth, undervalued as they are by society, are warehoused out of sight of the public eye and to the benefit of an increasingly privatized youth and adult prison system.

It should be noted that scholarly attention has recently been given to the overrepresentation of lesbian and bisexual girls within the juvenile justice system (Himmelstein and Bruckner 2011). Seeking to shed light on this phenomenon, Kathryn Himmelstein and Hannah Bruckner utilized the National Longitudinal Study of Adolescent Health, a nationally representative, population-based sample, to demonstrate that nonheterosexual adolescents, particularly girls, are disproportionately sanctioned by schools and criminal justice authorities, despite the fact that they are not engaging in more lawbreaking or transgressive behavior than their heterosexual peers. Noting the paucity of research in this area, Himmelstein and Bruckner argue that understanding and addressing these disparities is essential to ameliorating the social and health consequences associated with excessive school expulsions, arrests, and incarceration.

Transgender and Gender Nonconforming Youth and Juvenile Justice Systems

In particular, as with school settings and the child welfare system, juvenile justice systems are sites of particular hostility and vulnerability for transgender and gender nonconforming youth (Marksamer 2008; Grossman and D’Augelli 2006). Jody Marksamer (2008) highlights the criminalizing and abusive pathways for transgender youth who come to the attention of the law, noting that their reasons for involvement in juvenile justice systems frequently have to do with petty crimes related to efforts to try and live out their felt gender (e.g., shoplifting women’s clothing, engaging in survival sex in order to afford street hormones) or are a result of the discrimination and abuse that they experience within their families, schools, foster care facilities, homeless shelters, and places of employment.

Once involved in the juvenile justice system, transgender youth and gender nonconforming youth are commonly housed in sex-segregated facilities where their gender identity is policed or placed in isolation (Marksamer 2008). Segregation of these trans youth into congregate rooms with youth that are similar in sex can subject trans youth to harassment, sexual assault, and other forms of violence. Moreover, trans youth often do not receive adequate legal representation and advocacy because of attorney bias and lack of understanding of gender and sexuality (Majd et al. 2009; Marksamer 2008). The lack of trans-affirming

social services and treatment programs also results in the exclusion of trans youth from “rehabilitative” alternatives to incarceration that may be available to other youth.

The combination of these factors, in conjunction with a frequent lack of support from family members, results in disproportionately poor outcomes for transgender youth involved in the juvenile justice system (Marksamer 2008; Puritz and Majd 2007). Specifically, Patricia Puritz and Katayoon Majd (2007) document these outcomes, including “vulnerability to assault, lack of socialization and programming, loss of community and connection with family, and an increased likelihood that he or she will be pulled even deeper into the system.” Thus, for LGBTQ youth in general, and gender nonconforming youth in particular, profound discrepancies exist between the stated “rehabilitative” promise of the juvenile justice system and the “healthful” family environments of the child welfare system on the one hand and the reality of institutional responses that are at least highly stressful and in extreme cases potentially lethal (through, for example, hate crimes) on the other hand. This portrait of large-scale systemic and institutional bias illustrates a system of revolving doors, where LGBTQ youth are all too commonly in constant flux, denied access to opportunity structures accessible to other youth, and experiencing a deprivation of opportunities that facilitate healthy development and survival.

Part III: Future Policy and Practice Reforms and the Call for an Intersectional Lens

Recommendations for Practice, Programming, and Policy in Child Welfare

Despite increased recognition of the presence of LGBTQ youth in the foster care system, literature reveals that a lack of standards of care for working with LGBTQ youth in the child welfare system is attributable to a lack of organized effort to establish such standards (Wilber et al. 2006). Movements to create a uniform body of standards have emerged in two states (New York and California) since 2006, serving the dual function of creating standards of care for agencies and providing momentum and material for the generation of research and literature committed to improving services.

The Spring 2006 issue of *Child Welfare* committed to LGBTQ youth contains literature regarding these two initiatives: the Model Standards Project in California and Fostering Transitions in New York (Wilber et al. 2006; Woronoff and Estrada 2006). Wilbur et al. (2006) trace the evolution of the San Francisco-based Model Standards Project, a collaboration between Legal Services for Children and the National Center for Lesbian Rights in response to phone calls each organization had received from various states relaying discrimination experienced by LGBTQ youth in child welfare and juvenile justice settings. After developing a national advisory committee, a body of standards was generated and piloted in several conferences and workshops around the country. Wilber et al. (2006) additionally documented the group’s success in procuring substantial foundation funding in order to partner with several counties in California to assure meaningful adherence to standards and to provide in-depth consultation to agencies in partnering counties.

The authors also describe the tenets of the Foster Care Nondiscrimination Act (AB 458) passed in California in 2004. AB 458 is the only piece of state legislation that explicitly prohibits harassment and discrimination against any individual in the California foster care system on the basis of sexual orientation or gender identity, in addition to race, ethnic group identification, ancestry, national origin, color, religion, sex, mental or physical disability, or HIV status. The legislation also requires initial and ongoing nondiscrimination training for all group home administrators, foster parents, and licensing personnel.

A similar partnership of national scope emerged concurrently on the East Coast. The joining programs in this case were the Child Welfare League of America (CWLA), the nation’s largest and oldest national association of child welfare organizations, and Lambda Legal, the oldest and largest advocacy organization committed to advancing the civil rights of LGBTQ people and people with HIV (Woronoff and Estrada 2006). Collaborative efforts began in 2002, one year after Lambda Legal’s publication of “Youth in the Margins: A Report on the Unmet Needs of Lesbian, Gay, Bisexual and Transgender Adolescents in Foster Care” (Sullivan et al. 2001).

"Youth in the Margins" is based upon surveys completed by child welfare administrations in fourteen states. It highlights the following areas as ones strongly in need of attention: nondiscrimination policies, foster parent and staff training, and knowledge and existence of programs and services for LGBTQ youth (Woronoff and Estrada 2006). After this stride, Lambda Legal and CWLA partnered to begin a more comprehensive review of LGBTQ youths' experiences in foster care by conducting Regional Listening Forums within thirteen cities in the United States (Woronoff and Estrada 2006). The listening forums included LGBTQ youth, allowing youths' accounts of their own experiences to guide the process of the forums as well as the creation of a second comprehensive manual, which centered around three themes: (1) the need for comprehensive policies that support open and competent support for LGBTQ youth in care; (2) the need for comprehensive training throughout all levels of the child welfare system to build capacity for serving LGBTQ youth in care; and (3) the development of services that are designed with the specific needs of LGBTQ youth in mind. The regional specificity of the forums also allowed for a more nuanced understanding of geographical distinctions in the experiences of LGBTQ youth in care.

Recommendations for Practice, Programming, and Policy in Juvenile Justice

The Equity Project, a national collaboration of individuals and organizations with diverse expertise relevant to LGBTQ youth in the juvenile justice system, is a multiyear initiative "aimed at ensuring that LGBTQ youth who are in the juvenile justice system are treated with dignity, respect, and fairness" (Majd et al. 2009). Spearheaded by attorneys, psychologists, psychiatrists, social service providers, community activists, and LGBTQ youth, the Equity Project released "Hidden Injustice" (Majd et al. 2009), a report that seeks to educate professionals working in the juvenile justice system about the continuing stigma and systemic biases experienced by LGBTQ youth as well as to suggest concrete policy and practice reforms. A call to action, "Hidden Injustice" urges juvenile justice professionals to treat, and ensure that others treat, all LGBTQ youth with fairness, dignity, and respect. The report specifically encourages juvenile justice professionals to develop individualized, developmentally appropriate responses to the behavior of each LGBTQ youth, tailored to address the specific circumstances of his or her life, and explicitly prohibiting attempts to ridicule or change a youth's sexual orientation or gender identity.

Acknowledging that many youths in the juvenile justice system have had child welfare involvement and recognizing the significant movement of LGBTQ youth between these systems, the Equity Project calls for collaboration between and among these two systems, arguing that juvenile courts should collaborate with other system partners and decision makers to develop and maintain a continuum of programs, services, and placements competent to serve LGBTQ youth, such as prevention programs and detention alternatives. Importantly, the report contends that individuals working within juvenile courts should be available to address the conflict that some families face over the sexual orientation or gender identity of their LGBTQ child. Consequently the report insists that juvenile justice professionals receive training and resources regarding the unique societal, familial, and developmental challenges confronting LGBTQ youth and the relevance of these issues to court proceedings.

"Hidden Injustice" additionally makes recommendations for more just and equitable treatment of LGBTQ youth that echo themes found within child welfare reform initiatives but are specific to the juvenile justice system. Included among these is the insistence that, at all stages of the juvenile justice process, agencies and offices involved in the juvenile justice system (e.g., prosecutor, defender, and probation offices) 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. The report also argues that juvenile courts must ensure the timely appointment of qualified and well-resourced counsel to provide ardent defense advocacy at all stages of delinquency proceedings and that juvenile justice professionals must take responsibility for protecting the civil rights of LGBTQ youth.

Similar to the recommendation that LGBTQ youth be placed in the most intimate and family-like child welfare setting possible, the Equity Project asserts that the juvenile justice system must commit to using the least restrictive alternative necessary when intervening in the lives of youth and their families and avoid unnecessary detention. Finally, acknowledging the particularly acute mistreatment of transgender youth, the "Hidden Injustice" report insists that juvenile justice professionals promote the well-being of transgender

youth by allowing them to express and live out their gender identity through choice of clothing, hairstyle, and name and by guaranteeing that they have access to appropriate medical care if necessary.

Conclusion: Intersectional Theorizing and LGBTQ Youth

In the recently published *Incorporating Intersectionality in Social Work Practice, Research, Policy, and Education*, the authors argue for the need for a paradigm shift within contemporary social work: “specifically this is a shift from a linear, either/or, one-dimensional paradigm to a dynamic, contextual, multilevel, both/and approach that considers the power of socially constructed relations of oppression and inequality” (Murphy et al. 2009). Intersectionality—a comprehensive theory addressing these concerns for complexity and a “both/and” approach—has its origins in Black feminist thought and has also been widely utilized within queer theory. Patricia Hill Collins (2000) defines intersectionality as “particular forms of intersecting oppressions, for example, intersections of race and gender, or of sexuality and nation,” furthering the position that unlike additive models of oppression, “intersectional paradigms remind us that oppression cannot be reduced to one fundamental type and that all oppression work together in producing injustice.” In the article, “The Sociology of Sexualities: Queer and Beyond,” Joshua Gamson and Dawne Moon (2004) apply the connections often drawn from intersectionality theory to queer theory, noting that sexuality sociologists have begun to evaluate the ways in which sexuality is woven within and among other culturally constructed categories of inequality. Similarly, David Eng, Judith Halberstam, and José Esteban Muñoz (2005) strengthen this link to queer theory, noting that the “commitment to interrogating the social processes that not only produced and recognized but also normalized and sustained identity” increases the salience of intersectionality as a frame for evaluating multiple “social antagonisms.”

The distinct experiences of marginalized youth in the justice system, outlined in the previous sections, highlight the need to work on policy remedies from an intersectional framework, one that aims “to capture both structure and dynamics consequences of the interaction between two or more axes of subordination,” when engaging in comprehensive reform efforts of either the justice or child welfare system (Crenshaw 2000). The fracturing impact of a singular focus upon sexual orientation and gender identity within educational venues, social services, and youth spaces, and its impact upon queer and trans youth of color, is increasingly being addressed within academic and nonacademic writing as well as in documentary film (Mehrotra 2010; Gastic and Johnson 2009; Wright 2008; Kumashiro 2001). Andrea Daley et al. (2007) emphasize interlocking oppressions in experiences of bullying among LGBTQ youth, arguing that:

A singular focus on sexual orientation as the presumed primary source of peer victimization for LGBTQ youth may inadvertently contribute to a “matrix of oppression” (youth’s experiences of simultaneous, multiple, and interlocking oppressions) by privileging and addressing only one form of inequality, without attention to the interactive relationships between systems of sexual orientation, gender, race/ethnicity, social class, and immigration/citizenship status. (Daley et al. 2007)

There is dual documentation showing an overrepresentation of both LGBTQ youth (most of whom are LGBTQ youth of color) and youth of color (some of whom are LGBTQ) within the juvenile justice system and the child welfare system (Mallon et al. 2002; Majd et al. 2009). Given this, I conclude that there is an urgent need to apply an intersectional lens to child welfare and juvenile justice research, policy, and practice in order to gain an enhanced and more nuanced understanding of the complex ways in which multiple institutionalized systems of oppression are operating in the lives of LGBTQ youth involved in these institutions.

The overrepresentation of LGBTQ youth in both child welfare and juvenile justice systems and the analogous structural biases that persist in both systems, combined with the reality that family and criminal courts are a hub of decision making in the lives of LGBTQ youth in both systems and that LGBTQ youth face large-scale breaches of justice in both systems, indicates that a well-coordinated collaborative policy reform effort is not only warranted but also necessary. Moreover, given the overrepresentation of LGBTQ youth of color within both systems, the overrepresentation of young women—many of whom are LGBTQ—within the juvenile justice system, and the particularly acute mistreatment of, and human rights violations experienced by,

transgender and gender nonconforming youth, policy and practice reform within legal, medical, and social service arenas must be embedded within an intersectional framework. This intersectional framework must be one that is attentive to the overlapping, institutionalized forms of oppression that shape the lives of systems-involved LGBTQ youth and, as Black feminist theorist Patricia Hill Collins has argued, "reminds us that oppression cannot be reduced to one fundamental type, and that oppressions work together in producing injustice" (2000).

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