

# Public Defense Social Work with LGBTQ+ Clients

Brittney M. Williams, LMSW-C  
Washtenaw County Public Defender

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## PRESENTATION CREATED BY



Brittney M. Williams,  
LMSW-C  
(she/her/hers)



Alyssa Cozad, LLMSW  
(she/her/hers)



Dorothy Ma, LLMSW  
(she/her/hers)



Natalie Rosenblatt  
(she/her/hers)

## LEARNING OBJECTIVES

- Language
- Intersectionality
- Experience
- Microaggressions
- Policies and Practices



Credit: Zackary Drucker, The Gender Spectrum Collection

# 01

## LANGUAGE

Establish shared  
knowledge of LGBTQ+  
vocabulary



# ACRONYMS & UMBRELLA TERMS

## LGBTQ

“Lesbian, Gay, Bisexual,  
Transgender,  
Queer/Questioning”

## LGBTQ+

Nods to additional  
identities not  
enumerated

## LGBTQIA2S+

Enumerates Intersex,  
Asexual, Two-Spirit,  
and more!

## TNB

“Trans & Non-binary”

## QUEER

Reclaimed as a term  
of liberation and  
affirmation

# LANGUAGE MATTERS

- It is constantly evolving
- Requires continual engagement
- Gives meaning to experience and identity



Credit: Zackary Drucker, The Gender Spectrum Collection

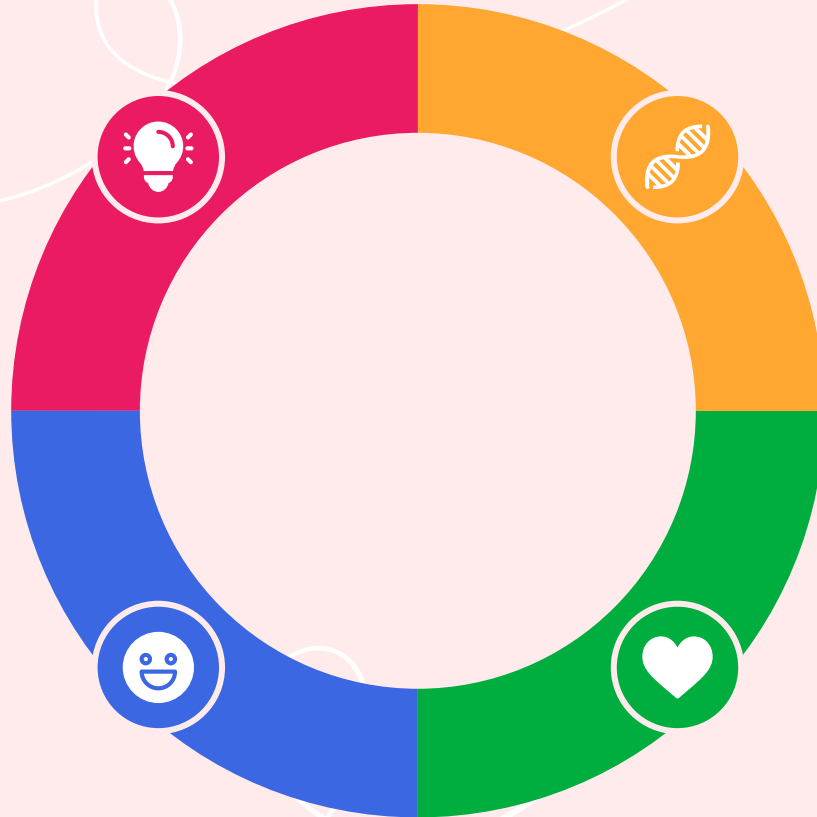
# FOUR AREAS TO THINK ABOUT

## Gender Identity

"A person's innermost concept of self as man, woman, a blend of both or additional genders outside of the gender binary..."

## Gender Expression

"External appearance of one's gender identity, usually expressed through behavior, clothing, accessories, makeup, haircut, body language..."



## Sex Assigned at Birth

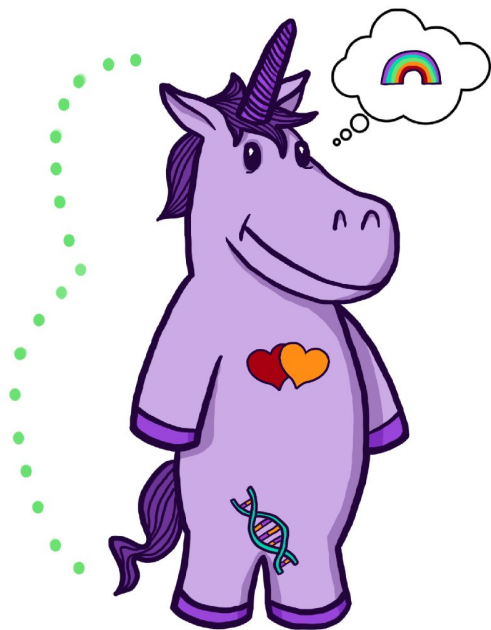
"The sex given to a child at birth, most often based on the child's external anatomy..."  
AMAB , AFAB, CAFAB, CAMAB

## Attractionality

People describe attraction in different ways including emotional and physical .

# The Gender Unicorn

Graphic by:  
**TSER**  
Trans Student Educational Resources



To learn more, go to:  
[www.transstudent.org/gender](http://www.transstudent.org/gender)

Design by Landyn Pan and Anna Moore

Trans Student Educational Resources,  
2015. "The Gender Unicorn."  
[www.transstudent.org/gender](http://www.transstudent.org/gender).



**“Language is power, in ways more literal than most people think. When we speak, we exercise the power of language to transform reality. Why don’t more of us realize the connection between language and power?”**

—Julia Penelope

# 02

## INTERSECTIONALITY

Understand how  
intersecting identities  
impact our clients



## INTERSECTIONALITY

- Term coined by Kimberlé Crenshaw in 1989
- Inspired by the intersections of Blackness and womanhood
- Tied to Critical Race Theory



**“Intersectionality is a lens through which you can see where power comes and collides, where it interlocks and intersects. It’s not simply that there’s a race problem here, a gender problem here, and a class or LGBTQ problem there. Many times that framework erases what happens to people who are subject to all of these things.”**

—Kimberlé Crenshaw

# LGBTQ+ PEOPLE OF COLOR IN THE CRIMINAL JUSTICE SYSTEM

**1 IN 3**

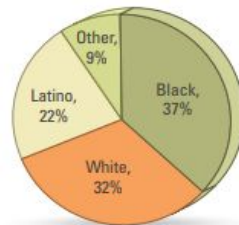
ADULTS ARE PEOPLE OF COLOR



**3.8%** OF ALL ADULTS IDENTIFY AS LGBT

**2 IN 3**

ADULTS IN PRISON & JAIL ARE PEOPLE OF COLOR



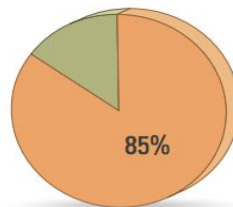
**7.9%** OF ADULTS IN PRISON & JAIL IDENTIFY AS LGBT

**OF YOUTH IN JUVENILE JUSTICE FACILITIES**



**1 IN 5**

YOUTH IDENTIFY AS LGBT OR GENDER NON-CONFORMING

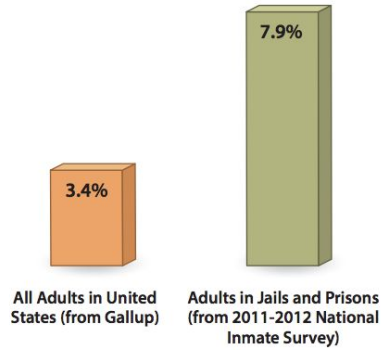


OF LGBTQ YOUTH IN JUVENILE JUSTICE FACILITIES, **85%** ARE YOUTH OF COLOR

# LGBTQ+ PEOPLE OF COLOR IN THE CRIMINAL JUSTICE SYSTEM cont.

**Figure 1: LGBT Adults are Overrepresented in Jails and Prisons**

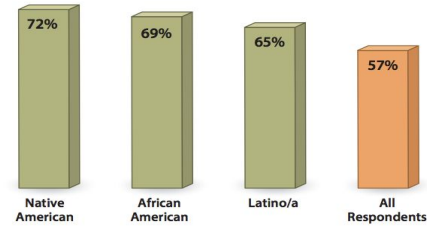
Percent of People Identifying as LGBT



Source: Allen J. Beck et al., "Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12" (U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, May 2013); Gary J. Gates and Frank Newport, "LGBT Percentage Highest in D.C., Lowest in North Dakota," Gallup, February 15, 2013.

**Figure 4: LGBTQ Youth of Color More Likely to be Disciplined at School**

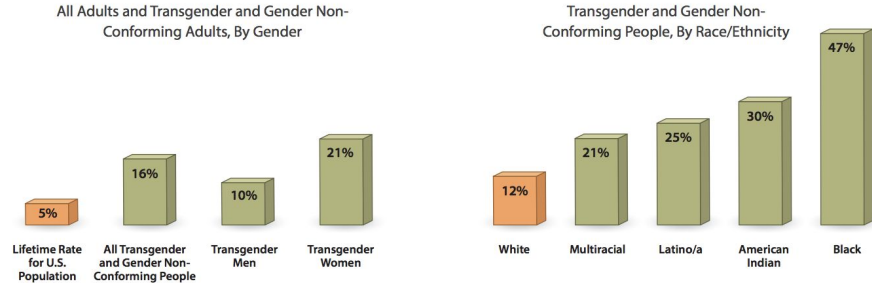
Percent of LGBTQ Young Adults Ages 18-24 Reporting Being Sent to Detention in Middle or High School, By Race/Ethnicity



Source: Lambda Legal, "Protected and Served? School Security, Policing and Discipline," accessed January 7, 2016.

**Figure 2: High Rates of Incarceration Among Transgender Adults**

Percent of People Reporting At Least One Period of Incarceration

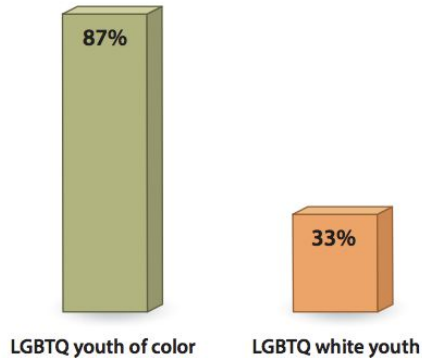


Source: Jaime M. Grant et al., "Injustice at Every Turn: A Report of the National Transgender Discrimination Survey," Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011; Allen J. Beck and Thomas P. Bonczar, "Lifetime Likelihood of Going to State or Federal Prison" (Bureau of Justice Statistics, March 6, 1997).

# LGBTQ+ PEOPLE OF COLOR IN THE CRIMINAL JUSTICE SYSTEM cont.

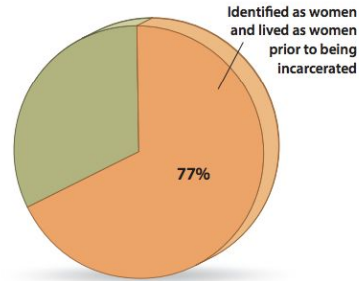
**Figure 10: LGBTQ Youth Interactions with Law Enforcement**

Percent of LGBTQ Youth in New Orleans Reporting Interactions with Police



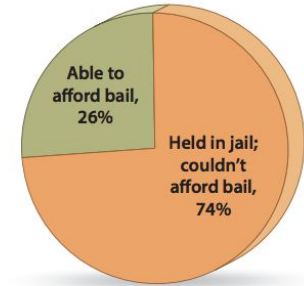
Source: BreakOUT! and the National Council on Crime & Delinquency, "We Deserve Better: A Report on Policing in New Orleans By and For Queer and Trans Youth of Color," 2014.

**Figure 14: Transgender Women Frequently Placed in Men's Prisons in California**  
Of Transgender Women in Men's Prisons in California



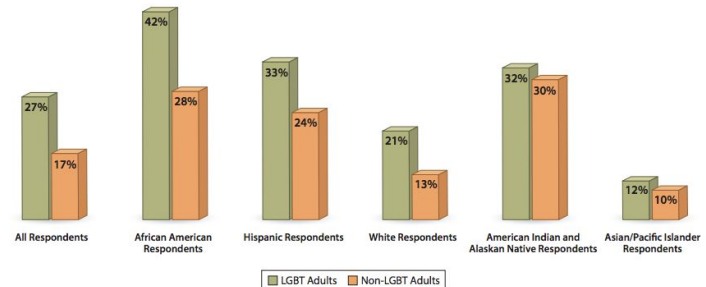
Source: Lori Sexton et al., "Where the Margins Meet: A Demographic Assessment of Transgender Inmates in Men's Prisons" (University of California, Irvine, June 10, 2009).

**Figure 13: Most Incarcerated LGBTQ People Could Not Afford Bail**  
Percent of Currently Incarcerated LGBTQ People



Source: Jason Lydon et al., "Coming Out of Concrete Closets: A Report on Black & Pink's National LGBTQ Prisoner Survey," Black & Pink, 2015.

**Figure 17: Percent of Respondents Reporting Not Having Enough Money for Food In the Past Year**



Source: Taylor N.T. Brown, Adam P. Romero, and Gary J. Gates, "Food Insecurity and SNAP Participation in the LGBT Community," The Williams Institute, July 2016.

# LGBTQ+ PEOPLE OF COLOR IN THE CRIMINAL JUSTICE SYSTEM cont.

- Case Studies
  - Ky Peterson
    - Involuntary manslaughter
  - Robert Suttle
    - Sex offender status
  - "Antonia"
    - Prostitution



# LGBTQ+ PEOPLE OF COLOR IN THE CRIMINAL JUSTICE SYSTEM cont.

- LGBTQ+ POC
  - Less likely to be able to afford bail
  - Overrepresented in jails and prisons
  - Trans identity often disregarded in carceral spaces
- LGBTQ+ YOC
  - Overrepresented in juvenile detention centers
  - More likely to be disciplined in school
  - More frequently interact with law enforcement than their white peers
- Both adults and youth are overrepresented in the percentages of the population which are homeless and/or in poverty, often resulting in the committing of survival crimes

# 03

## EXPERIENCE

Learn about the experience of LGBTQ+ clients and individuals in the criminal justice system



**56%** of gay and lesbian litigants reported hearing negative comments or receiving negative action because of their sexual orientation in a 2001 study of California state courts

**1 in 5** court employees heard derogatory or negative comments from judges, lawyers, or other court employees.

**8%** of adults in prisons or jails identified as something other than heterosexual.



## IMPACT OF LGBTQ+ IDENTITY IN LEGAL SPACES

- Lack of culturally responsive judges and attorneys
- Lower likelihood of receiving pretrial release, often due to inability to pay bail
- LGBTQ+ adults & youth disproportionately face social and financial hardships that are risk factors for criminal offending & victimization
- LGBTQ+ youth are **2x** more likely to be placed in a jail or correctional facility while awaiting adjudication for nonviolent offenses like truancy, running away, and prostitution, compared to non-LGBT youth
- **1 in 6** transgender people have experienced a period of incarceration, with higher rates for Black transgender people (especially transgender women)
  - Trans folks are also frequently placed in carceral spaces which are incongruent with their gender identity

# HISTORICAL CRIMINALIZATION OF LGBTQ+ IDENTITY

**1624**

Laws against sodomy



**1952**

Immigration & Nationality Act



**1873**

Comstock Act, banning the mailing of "obscenity"



**1953**

President Eisenhower E.O.



# HISTORICAL CRIMINALIZATION OF LGBTQ+ IDENTITY

- Laws around sex between individuals of the same gender
- Authorization of sterilization of “perverts” and “degenerates”
- Pathologization of LGBTQ+ identity, resulting in mental institution confinement
- Targeted raids and closures of LGBTQ+ bars
  - Stonewall Riots
- HIV criminalization laws
- An estimated 300,000+ people were arrested in the 1940s-1960s for violating anti-LGBTQ+ laws in the US

# EXAMPLES OF DISCRIMINATION IN LEGAL SPACES

**#1**

Mother denied adoption because she was lesbian



**#2**

Man's battery complaint dismissed and told it was "asked for" because he was gay



**#3**

Order of restraint denied for a lesbian woman because the accused was her female partner

## CHARGES THAT DISPROPORTIONATELY AFFECT THE LGBTQ+ COMMUNITY

1. Identity fraud
2. False impersonation charges
3. Sex offender charges
4. Statutory rape and other laws regulating sex between minors
5. Minor offenses





# 04

## MICROAGGRESSIONS

Understand and be ready to implement steps towards disrupting microaggressions



## WHAT IS A **MICROAGGRESSION**?

- “Everyday slights that communicate aggression or undermine a person’s value based on their marginalized social identities and/or social locations”
- Intentional and unintentional
- Be thoughtful about impact

# MICROAGGRESSIONS AGAINST WHITE PEOPLE?



**DECODED**



## **MICROAGGRESSIONS MIGHT LOOK LIKE...**

- People questioning what bathroom someone is using
- Making assumptions around pronouns
- Knowing someone's pronouns have changed and not using the correct pronoun consistently
- Expressing visible discomfort
- Making guesses about a person's identity or assumptions about their choices on how they live out that identity

# WHAT'S THE IMPACT?

- Microaggressions impact one's ability to engage in their current contexts
- Impact on colleagues
  - Performance
  - Work environment
- Impact on clients
  - Engagement in legal process
  - Relationship with counsel

# RESPONDING MORE EFFECTIVELY

- Engaging in conversations about microaggressions in both legal and non-legal contexts
- Talking with your client about their experiences
- Using the "NAME steps" as a guide





## Notice

- The first step
- Ideally in the moment but no “expiration date”



## Acknowledge

- Responsibility as an advocate for your client
- Role in creating an inclusive working environment



## Make Space

- Providing space for client to process
- Space for reflection as a large group
- This shouldn't depend on those impacted



## Engage the Group

- How will you move forward?
- Encourage continued reflection
- Check back in

## **CASE EXAMPLE – RESPONDING TO A MICROAGGRESSION**

A transgender woman calls the court clerk's office to determine how she can obtain additional copies of the final order granting her name change. She says, "Hello, my name is Angela Smith. I'm trying to find out how I can get more copies of my name change order." The clerk that answers the phone asks for her previous name, because Ms. Smith doesn't have the case number available, and the court categorizes these cases by the legal name before the name change is granted. Ms. Smith's previous name was a traditionally male name. Once the clerk hears the previous name and pulls up the files, the clerk says, "Hold on, Mr. Smith. Let me find someone who can answer your question." Ms. Smith says, "Oh, I'm Ms. Angela Smith. Thank you." When the next person answers the phone they say, "How can I help you, sir?" Ms. Smith says, "This is Ms. Angela Smith. I'm female." In the background she can hear people laughing. The clerk lets her know how to obtain additional copies of her name change order. After the call, Ms. Smith is upset. She feels that the court employees were intentionally using the wrong pronouns and honorifics. She also feels that the court employees were talking to each other about her and this is why they were laughing.

# 05

## POLICIES & PRACTICES

Examine and evaluate LGBTQ+ affirming policies and practices throughout the office





# WHAT DOES **INCLUSION** LOOK LIKE?



# LEVELS OF ATTITUDE TOWARDS LGBTQIA+ PEOPLE

**Homophobic / Transphobic**

**Positive / Affirming**

Repulsion   Pity   Tolerance   Acceptance

Support   Admiration   Appreciation   Nurturance



## **ORGANIZATIONAL ASSESSMENT**

Do staff members introduce themselves with their pronouns and include their pronouns in email signatures/business cards?

Are there all gender bathrooms at your organization?

Does your organization have a written policy ensuring staff and clients can use their chosen name?

Do new clients and staff receive information about the organization's commitment to workplace equity & social justice including LGBTQIA+ access?

Does your organization explicitly state on the web or printed materials that LGBTQIA+ people & families are eligible for services & programs?

# STRATEGIES FOR CREATING AN INCLUSIVE ORGANIZATION



## Hiring Process

Background checks and other records under former names



## Inclusive Forms

Inclusive options for gender, sharing and asking for pronouns



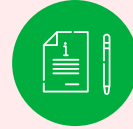
## Culture

Pronoun use, identity based celebrations, ongoing training



## Visible Support

Visual reminders and inclusive facilities



## Policy

Healthcare coverage, dress codes, transition guidelines

# STRATEGIES FOR INCLUSIVE WORK WITH CLIENTS



**Lay the Groundwork**



**Be Willing to Ask**



**Demonstrate Comfort with Language**



**Help Troubleshoot challenges**



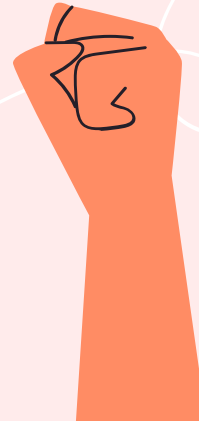
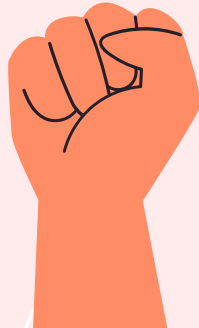
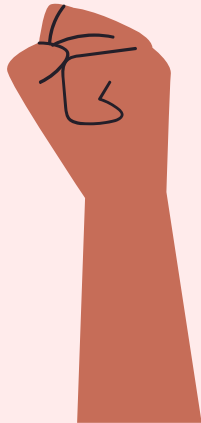
**Connect to LGBTQ+ Colleagues**



**Share Organizational Policies**

# YOUR ROLE AS AN **ADVOCATE**

SPEAK UP  
EDUCATE YOURSELF  
SUPPORT LEGISLATION



## HELPFUL RESOURCES



### **Pronouns**

[Pronoun Info Sheet](#)

[Pronoun Practice](#)



### **Terminology**

[Health Terminology](#)

[HRC Guide](#)



### **Procedures**

[LGBTQ Access](#)

[Project](#)

[Organizational](#)

[Assessment](#)

## CONTINUED LEARNING



### Television

[Pose](#)

[Schitt's Creek](#)

[Sex Education](#)



### Podcasts / News

[NBC Out](#)

[Outward podcast](#)



### Legal Spaces

[Unjust Overview](#)

[Unjust \(POC\)](#)

[Lambda Legal](#)





# Thank you!

Feel free to reach out!

**Brittney Williams, LMSW-C**  
williamsb@washtenaw.org

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