**Issue Brief: LGBT Marginalization and HIV**

The stigma attached to sexual orientation and gender identity or expression that fall outside the expected heterosexual, non-transgender norm relegates many LGBT people to the margins of society. This marginalization often excludes LGBT people from many support structures, often including their own families, leaving them with little access to services many others take for granted, such as medical care, justice and legal services, and education.

For groups heavily impacted by HIV/AIDS, such as the members of lesbian, gay, bisexual, and transgender (LGBT) communities, social discrimination can be deadly: marginalization and bias around sexual orientation and gender identity and expression regularly prevent LGBT people from accessing fundamental public services such as health care and housing and contributes to significant health disparities. Such discrimination is a major underlying cause of the HIV/AIDS epidemic and places many obstacles in the path of effective HIV prevention and equitable access to treatment.

This issue brief will focus on the role that the marginalization of LGBT people on the basis of sexual orientation and gender identity and expression serves as a social driver of the HIV epidemic. However, it is also important to remember that people disproportionately impacted by HIV/AIDS frequently face multiple and intersecting obstacles to public services access, including racism, poverty, lack of housing opportunities, sexism, employment discrimination, immigration status, language barriers, and discrimination on the basis of factors such as age or disability.

**Sexual Orientation and Gender Identity: Differences and Overlap**

Sexual orientation and gender identity refer to separate aspects of individual identity, but they are often intertwined both on the individual level and when exploring the health disparities facing LGBT communities. “Sexual orientation” describes whether people are romantically and/or sexually attracted to people of the same gender, opposite gender, or both. “Gender identity” denotes how one perceives one’s gender, which may or may not be congruent with the sex they were assigned at birth – in other words, it describes how each individual perceives and understands their internal sense of being a man, a woman, or someplace in between. Transgender people embody an innate sense of gender identity that does not correlate with the sex they were assigned at birth or with society’s expectations. The dimension of gender identity expressed through outward signs such as clothing, mannerisms, and chosen names is commonly termed “gender expression.” Every individual has both a sexual orientation and a gender identity, including heterosexual and non-transgender people. Transgender people may be heterosexual, gay, or bisexual, and people of diverse sexual orientations may face discrimination on the basis of nonstandard gender identity or expression even if they do not identify as transgender.
Epidemiology of HIV/AIDS

Thirty years after the explosion of the HIV/AIDS epidemic in the U.S., the disease continues to take a disproportionate toll on many of America’s most marginalized populations, including Black and Latino gay and bisexual men, LGBT youth and elders, and transgender women of color. Nationwide, men who have sex with men (MSM) comprise 48 percent of the approximately one million people living with HIV and 54 percent of the 56,000 new HIV infections in the U.S. each year. A recent meta-analysis of 29 studies showed that HIV prevalence among transgender women exceeds 25 percent nationwide, and some studies indicate that bisexual women are at higher risk for HIV infection than women who are exclusively heterosexual. Recent CDC estimates indicate that gay and bisexual men are over 50 times more likely than any other group in the US to become HIV positive. Despite these grim statistics, little official acknowledgment exists of the massive threat still posed by HIV/AIDS to the LGBT population in the U.S.; there is limited research conducted on behavioral and structural interventions for these populations, and few resources are directed towards stemming the tide of new infections. In fact, men who have sex with men are the only risk group among whom the rate of new HIV infections is increasing in America.

LGBT Marginalization as a Driver of HIV

Family Rejection

Marginalization of LGBT people often starts with the family into which they were born. According to one study, approximately 30 percent of LGBT youth in the U.S. have been physically abused by family members because of their sexual orientation or gender identity or expression, and LGBT youth are estimated to comprise up to 40 percent of the homeless youth population in the U.S. The familial marginalization of LGBT youth hinders initial prevention and education efforts, encourages risk-taking behavior that can lead to HIV infection, and places obstacles in the way of receiving proper medical treatment and psychosocial support for LGBT youth already living with HIV/AIDS. Abusive reactions from parents and caregivers in response to a child’s disclosure of being lesbian, gay, or bisexual has been empirically demonstrated to be correlated with an increased risk for mental health issues later in life. Threats or violence from family members are also frequently associated with high-risk behaviors that can include substance abuse and unprotected sex, both of which are primary modes of HIV

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1 In government reports, gay and bisexual men and transgender women are often classified as “men who have sex with men” (MSM) together with heterosexually-identified men who acquired the virus through sexual contact with another man.
transmission. Even when not accompanied by physical violence, family rejection can have devastating effects on LGBT youth, including homelessness, lack of access to health care, improper nutrition, and lack of social and emotional support. Moreover, lacking other means of support, many LGBT youth are forced to turn to criminalized activities such as sex work to survive, which drives them further onto the margins of society and can expose them to greatly elevated risk for HIV.

"Our Nation draws its strength from our diversity, with each of us contributing to the greater whole."
Presidential Proclamation--Lesbian, Gay, Bisexual, and Transgender Pride Month

"Human rights are the inalienable right of every person, no matter who that person is or who that person loves."
STATE: The Secretary of State's 2010 LGBT Pride Proclamation
http://www.state.gov/r/pa/ei/pix/lgbt/2010/142820.htm

Invisibility and Discrimination

Discrimination and a lack of social visibility exacerbate the HIV/AIDS epidemic in LGBT communities. Societal discrimination against LGBT people encourages the devaluation of the lives and relationships of LGBT people and has been linked with high-risk sexual behavior that puts them at greater risk for HIV infection. Stigma and fear of discrimination push same-sex sexual relationships “underground,” thus making use of safer sex methods less likely and HIV-related information and services less accessible.

Discrimination by health care providers also poses a significant barrier to HIV prevention and treatment. Health care providers may display homophobic and transphobic attitudes or provide sub-optimal care for LGBT patients and people with HIV, thus negatively affecting their health outcomes. Fear of experiencing bias from providers or receiving substandard treatment as a result of their sexual orientation or gender identity or expression often prevents LGBT people from accessing preventive care, early diagnostic services, or timely medical treatment, and many LGBT people avoid the health care system altogether. Those who do seek care may not be comfortable disclosing their sexual orientation, gender identity, or HIV status to an uninformed or unsympathetic provider, leading to knowledge gaps such as an incomplete sexual history that can result

11 Ayala et. al., supra note 2.
in the provision of inappropriate or inefficient care that does not effectively speak to all aspects of the patient’s life.\textsuperscript{12, 13}

Marginalization also has the effect of making LGBT people appear invisible or insignificant. LGBT people are not explicitly prioritized in HIV/AIDS research or in efforts to address health disparities such as the disproportionate impact of HIV/AIDS on LGBT populations, meaning that research, education, prevention, and treatment initiatives focusing on LGBT communities are chronically underresourced. Invisibility also has serious implications for lesbian, bisexual, and/or transgender women, who have been largely ignored in HIV prevention literature, research, and treatment campaigns despite the fact that they can still be at significant risk of infection.\textsuperscript{14}

\textit{Intersectional Disparities}

Many members of LGBT communities also belong to other communities that face substantial disparities and are thus vulnerable to cumulative negative health impacts: for example, an African American gay man faces disparities common to the African American population as well as those affecting the LGBT population, and a transgender Spanish-speaking woman in America must navigate multiple layers of discrimination based on language, ethnicity, gender, and gender identity. Furthermore, HIV-positive status can lead to discriminatory treatment even in those systems, such as health care centers, that are charged with delivering HIV services.\textsuperscript{15}

\textit{Mental Health and Substance Use}

Marginalization and social discrimination directed toward LGBT persons are also correlated with increased mental health and substance use and abuse issues, as mentioned above. It has been shown that social discrimination directed at LGBT youth leads to an elevated risk of poor mental health outcomes and dangerous substance use.\textsuperscript{16} Increased use of controlled substances, particularly injection drugs, can elevate risk of HIV infection. Furthermore, high rates of mental illness and substance abuse can exacerbate complications of HIV infection as well as other illnesses.

\textit{Employment Discrimination}

Employment discrimination against LGBT people also contributes to increased obstacles with regard to the effective prevention and treatment of HIV/AIDS. People who identify as LGBT are more likely to be fired from their jobs, forced to resign, or passed over for

\textsuperscript{15} Ayala et. al., \textit{supra} note 2.  
\textsuperscript{16} Id.
hire as a result of their sexual orientation or gender identity or expression. \(^\text{17}\) A recent study found that 97 percent of more than 6,400 transgender respondents had been mistreated at work because of their gender identity or expression. As a result, transgender people experience unemployment at nearly double the national average, and the rate is even higher for transgender people of color. \(^\text{18}\) \(^\text{19}\) Employment discrimination on the basis of perceived or actual sexual orientation and gender identity and expression also has important intersections with health care. Most insured people in the U.S. access insurance either through their employer or their spouse’s employer, but a lack of relationship recognition for same-sex couples and few existing protections from employment discrimination mean that LGBT people are twice as likely as the general population to be without insurance coverage entirely. \(^\text{20}\) Without insurance, LGBT people are at a disadvantage in accessing prevention education from health care professionals, regular HIV screenings, and effective treatment. Furthermore, high rates of unemployment can lead to inadequate or irregular housing and push people into engaging in transactional sex in order to survive, which carries significantly increased risk of HIV infection.

**Sex Work**

For LGBT people who are involved in sex work, the stigma and obstacles faced in accessing quality health care are magnified exponentially. Difficulties in negotiating condom usage and higher rates of substance use escalate the risk for HIV infection. \(^\text{21}\) Risks associated with fully disclosing sexual behavior may also discourage LGBT people involved in sex work from giving a full sexual history when they are able to access screening and care, thus losing the opportunity for a more effective discussion of prevention or treatment options.

**Homelessness**

Homelessness or a lack of stable housing affects many people in the LGBT community because of high levels of family rejection and un- and underemployment. Disclosure of LGBT identity can lead to people being forced out of housing or can create an abusive environment that encourages LGBT youth to leave their families. Homelessness rates are alarmingly high among transgender people in particular, with a recent study indicating that nearly one-fifth of transgender people have experienced homelessness due to their gender identity or expression, and that over a quarter of transgender people have had difficulty finding even a temporary place to sleep. \(^\text{22}\) Lack of stable housing creates difficulty in avoiding health risks that can lead to HIV infection and in effectively


\(^{19}\) Id.


\(^{21}\) Id.

\(^{22}\) NCTE and NGLTF, *supra* note 12.
utilizing risk reduction resources.\textsuperscript{23} For HIV-positive individuals, studies have demonstrated that homelessness increases the likelihood of engaging in sex work, having unprotected sex, substance use, and sharing syringes.\textsuperscript{24} Furthermore, stable housing for those living with HIV/AIDS improves their ability to decrease risk-taking behaviors and promotes increased access and adherence to treatment.\textsuperscript{25}

\textit{Detention Settings}

Mass incarceration of people of color and of lower socioeconomic classes, as well as the dangers of imprisonment itself, also contribute to barriers that prevent equitable access to HIV/AIDS-related services for LGBT people. Paradoxically, although marginalization often renders LGBT people invisible in research and data collection, LGBT people are especially vulnerable to police harassment as a result of pervasive societal discrimination, lack of economic opportunities, homelessness, environmental and social conditions, targeted profiling related to sex work, and substance abuse. These difficulties are compounded for people without papers, people of color, and other marginalized persons who are also part of LGBT communities. In detention settings, the imbedded sexual hierarchies of the prison system and the unavailability of condoms place gay men and transgender women (most of whom are inappropriately housed with men) at particular risk for high risk and non-consensual sexual contact. Abuse by prison officials or the willful turning of a blind eye can contribute to the abuse and increased risk that LGBT persons in the justice system face. LGBT youth who are placed in adult facilities are at exponential risk because of their age, and these risks apply to those in juvenile detention settings as well. HIV-positive people who are incarcerated also face numerous difficulties in accessing the consistent, regular, and quality treatment they need to manage their health. Upon release, the grinding conditions that marginalize so many LGBT people are amplified by the stigma of a criminal record, which often initiates a cycle of violence, exploitation, and incarceration.

\textit{Safety Net Programs}

Institutions that are often meant to serve as a safety net for disadvantaged populations, such as foster care and transitional housing, also marginalize LGBT people. Documented narratives of abuse and discriminatory treatment in these setting illustrate the difficulties faced by individuals attempting to remove themselves from dangerous situations that can often present a high HIV/AIDS-related risk. For example, transgender people often have difficulty finding shelters that respect their gender identity and will place them with people of the appropriate gender (i.e., as in the prison system, transgender women are often inappropriately housed with men).\textsuperscript{26} Even if they are able gain access to some kind


\textsuperscript{25} HIV Prevention Justice Alliance, \textit{supra} note 16.

\textsuperscript{26} PFLAG. (2010). “The Importance of Inclusive SAMHSA Programs for LGBT Individuals & Families,” unpublished memorandum.
of shelter, they may be subjected to abuse, harassment, or violence with no recourse. These systematic problems can prevent LGBT people from seeking out social services institutions that could assist in reducing HIV-related risk, thus preventing the utilization of the very services meant to improve health outcomes and save lives.

_Lack of LGBT-Focused Research_

In addition to societal and individual obstacles to effective HIV prevention and treatment for LGBT people, there is a significant knowledge gap around the health and health care needs of LGBT people. A representative illustration of the lack of LGBT-focused research is that of the 3.8 million articles in the National Library of Medicine published between 1980 and 1999, only 3,800 – less than one percent – were related to LGBT people or issues. Moreover, even of those few studies, over 80 percent focused only on gay and bisexual men, thus further marginalizing lesbian and bisexual women and transgender people.

_Identity vs. Behavior_

Issues of identity as compared and contrasted with actual behavior can present a multitude of further problems in the treatment and prevention of HIV. For example, some men may identify as heterosexual while still having sexual contact with other men. Although they do not self-identify as gay or bisexual, they are at the same or higher risk for HIV transmission as gay and bisexual men. Addressing and respecting their self-identified heterosexual orientation is difficult to combine with effective targeting of preventive services and educational materials.

**Recommendations for Action**

*Create an Office for LGBT Health at HHS* to provide focused and sustained leadership and guidance for HHS and other departments and agencies with impacts on the field of LGBT health.

_HHS should implement a comprehensive anti-stigma and antidiscrimination initiative focused on eliminating disparities in health outcomes of LGBT populations* by reducing stigma against people living with HIV or AIDS (PLWHA) and LGBT groups perceived to be at elevated risk of HIV, including gay and bisexual men and transgender people. This should include supporting efforts to increase professional and cultural competencies of providers and others engaged in health and social service delivery to LGBT populations to mitigate barriers to HIV prevention and treatment. It should also include a broad and well-funded public education campaign to combat homophobia, biphobia, and transphobia and decrease widespread societal bias and discrimination against LGBT people and PLWHA.

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27 Id.
29 Id.
**Improve sexual health programming and make HIV prevention more accountable.**

This includes creating and funding model comprehensive sexual health programs nationwide that are appropriate for all people, including those at elevated risk for HIV acquisition and transmission; young gay, bisexual and other men who have sex with men (MSM); and transgender and gender-variant youth. Funding must be expanded for age-appropriate, comprehensive sexuality education that includes affirming education about LGBT people and discussions of sexual orientation and gender identity and expression. There should also be expansion of school interventions that promote acceptance of LGBT youth and children from LGBT-headed families and a scaling up of community-level interventions encouraging families to accept and support their LGBT children at all stages of their lives.

**Scale up strategic programming for LGBT populations.** The federal government must target resources effectively and develop scaled, strategic programming consistent with the epidemiological profile of the HIV epidemic and ensure there is appropriate guidance on regular HIV testing, care, and treatment for groups at elevated risk, including transgender people and gay or bisexual men and other MSM. This should include availability, access, and quality of physical, mental, and behavioral health and related services for LGBT populations. This should also include structural interventions such as affordable housing for members of the LGBT community who are subject to family rejection and underemployment.

**Ensure HIV research supports and advances development and testing of specific interventions for LGBT populations, including youth and transgender people.** The federal government must place a new premium on research that can be quickly and readily applied in the field and evaluated for both individual benefit and population-level impact, including the flexibility to fund programs that are promising but that have not yet reached the level of evidence base typically required in order to receive federal funding. This includes instituting routine LGBT data collection across all federally funded health surveys and programs as well as demographic surveys to increase knowledge regarding the health status of LGBT populations, access to and utilization of health care, and other health-related information.

**Develop funding streams and programs that focus on the members of LGBT communities most heavily impacted by HIV/AIDS, especially those in multiple disparity groups such as LGBT people of color, those at low socioeconomic levels, those living in rural areas, and the elderly.** As part of this effort, HHS should remove the age cap on testing for HIV.

**Reform and repeal laws and polices that reinforce stigma and discrimination, including federal and state laws that stigmatize LGBT people and discriminate based on sexual orientation or gender identity or expression.** Federal and state laws must protect from LGBT people from employment and insurance discrimination and must furnish equal economic opportunities for LGBT people. This legislative and regulatory agenda includes the passage of the Employment Nondiscrimination Act (ENDA), full
marriage benefits, repeal of Don’t Ask Don’t Tell (DADT), implementation of a reduced deferral period for men who have ever had sex with men from donating blood, and repeal of Section 2500 of the federal Public Health Service Act (“No Promo Homo”), which hinders HIV prevention efforts among both LGBT communities and the general population by prohibiting the open discussion or “promotion” of any type of sexual behavior.