



OUR FAIR CITY

A Comprehensive Blueprint for Gender and Sexual Justice in New York City

June 2014



Acknowledgments

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This report and companion documents will be made available at <http://web.law.columbia.edu/gender-sexuality/our-fair-city>

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The election of a new mayor for the City of New York, particularly one who promises to govern in accordance with progressive values, provides an opportunity for a thorough assessment of all manner of City policies and practices that frustrate or undermine a renewed commitment on behalf of City government to fairness, equity, and full enfranchisement of all New Yorkers in keeping with the new administration's progressive values.

Columbia Law School's Center for Gender & Sexuality Law offers this report to aid the de Blasio administration in evaluating the steps it can and should take to eliminate all forms of gender and sexual discrimination, and to assure gender and sexual justice in City policy and programs. After consultation with numerous groups advocating for gender and sexual justice across New York City, the Center for Gender & Sexuality Law at Columbia Law School has synthesized in this report a set of key recommendations to the de Blasio administration, all designed to eliminate a wide range of disadvantages, invisibility, violence, marginalization, and discrimination that residents of New York suffer on account of gender and/or sexuality.

The recommendations contained in this Briefing book are organized into the following subject areas: Criminal Justice, Domestic Partnership, Education, Elders, Housing, Immigration, Labor, People Living with HIV/AIDS (PLWHA), Sexual and Intimate-Partner Violence, and Social Services.

Notably, most of the recommendations contained in this report address the rights and dignity of low-income and otherwise multiply disadvantaged New Yorkers. This is the case, in part, because the matters which municipal government has the greatest impact are those affecting the most vulnerable members of our society, and, in part, because compound forms of disenfranchisement and discrimination on the basis of sexual orientation, sexual and gender identity render the populations highlighted in this report particularly socially, legally and economically vulnerable.

Many of the recommendations we include in this report are revenue neutral, such as retaining the current functional definition of "family member" contained in HPD regulations governing the Mitchell-Lama housing programs, and issuing an Executive Order that prohibits NYPD officers from confiscating or citing mere possession of condoms or presence of condoms on a premise as evidence of intent to engage in a prostitution-related offense. Others require collaboration between municipal agencies in order to assure that current local laws are complied with, such as sexual assault and harassment training of law enforcement officials by trainers at the New York City Human Rights Commission. Some of the recommendations would require the allocation of modest funds, such as increasing the number of regulated shelter beds for LGBTQ homeless youth and young adults ages 16 to 24 by at least 200 over the next five years. Whatever the cost, all of these recommendations, if adopted by the de Blasio administration, would result in a healthier, safer, and more just City in which all of its residents are treated with dignity, respect, and compassion.

The Center for Gender & Sexuality Law and the advocacy partners with whom we have worked to produce this report regard the recommendations contained herein as just the first step in an ongoing working relationship with the de Blasio administration. While the issues highlighted in this report are by no means exhaustive, we do expect the new administration to be committed to a comprehensive gender and sexual justice-enhancing agenda. By highlighting some of the most pressing issues to be addressed in the early term, we hope this project will stimulate a systemic awareness to gender and sexual justice in all corners of City government by this administration.

As follow-up to *Our Fair City*, the Center for Gender & Sexuality Law will, in collaboration with our advocacy and direct-service partners, issue a report one year into the de Blasio administration assessing progress made on the issues raised in this report. We look forward to working closely with appropriate agency heads and staff to gain the greatest movement in transforming New York City into a model for securing gender and sexual justice.

The recommendations contained in this report reflect a collaborative effort led by the Center for Gender & Sexuality Law with a wide range of advocacy and direct-service organizations working on issues of gender and sexual justice in New York City. These groups include Audre Lorde Project, Barrier Free Living, Black Women's Blueprint, CONNECT, Crime Victims Treatment Center at St. Luke's-Roosevelt Hospital, FIERCE, Girls for Gender Equity, HIV Law Project, Hollaback!, Immigration Defense Project, New Destiny Housing Corp, New York City Alliance Against Sexual Assault, New York City Gay and Lesbian Anti-Violence Project, National Organization of Women - New York City, New York Civil Liberties Union, NYC Anti-Trafficking Network, SAFE, Safe Horizon, Sex Workers' Project, Staten Island Legal Services, Street Wise and Safe, Sylvia Rivera Law Project, the Worker Institute at Cornell University, Wyckoff Heights Medical Center – Violence Intervention and Treatment Program, and the Violence Intervention Program. Of course, not every organization with whom we have consulted has endorsed every one of the recommendations contained herein. The online version of this report includes an appendix containing the materials submitted by each of the organizations providing input to this project.

Over the last 150 years Columbia Law School has established a reputation as the preeminent "public law" school in the United States. Through our faculty's scholarship, our teaching, and our commitment to training lawyers to serve the public interest, we take seriously the role of the law in shaping and framing public values. The Center for Gender & Sexuality Law and the Sexuality and Gender Law Clinic have established Columbia Law School as the leading law school in the country for the study of gender and sexuality law and policy.

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A. Criminal Justice

1. Prohibit NYPD Practice of Using Condoms as Evidence for Prostitution-Related Offenses

Despite widespread public efforts to promote safe sex practices, New York is home to a policy that compromises the health of New Yorkers and punishes them. NYPD officers have routinely confiscated and counted condoms as evidence of criminal wrongdoing in prostitution-related cases, and prosecutors have routinely cited seized condoms as evidence of a prostitution-related offense in criminal court complaints.¹ While we applaud the NYPD's recent policy announcement that it will no longer use condoms as evidence under the Prostitution, Prostitution in a School Zone, and Loitering for the Purposes of Prostitution statutes, this change does not go far enough. Police can still confiscate condoms as evidence in promoting and trafficking cases. This may create an incentive for traffickers to withhold condoms from trafficked people.² It may also discourage businesses and other establishments from participating in the New York City Department of Health's NYC-condom distribution program, which distributes 40 million condoms annually.³ Possession of condoms is not a crime, nor should it be treated as evidence of a crime. The current policy runs afoul of both established public health measures and rights secured under the Fourth Amendment to the U.S. Constitution.

We recommend:

- Issue a statement supporting further revisions of the NYPD Patrol Guide to prohibit the confiscation of condoms as evidence of all prostitution-related offenses.
- Direct the police commissioner to issue departmental directives and any necessary guidance on implementation.
- Support the recently introduced City Council resolution calling for the passage of state legislation prohibiting the use of condoms as evidence in *all* prostitution-related offenses across New York State.

2. Implement the *Floyd v. City of New York* Ruling

Many LGBTQ people of color have been routinely stopped and frisked during the Bloomberg administration. The recent decision in *Floyd v. City of New York* provides an opportunity to end such discriminatory policing practices. We applaud the Mayor's Office for withdrawing the City's legal challenge to *Floyd* and are encouraged to see its continued efforts towards ending discriminatory policing.

We recommend:

- Work with the federal monitor and other parties to revise policies, training, monitoring, supervision, and discipline systems related to stop-and-frisk practices.
- Engage in good faith in a process of developing and implementing further reforms in collaboration with communities directly impacted by discriminatory policing.
- Support the creation of a formalized and sustained role for impacted communities in the implementation, monitoring, and evaluation of the joint remedies.

3. Address Sexual Misconduct of Members of the Public by NYPD Officers

7. The NYPD does not have an official policy prohibiting police officers from engaging in sexual misconduct toward civilians, nor is there even adequate training on this issue at the police academy. Sexual misconduct includes extorting sexual favors for leniency, rape of suspects in police facilities, and sexually assaulting civilians when they request police assistance.

Sexual misconduct towards women and LGBTQ New Yorkers of color is an all too frequent, yet often invisible, characteristic of the NYPD's discriminatory stop-and-frisk practices, and takes place with alarming frequency in other contexts. In fact, in many circumstances the actions taken by NYPD officers as part of the aggressive stop-and-frisk program amount to no less than legalized sexual assault.

We recommend:

- Issue an executive order explicitly prohibiting sexual harassment and assault of members of the public by NYPD officers and instituting a program of training, monitoring, and discipline with respect to sexual misconduct by law enforcement officers consistent with the Executive Guidance issued by the International Association of Chiefs of Police.
- Direct the police commissioner to issue departmental directives and any necessary guidance on implementation of the executive order on sexual harassment by NYPD officers.
- Strongly urge the new NYPD inspector general to add this issue to his agenda.

4. Cease Enforcement of PL 240.37(2), Loitering for the Purposes of Engaging in Prostitution

Over time, various criminal loitering laws have been found to violate the Constitution insofar as they criminalize otherwise constitutional behavior and are both arbitrary and discriminatory.⁴ New York City, nevertheless, continues to enforce a similarly unconstitutional criminal statute PL 240.37(2), *Loitering for the Purposes of Engaging in Prostitution*. Similar loitering laws in other jurisdictions have been found to be unconstitutional as overbroad and vague.⁵ The evidence upon which those arrests typically rely include engaging in conversation with passersby, wearing short skirts, standing in an area where there wasn't a bus stop, taxi stand, or open stores.⁶ The vagueness and overbreadth of these laws, as well as the discretion they afford arresting officers, creates a troubling record of arrests that are unconstitutional and discriminatory. In 2013, just 12% of those arrested for loitering with an intent to engage in prostitution were white, while 61% were Black and 25% were Latino.⁷ These figures are strikingly similar to the data demonstrating the racial bias inherent in the stop-and-frisk policy.

We recommend:

- Issue an executive order that prohibits NYPD officers from making arrests under PL 240.37(2).

- Direct the police commissioner to issue departmental directives and any necessary guidance on implementation of the executive order with respect to PL 240.37(2) arrests.
- Take appropriate steps to vacate previous arrests and convictions under PL 240.37(2).

5. Enforce the Community Safety Act Bills

The End Discriminatory Profiling Act made history by creating an enforceable ban against profiling and discriminatory policing based on sexual orientation and gender identity in addition to race, religion, age, ability, HIV status, immigration status, and housing status. Effective implementation of this landmark legislation, along with the NYPD Oversight Act, is critical to promoting the safety of LGBTQ people and people of color who experience profiling and discriminatory policing on multiple fronts, including sexual orientation and gender identity. We commend the Mayor's Office for withdrawing the legal challenge to the End Discriminatory Profiling Act and look forward to the implementation and enforcement of this historic legislation.

We recommend:

- Implement and enforce Discriminatory Profiling Act and NYPD Oversight Act.

6. Expand Community-Based Alternatives to Incarceration and Policing

In addition to the already damaging effects of incarceration, incarcerated LGBTQ people are often targets of discrimination and abuse. After release, a criminal record often leads to devastating collateral effects that make the already difficult tasks of securing housing, employment, and healthcare nearly insurmountable. Furthermore, services for high-risk populations such as sex workers and undocumented survivors of domestic violence are tethered to arrests and participation in the criminal justice system, disincentivizing people from accessing the services they need. Programs like the Audre Lorde Project's "Safe Neighborhood Campaign," which works with small businesses, religious institutions, and organizations to build safety within Central Brooklyn neighborhoods without the use of policing, is one of many community-based models that the City should support and learn from.⁸

We recommend:

- More citywide resources for building safe community spaces that utilize creative, non-policing, community-led strategies.
- Expand community courts to continue to divert individuals away from incarceration.
- Encourage access to services without arrests by creating alternatives to a criminal justice track for sex workers and survivors of human trafficking.
- Encourage law enforcement agencies to sign U & T non-immigrant visa certifications (special non-immigrant visas for undocu-

mented survivors of domestic violence and survivors of trafficking) without extra cooperation requirements beyond what is required by law. Policies should be transparent and clear for those seeking a certification.

7. Implement an LGBTQ-Specific Directive with a Specific LGBTQ Housing Area Option in New York City Jails

A housing option for LGBTQ individuals in the custody of the New York City Department of Correction (DOC) has consistently been a top demand of incarcerated transgender community members in NYC. Following ongoing reports of violence against LGBTQ individuals in DOC custody, advocates and DOC officials met over the course of several years to develop new policies to meet the needs of LGBTQ, particularly transgender and gender non-confirming people, in custody. With the adoption of the final Prison Rape Elimination Act (PREA) regulations in May 2012, advocates and officials began to finalize a proposed directive to meet the needs of LGBTQ people in custody. During these meetings, advocates were promised a housing option for LGBTQ individuals, similar to what used to be called "gay housing," that was designed to both comply with PREA and meet the demands of the community to end the widespread practice of relying on segregation to keep LGBTQ individuals safe in custody. This housing option was intended to be an optional, potentially safe space available upon request by inmates. Almost two years ago, the DOC team assured advocates that the proposal policy was "on the Commissioner's Desk." Despite repeated efforts by advocates to continue the collective work of the agency and community representatives, there have been no updates about the adoption and/or implementation of this policy. On June 2nd, 2014, the policy was sent again to Commissioner Ponte with a request to reengage in the process of building a set of policies that could truly meet the needs of LGBTQ people in custody.

We recommend:

- Instruct the Department of Corrections to renew its meetings with transgender advocates and clients.
- Adopt and implement the proposed LGBTQ directive.

8. Address LGBTQ Youth Interaction with the Criminal Justice System

Many LGBTQ youth of color face daily profiling based on their race, gender, class, immigration status, and/or sexual orientation. LGBTQ youth of color who are homeless are particularly vulnerable. In searching for means of safety and survival they face increased risk of being targeted and interacting with police. The enforcement of quality of life laws – loitering, public urination, excessive noise, etc. – target those most directly in need of services and safety.⁹

We recommend:

- Set up a task force to create new procedures to assess LGBTQ

youth when arrested and address the underlying needs that contributed to their arrest.

- Ensure that the cases of LGBTQ youth who are arrested are reviewed to determine the mental health status of the arrested youth, and that mental health status is considered in determining sentencing and placement.
- Work with service providers and community organizations to determine effective community-based alternatives to detention.
- Where community-based alternatives are not an option, ensure that LGBTQ prisoners have a safe space in jail that does not isolate them for 23 hours a day.

9. Increase Criminal Justice Agencies' Sensitivity to Sexual and Intimate-Partner Violence

In the experience of many advocates and survivors of intimate-partner violence, NYPD officers responding to sexual violence can be insensitive to survivors. NYPD officers may not always take survivors' complaints seriously, and sometimes neglect to investigate claims or even file domestic incident reports. Survivors with limited English proficiency (LEP) are particularly at risk, as they may be denied access to life-saving services due to language barriers. In 2013, Legal Aid filed a lawsuit, *Padilla Torres v. City of New York*, challenging the NYPD's widespread practice of denying interpreters to LEP individuals who need them, despite written policy requiring interpreter services.¹⁰

We recommend:

- Designate high-level personnel in the NYPD to oversee crimes involving sexual assault and intimate-partner violence to ensure high-quality investigations and sensitivity to survivors.
- Increase cultural competency of all NYPD officers, including the Domestic Violence Police Officers and the Special Victims Unit, for survivors who face additional barriers because of race, ethnicity, immigration status, language barriers, disability status, sexual orientation and/or gender identity.
- Encourage law enforcement agencies to sign certifications for special non-immigrant visas (U and T visas) for undocumented survivors of domestic violence without requiring that the applicants testify or otherwise cooperate in criminal investigations or prosecutions. Demands for applicant cooperation undermine the visa programs' purpose of protecting survivors.
- Adequately staff the Special Victims Unit so it can handle the increased caseload of misdemeanor and felony cases and investigate sexual assault cases adequately.
- Clarify the policy for, and improve police response to, sexual assault cases in hospital emergency rooms.
- Continue the LGBT Advisory Committee to the Police Commissioner and consider issue-specific advisory committees such as a Sexual Violence Advisory Committee and/or an Intimate-Partner Violence Advisory Committee.
- Enhance evidence collection in domestic violence cases.
- Address reoccurring domestic violence where an arrest is not made.

10. Address Violence Against LGBTQ and HIV-Affected People

LGBTQ violence is, among other things, a pressing public health issue. 2013 data shows a very violent year for LGBTQ people, with some of the highest numbers of hate violence homicides¹¹ and the highest number of intimate-partner violence homicides recorded.¹² People of color and transgender people were disproportionately murdered and faced higher incidents of police violence. Furthermore, reports of physical hate violence increased by 21%.

LGBTQ and HIV-affected people face hate violence every day in the streets of New York City. The New York City Gay and Lesbian Anti-Violence Project receives almost 500 reports of bias-related violence each year in New York City. Transgender and gender non-conforming people and people of color are most impacted by homicide: 89% of all anti-LGBTQ homicide victims in 2013 were people of color and 67% were transgender women of color.¹³

We recommend:

- Publicly denounce, alongside city agency commissioners, anti-LGBTQ and anti-HIV hate crimes in mainstream media, generally in the work of the City and immediately in response to individual incidents, to make clear the City will not tolerate this violence.
- Fund public awareness campaigns - focused on allies and bystanders - that raise awareness about the issues of hate violence, intimate-partner violence and sexual violence faced by LGBTQ and HIV-affected communities and provide resources throughout New York City to deal with the trauma of violence and its aftermath, including economic instability.

¹ See Appendix III: charge sheets.

² *Statement of City Council Members on the Introduction of a Resolution Calling for Comprehensive State Legislation to Ban Use of Condoms as Evidence of All Prostitution-Related Offenses.* http://www.accesscondoms.org/wp-content/uploads/2014/03/May-29-Introduction-Press-Release_FINAL.pdf.

³ *Ibid.*

⁴ *Papachristou v. City of Jacksonville*, 405 U.S. 156, 170-71 (1972) (holding unconstitutional a vagrancy ordinance that encouraged arbitrary and discriminatory enforcement).

⁵ See e.g. *Coleman v. City of Richmond*, 364 S.E.2d 239 (Va.App., 1988); *Silvar v. Eighth Judicial Dist. Court ex rel. County of Clark*, 129 P.3d 682 (Nev., 2006).

⁶ See Appendix III: charge sheets.

⁷ Sanctuary for Families, Sumall.org, *A Disparity in Legal Outcomes for Individuals Arrested for Prostitution and Patronization.* <https://spotfire.cloud.tibco.com/public/ViewAnalysis.aspx?file=/users/dmosenkis/Public/Trafficking&rwaid=da5dfa6ac5306343561b5-12004127bfdc5>.

⁸ <http://alp.org/safe-neighborhood-campaign>.

⁹ <http://www.fierceny.org/index.php?s=94>.

¹⁰ Erica Pearson, *NYPD Didn't Provide Translators.* <http://nydailynews.com/new-york/nypd-failed-spanish-speaking-vics-domestic-violence-calls-suit-article-1.1295531>.

¹¹ National Coalition of Anti-Violence Programs, *Lesbian, Gay, Bisexual, Transgender, Queer and HIV-Affected Hate Violence in the United States in 2013.* http://www.avp.org/storage/documents/2013_ncavp_hvreport_final.pdf.

¹² *Ibid.*

¹³ *Ibid.*

B.Domestic Partnership

In 1989, Mayor Koch signed the first executive order granting recognition of employment rights to City employees in both same- and different-sex domestic partnerships.¹⁴ In 1993 Mayor Dinkins issued an executive order setting up a registry for same- and different-sex domestic partners.¹⁵ Then, in 1998, Mayor Giuliani signed legislation establishing a domestic partner registration system and expanding the range of rights and forms of recognition that would be extended to domestic partners on terms equivalent to those enjoyed by legal spouses.¹⁶

The City's domestic partner registration system remains in place today,¹⁷ and its ongoing importance is not affected by the reform of New York State law in 2011 extending marriage rights to same-sex couples, or the Supreme Court's finding in *United States v. Windsor* in 2013 that the U.S. Constitution does not permit the federal government to deny rights to legally married same-sex persons that it affords to legally married different-sex persons.

The domestic partnership law creates a registry regime parallel to civil marriage and independent of a civil marriage license. The City's marriage and domestic partnership regimes serve a continuing and important purpose for both traditional and non-traditional families.

We recommend:

- Reinforce the importance of New York City's domestic partnership law and resist any nascent efforts to repeal this law.
- Undertake a comprehensive assessment of City policies and

practices to assure that the City recognizes New Yorkers who are in Domestic Partnerships in the full range of benefits and programs that are afforded to New Yorkers who are legally married.

- Withdraw the New York City Housing Preservation and Development's October 4, 2013 proposed rule change that would substitute "spouse" for the broad definition of "family member" currently contained in the rule governing rights of succession to residential properties subject to the Mitchell-Lama program (a program that provides affordable rental and cooperative housing to moderate- and middle-income New Yorkers). Then, issue a statement expressing the administration's support for the existing functional definition of "family member" that recognizes the diversity of families in New York City.

¹⁴ David W. Dunlap, *Koch Grants Paid Leave To Unmarried Couples*. <http://www.nytimes.com/1989/08/08/nyregion/koch-grants-paid-leave-to-unmarried-couples.html>.

¹⁵ Alan Finder, *Orders By Dinkins To Broaden Rights Of 'Domestic Partners.'* <http://www.nytimes.com/1993/01/08/nyregion/rights-of-domestic-partners-broadened-by-dinkins-order.html?src=pm>.

¹⁶ Press Release, Mayor's Press Office, *Mayor Giuliani Signs Landmark Domestic Partnership Legislation*. <http://www.nyc.gov/html/om/html/98b/pr319-98.html>. Office of the City Clerk, Marriage Bureau. http://www.cityclerk.nyc.gov/html/marriage/domestic_partnership_reg.shtml.

¹⁷ Office of the City Clerk, Marriage Bureau. http://www.cityclerk.nyc.gov/html/marriage/domestic_partnership_reg.shtml.



While public schools are meant to be supportive institutions of education, many students experience treatment from staff and fellow students that impedes their ability to learn. Faced with discrimination in schools, LGBTQ youth nationally have much higher school dropout rates than their peers, contributing to homelessness, unemployment, and health issues.¹⁸ Additionally, sexual harassment in NYC public schools is widespread and can result in feelings of depression, inability to focus, and violation that make it difficult for students to focus in class. Sexual harassment and bullying happen to *all* students, regardless of sexual orientation or gender expression. The Mayor's Office has a responsibility to protect and ensure a supportive learning environment for all NYC students.

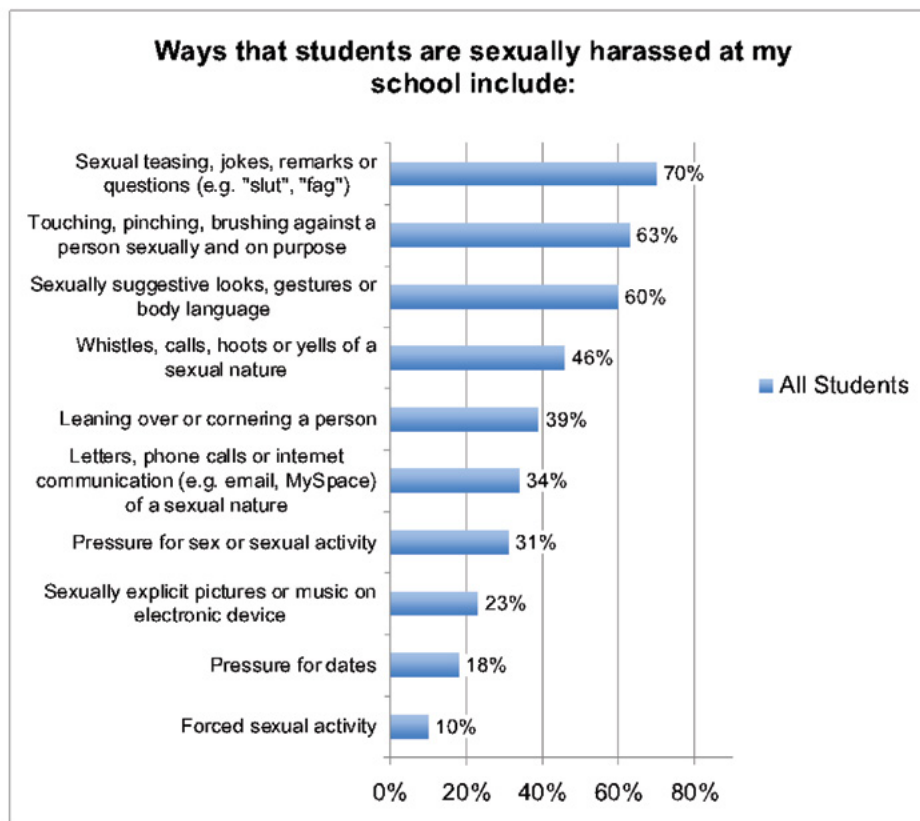
1. Address Sexual Harassment in Public Schools

Sexual harassment in New York City public schools is widespread and normalized. A 2008 study of 1,189 students (grades 6-12) from over 90 public schools and community-based organizations found that 67 % of students reported being sexually harassed and 70.5% of NYC public school students observed sexual teasing in their school.¹⁹ Students who had been sexually harassed reported feelings of depression, fear, insecurity, and violation.

Despite the prevalence of sexual harassment, schools are often ill-equipped to handle such incidents. NYC has only one Title IX administrator for more than 1 million students in over 1,700 public schools despite strongly worded federal law prohibiting sex discrimination (including sex and gender-based harassment) in public education.²⁰ When asked if schools should provide more help for victims of sexual harassment, 89% of females and 76% of males said yes.²¹ Schools should adopt clear, supportive, and transparent sexual harassment policies that are inclusive of a wide range of identities, including male students and LGBTQ students.

We recommend:

- Provide workshops for students that cover what sexual harassment is and what their rights are if they are being harassed.
- Incorporate discussions about sexual harassment within the classroom setting.
- Provide education for school employees on how to recognize and respond to sexual harassment.
- Mandate that schools create a sexual harassment policy so there are clear guidelines on how to both prevent and deal with sexual harassment. The policy should include interventions by counseling staff and separate counseling for the perpetrator and victim of an infraction, if necessary.
- Ensure that sexual harassment policies are inclusive of a wide range of identities.



- Ensure that there is a Title IX coordinator at every public school whose information is listed on the school website. Through Title IX, there is existing federal law that ensures students have the right not to be sexually harassed at school. However, there is only one Title IX coordinator in the entire city.
- Update NYC Public School Discipline Code Levels 1 - 4 to encourage school employees to address sexually harassing behaviors. Currently, Level 4 is the only place in the code that school employees are instructed to address sexually harassing behaviors.²²

2. End Bullying by Implementing the Dignity for All Students Act (DASA)

New York City students are protected from bullying and harassment in schools by both Local Law 42 - a seven-year-old anti-bullying law - and the Dignity for All Students Act - a state-level law that took effect on July 1st, 2012. Neither of these laws has been adequately implemented in the New York City school system. The City must take concrete steps to ensure that DASA is implemented and functional at the student level.

We recommend:

- Require that school policies that address complaints of bullying and harassment focus on effective interventions and positive discipline alternatives over punishment and zero tolerance.
- Hire an anti-bullying coordinator and additional staff members trained to respond to complaints of bullying and harassment at each NYC school.
- Fund intensive training for all NYC school personnel, including teachers, administrators, and support staff on LGBTQ issues and DASA.
- Require that all NYC schools provide clear explanations to students about how to file complaints and the complaint process.
- Focus on preventative measures including LGBTQ-positive curricula and meaningful training on internet safety and responsibility.
- Utilize data analysis tools to report on bias-based incidents in a transparent manner.

3. Implement Comprehensive Sexual Education

Comprehensive sex education must be an integral part of a well-rounded school curriculum and a young person's well-being. Honest, age appropriate sexual health education is essential to young people taking responsibility for their health and well-being. According to the Centers for Disease Control and Prevention, almost half of all new STD infections are among youth aged 15 to 24.²³ Sexual education empowers youth to make medically informed sexual decisions that can help prevent STD infections and unwanted pregnancies. Sexual education is also an important opportunity to teach students about sexual and intimate partner violence in a safe learning environment.

We recommend:

- Create and adopt a set of universal standards for sexuality and sexual health instruction in NYC schools.
- Include curricula on dating violence, sexual assault, and harassment.
- Codify initiative to require one semester of sex education in both middle and high school.
- Commit additional resources to support and expand comprehensive, age-appropriate, medically accurate sex education.

4. Support Transgender and Gender Non-Conforming Students

Despite the legal protections in place with the Dignity for All Students Act, transgender and gender non-conforming students face particular challenges in the school environment in relation to their gender presentation and identity.

We recommend:

- In partnership with experts in the field, develop and articulate a set of best practices for NYC schools to support transgender and gender non-conforming students, including using students' preferred names and gender pronouns, providing access to bathrooms and locker rooms that are consistent with a student's gender identity, ensuring equal access to sport teams and gym classes, and responding to gender-based bullying and harassment.
- Support additional training for all staff members on youth development, cultural sensitivity specific to gender identity and expression, and the privacy rights of LGBTQ youth.
- Provide resources to students about the rights of transgender and gender non-conforming students.

¹⁸ GLSEN, *2011 National Climate Survey*. <http://www.glsen.org/sites/default/files/2011%20National%20School%20Climate%20Survey%20Full%20Report.pdf>.

¹⁹ Girls for Gender Equity, *Participatory Action Research*. <http://www.ggenyc.org/programs/community-organizing/participatory-action-research/>.

²⁰ News 4 New York, *NYC Schools Fail Students Sex Complaints Regulations*. <http://www.nbcnewyork.com/investigations/I-TEAM-NYC-Schools-Fail-Student-Sex-Complaints-Regulations-169309146.html?akmobile=o&nms=y>

²¹ See 18.

²² For detailed guidelines, see Appendix I – Girls for Gender Equity memo.

²³ Center for Disease Control and Prevention, *STDs in Adolescents and Young Adults*. <http://www.cdc.gov/std/stats12/adol.htm>.

LGBTQ elders are an often overlooked demographic within the LGBTQ community, yet they have significant and specific needs that must be addressed. LGBTQ elders often face discrimination and stigma from their cultural communities, employers, and aging-service care providers.²⁴ They also tend to have smaller support networks and safety nets, and have higher rates of social isolation compared with non-LGBTQ elder peers.²⁵ The Mayor's Office has a responsibility to support policy and budget initiatives that ensure a higher quality of life for all elders, particularly those with high-needs.

1. Support LGBTQ Elder Access to Culturally Sensitive Services

Many LGBTQ elders reside in community and long-term care settings that are not welcoming to them on the basis of their LGBTQ identities. Few eldercare service providers have undergone LGBTQ cultural competence training, few conduct outreach to the LGBTQ community, and few are prepared to address acts of discrimination aimed at LGBTQ elders. Fearful of mistreatment from peers and service providers, many LGBTQ elders avoid accessing the services they need. Though the NYC-funded SAGE Center provides a dedicated senior center space for LGBTQ elders, full on-site services are only available at its lower Manhattan location.

We recommend:

- Provide sufficient NYC funding to support LGBTQ-friendly senior center space and services in all five boroughs.
- Provide funding for cultural competency training to service providers so that there is “no wrong door” for LGBTQ older adults who access services in NYC.
- Require that all citywide agencies that support services for seniors - e.g., Department for the Aging (DFTA), Department of Health and Mental Hygiene (DOHMH), Human Resources Administration (HRA), Adult Protective Services (APS) - include LGBTQ cultural competence trainings as a standard component of their array of services.

2. Protect LGBTQ Elders from Elder Abuse

LGBTQ older people, who are highly isolated in many instances, are at greater risk for elder abuse (including financial abuse), yet are less likely to report this abuse for fear of backlash and discrimination.²⁶ Because LGBTQ older people are less likely to have children and more likely to be single, their support networks are thinner and they have fewer advocates available when incidents of elder abuse occur.

We recommend:

- Provide funding for support services for specific populations at heightened risk for elder abuse (e.g. LGBTQ older adults).

- Provide funding to train service providers and city agencies on identifying and working with LGBTQ older adults at risk for elder abuse.
- Ensure that APS and all relevant city agencies prioritize LGBTQ older adults in their efforts to prevent and address elder abuse.

3. Ensure LGBTQ Elders' Access to Nutritious Meals

Adequate nutrition is a major concern for low-income older adults. Senior centers are an important part of the solution since their services are used disproportionately by poor seniors. The latest data from the CEO Poverty Measure estimated that in 2012 over 21% of New York City's elders were living in poverty.²⁷ It is estimated that LGBTQ older adults face even higher levels of poverty, along with accompanying challenges with hunger and nutrition.²⁸

We recommend:

- Increase funding to support nutritious meals for LGBTQ older adults in all five boroughs.
- Mandate flexibility in NYC-funded senior meal programs to accommodate innovations in senior nutritional programming (e.g. off-site dining options).

²⁴ SAGE, *LGBT Older Adults and Exclusion from Aging Programs and Services*. <http://www.sageusa.org/resources/publications.cfm?ID=35>.

²⁵ SAGE, *The Diverse Elders Coalition and LGBT Aging: Connecting Communities, Issues, and Resources in a Historic Moment*. <http://www.sageusa.org/resources/publications.cfm?ID=120>.

²⁶ SAGE, *Elder Abuse*. <http://www.sageusa.org/issues/abuse.cfm>.

²⁷ NYC Center for Economic Opportunity, *CEO Poverty Measure, 2005-2012*. http://www.nyc.gov/html/ceo/downloads/pdf/ceo_poverty_measure_2005_2012.pdf.

²⁸ Center for American Progress, *Protecting Our LGBT Issues*. <http://www.americanprogress.org/issues/lgbt/report/2010/09/28/8+11/protecting-our-lgbt-elders/>.



E. Housing

The scarcity of affordable housing in NYC profoundly affects the most marginalized populations who need secure housing the most. The Mayor's Office has the responsibility to not only provide shelter, but to ensure that all New Yorkers have access to safe, affordable, long-term housing.

1. Reaffirm the Functional Definition of "Family Member" Contained in Various HPD Regulations and Programs

HPD's current definition of "family member" recognizes the range of family forms to be found in a city as culturally diverse as New York. It embraces a conception of "family member" that turns on the nature and quality of the relationship and the emotional and economic interdependency of the parties, not a formulaic or facile resort to a narrow legal status.²⁹ On October 4, 2013, Ruth-Anne Visnaukas, Commissioner of the New York City Department of Housing Preservation and Development (HPD), announced a proposed rule change that would, among other things, substitute "spouse" for the broad definition of family member currently contained in the rules governing rights of succession to residential properties subject to the City's Mitchell-Lama program. The proposed amendment narrowing the definition of "family member" is not justified by any change in law or policy related to persons otherwise eligible for succession rights to Mitchell-Lama properties, nor has the broad diversity of family forms present in New York City changed in such a way as to justify the regression to such a narrow interpretation of family.

We recommend:

- Withdraw the October 4, 2013, proposed rule change and issue a statement expressing the administration's support for the existing functional definition of "family member" contained in the current regulations and law.³⁰

2. Expand Housing for LGBTQ Youth

Many LGBTQ youth have chosen to leave their homes of origin for safety reasons or because they experience transphobic or homophobic discrimination and violence. It is estimated that at least 40% of NYC's homeless youth are LGBTQ, and an uncounted number "couch surf" or are marginally-housed. The lack of domestic or familial stability in many LGBTQ young people's lives cite to high rates of unemployment and underemployment, school drop-outs, substance abuse, and other issues.³¹ Many homeless LGBTQ youth are forced to resort to sex work to survive, which studies have shown to be the strongest predictor of HIV risk in LGBTQ homeless youth.³² There are currently only 253 beds dedicated for LGBTQ youth in the shelter system. The most recent census taken by the New York City Council in 2008 estimated that there are at least 3800 youth on the streets nightly.³³ We applaud the Mayor for beginning to remedy this injustice by including funding for 24 ad-

ditional LGBTQ youth-dedicated shelter beds in the final executive budget for FY2015.

We recommend:

- Increase the number of regulated shelter beds for LGBTQ homeless youth and young adults ages 16 to 24 by at least 200 over the next five years.
- Support the "Campaign for Youth Shelter," which calls on city and state budgets to dedicate adequate funding to runaway and homeless youth.
- Conduct additional outreach and develop drop-in center services to reach LGBTQ homeless youth who are less connected to services.
- Conduct accurate counts of homeless youth annually through the Department of Homeless Services. Undercounting homeless youth leads directly to the shortage of resources for them. DHS should work with service providers to determine appropriate strategies to conduct the count safely and effectively.
- Implement recommendations and best practices from the Mayor's Commission on Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Runaway and Homeless Youth. The City should be transparent about its processes, barriers and ideas around implementation and addressing obstacles.

3. Expand Housing for LGBTQ Elders

Due to higher levels of housing discrimination, financial insecurity and a general lack of affordable housing, many LGBTQ elders find that they cannot afford to continue living in the communities they have resided for many years. Others face discrimination or unwelcoming environments in elder housing and long-term care settings.³⁴ In recent years, LGBTQ aging advocates have begun addressing these housing challenges through a variety of approaches, including developing LGBT-specific elder housing; working with local housing providers to increase their cultural competency with regard to LGBTQ older adults rights; informing LGBTQ elders about their fair housing rights; developing innovative programs such as "homesharing;" and connecting LGBTQ elders to LGBT-friendly services, including housing supports, in their distinctive geographic communities.

We recommend:

- Fund LGBTQ cultural competency training for housing providers throughout NYC.
- Fund the creation of affordable and affirming housing for LGBTQ older adults.
- Increase funding and access to LGBT-friendly support services in residential settings and NORCs (naturally occurring retirement communities).

4. Expand Housing for People Living With HIV/AIDS

HIV and homelessness are intimately connected, and housing status is among the strongest predictors of health status for PLWHA. HIV prevalence among the homeless population is nearly nine times that of the general population. Homeless or marginally housed individuals are more likely to delay treatment, less likely to have regular access to care, less likely to receive optimal drug therapy, and less likely to adhere to their medication than are stably housed individuals – all of which increase the individual's viral load and decrease health outcomes.³⁵ Also, persons with declining housing status are more likely to exchange sex for money or other needed goods, whereas persons with improving housing status reduce their risk behaviors.³⁶ Said differently, housing works: In a six-month longitudinal study of adherence to HAART (Highly Active Antiretroviral Treatment) regimens in New York City, residents in long-term housing were 16 times more likely to report strong adherence to their treatment regimens than were unstably housed participants.³⁷

We recommend:

- Scale up housing for all people living with HIV/AIDS and the recently incarcerated, who are at high risk for HIV.
- Scale up “low threshold,” “housing first” housing, which eliminates many of the onerous admissions requirements typical of public housing.

5. Expand Housing for Survivors of Intimate-Partner Violence

Intimate-partner violence is a primary cause of homelessness in New York City. At least 1/3 of families using the family shelter system are survivors of domestic violence. Studies of the prevalence of sexual assault among homeless women found 43% reported sexual abuse in childhood as opposed to 20% of women in the general population.³⁷ In addition, women who are homeless report a rate of recent sexual assault that is about 10 times that of non-homeless women. Secure housing is vital to the long-term safety and independence of survivors. It also prevents sexual assault. Yet, options for permanent housing are extremely limited. 80% of domestic violence shelter residents who left the emergency shelter system in 2011 were unable to secure permanent housing or transfer to a transitional shelter, leaving them with no safe place to go.³⁹ Sadly, the lack of housing too often forces low-income survivors to reunite with their abusers.

We recommend:

- Create a rent subsidy program to provide permanent housing for low-income survivors of sexual assault, including trafficking, and intimate partner violence survivors.
- Extend existing HPD Section 8 and homelessness resources to

- survivors of sexual assault and intimate partner violence.
- Streamline and expedite the application process for NYCHA's domestic violence priority for public housing.
- Fund services that help low-income victims secure and maintain jobs so that they can achieve financial independence and afford housing on their own.
- Designate a City agency to fund domestic violence and sexual assault supportive services in permanent housing so that building developers can take advantage of capital funding to build more supportive housing for survivors.
- Ensure that domestic violence shelters are LGBTQ-inclusive to increase access to emergency shelter for LGBTQ survivors of intimate partner violence.

²⁹ See e.g. New York, N.Y., R.C.N.Y. tit. 28, ch. 3, § 30-2 (p)(2)(ii)(B).

³⁰ See Testimony of Professor Katherine Franke in Opposition to the Proposed Mitchell-Lama Rule Change, <http://web.lawcolumbia.edu/sites/default/files/microsites/gender-sexuality/HPD%20Mitchell-Lama%20Testimony.pdf>.

³¹ United States Interagency Council on Homelessness, *LGBTQ Youth Homelessness in Focus*. http://usich.gov/issue/lgbt_youth/lgbtq_youth_homelessness_in_focus.

³² National Alliance to End Homelessness, *Incidence and Vulnerability of LGBTQ Homeless Youth*. <http://homeless.samhsa.gov/resource/incidence-and-vulnerability-of-lgbtq-homeless-youth-46579.aspx>.

³³ Empire State Coalition of Youth and Family Services, *A Count of Homeless Youth in New York City*. http://www.citylimits.org/images_pdfs/pdfs/HomelessYouth.pdf.

³⁴ SAGE, *The Need for LGBT-Inclusive Housing*. <http://www.lgbtagencycenter.org/resources/resource.cfm?r=399>.

³⁵ Zach Bergson, *Gaps in Housing Program Leave Tough Choices for People with HIV*. <http://www.thirteen.org/metrofocus/2011/08/gaps-in-housing-program-leave-tough-choices-for-people-with-hiv/>.

³⁶ Ibid.

³⁷ Chad A. Leaver et al., *The Effects of Housing Status on Health-Related Outcomes in People Living with HIV: A Systematic Review of the Literature*. *AIDS and Behavior* 11: Supplement 2 (2007): S96.

³⁸ Lisa A. Goodman et al., *No Safe Place: Sexual Assault in the Lives of Homeless Women*. http://www.vawnet.org/applied-research-papers/print-document.php?doc_id=558.

³⁹ Ibid.

⁴⁰ New Destiny Housing Corporation, *Out in the Cold: Housing Cuts Leave Domestic Violence Survivors with No Place to Go*. <http://www.newdestinyhousing.org/userfiles/file/FULL%20REPORT%20-%20Out%20in%20the%20Cold%20-%20New%20Destiny%20Housing%20-%20October%202012.pdf>.

F. Immigration

1. End Collaboration with Immigration and Customs Enforcement (ICE) on Deportation and Detention

In the past ten years, the U.S. has massively expanded its deportation apparatus, achieving record-breaking numbers of deportations. The Obama administration has identified the “criminal alien” as the primary target and New York City as a key area of ICE activity. The government has increasingly used the criminal justice system—most notably the police and jails—to funnel people into an unjust mass detention and deportation system.

The weight of police/ICE collaboration falls hard on vulnerable immigrant populations. Programs like Secure Communities reinforce the fear and mistrust that community members have of the police. Undocumented survivors of domestic violence are discouraged from turning to law enforcement to seek assistance out of fears that they will be funneled into the detention and deportation system. Additionally, immigrants caught up in the criminal legal system face enormous pressure to accept pleas, which may have immigration consequences. For example, LGBTQ people, particularly transgender people, often suffer gender-related abuse in jail. The threat of this abuse creates additional pressure to take a plea in order to avoid incarceration, even though such pleas may put them at risk for detention and deportation.

Furthermore, the presence of ICE in the criminal legal system has significant fiscal impacts on the City, as the number of people and their length of stay in the City’s jails has grown significantly due to ICE interference in the system. Immigrants who have ICE detainers may choose to stay in jail to fight their cases, as paying bail will likely cause them to be turned over to ICE custody, often far from their families.

We recommend:

- End cooperation with all ICE detainer requests, including those with prior civil deportation orders, pending criminal charges, and prior convictions. We also recommend that the City not honor ICE requests for New Yorkers on “gang” and “terrorist” databases, given the well-documented problems with these databases—including over-inclusion, inaccuracy, and lack of mechanisms to challenge one’s inclusion in these databases.⁴⁰
- Refuse to allow ICE to conduct civil immigration interviews at police precincts or at Rikers Island.
- Revoke the City’s support for ICE’s “Criminal Alien Program” operations at Rikers Island, including removing ICE’s trailer office from Rikers Island.
- Refuse, at minimum, to collaborate with ICE without reimbursement.
- Prevent participation in any further collaborations between local law enforcement and immigration authorities.

2. Encourage Prosecutors to Consider Immigration Consequences during Plea Negotiations

Immigration consequences such as deportation, or lifetime bars to getting a green card, impose heavy, disproportionate penalties on noncitizen defendants in the criminal justice system.

For example, these consequences can have severe ramifications for women and LGBTQ defendants. Women facing deportation may be the primary caretaker for United States citizen children.⁴¹ Separating the child from a parent can have devastating consequences for the child left behind,⁴² as well as for the parent faced with the decision whether to leave his or her child in the United States, or to take the child along to a country where mother and child may experience serious poverty, violence, and lack of educational opportunities, among other negative impacts.

LGBTQ defendants may have left their country of origin to escape extreme transphobic or homophobic discrimination or violence. Forced removal to that country may put them once again at risk for such discrimination or violence.

Precisely because such dire immigration consequences often play a more important role in the criminal case than the criminal justice sanctions, the United States Supreme Court has stated that “informed consideration” of immigration consequences benefits the prosecution as well as the immigrant defendant.⁴³

We recommend:

- Encourage District Attorneys to adopt policies reminding its prosecutors that the Supreme Court encourages the consideration of immigration consequences in the resolution of criminal cases, particularly since families can be torn apart when children born in the United States lose their parents through deportation. District Attorneys should be required to attempt, wherever possible and appropriate, to agree to immigration neutral pleas and sentences.

3. Ensure That Public Defenders and Appointed Counsel Have Resources to Advise Their Clients about the Immigration Consequences of Criminal Dispositions

Countless New York families lose loved ones to deportation, often as a result of a past conviction for which they have already completed their criminal sentence. The convictions range from the smallest to the most serious offenses and include offenses that the prosecutor and judge felt merited no time in jail. In many cases, the person had pled guilty to a crime without understanding that it would have led to deportation. Then, days or years after the criminal case was over, they found themselves in immigration detention and facing deportation – often mandatory, with the conviction closing off all avenues to fight to remain here with their families.

In 2010, the U.S. Supreme Court recognized that it was a criminal defense attorneys’ constitutional obligation to provide affirmative, competent advice to their clients on the immigration

consequences of their criminal cases. That same year, the New York City Office of the Criminal Justice Coordinator (CJC) offered a base level of funding to every institutional defender office to hire in-house immigration counsel to more fully integrate immigration advisals and mitigation strategies in their work. This funding is critical to ensure that defenders meet their ethical duty and that the City meets its constitutional obligations.

We recommend:

- Continue to fund immigration experts at the institutional defender offices to ensure that immigrants facing criminal charges in New York are advised of immigration consequences and have a defense that works to mitigate these consequences when possible.
- Ensure that counsel appointed under the “18-b” program have access to timely and accurate immigration advice for their clients.
- Fund the appellate defender offices to represent immigrants appealing their convictions and seeking post-conviction relief in cases where they pled guilty without being informed of immigration consequences by their attorneys, as required by Padilla.

4. Ensure Legal Representation for all New Yorkers Detained by ICE and Placed in Deportation Proceedings

New Yorkers in immigration proceedings face government-trained attorneys often without the representation of a lawyer, often with a language barrier, and no or limited financial resources - all while behind bars and separated from their loved ones. Data shows that only 3% of those who are detained and unrepresented prevail in their proceedings.⁴⁴ But lawyers make a huge difference - the success rate jumps to 18% for those who are detained and represented.⁴⁵

Recently, the New York City Council allocated \$500,000 during this fiscal year to fund the nation’s first immigration representation pilot – the New York Immigration Family Unity Project (NYIFUP). The pilot will serve 190 out of the approximately 900 detained New Yorkers who will have their removal proceedings at the New York City Immigration Court this year.

Beyond the family unity toll, a recent study demonstrated that the economic costs that New York City and State bear as a result of deportations are substantial. Once fully implemented statewide, the NYIFUP will result in almost \$6 million of annual economic offsets to the city, state and to New York employers.⁴⁶

We recommend:

- Fully implement the NYIFUP at an annual cost of \$5.3 million to provide deportation defense to all New Yorkers who face removal in area immigration courts, including those who have hearings at the New York City Immigration Court, as well as those New Yorkers whose hearing are venued in nearby New Jersey immigration courts (Elizabeth and Newark).⁴⁷



Photo credit: Sabelo Narasimhan

⁴⁰ Hawkins, Myers, et al. “The New Blacklists: The Threat to Civil Liberties Posed by Gang Databases.” *Crime Control and Social Justice: The Delicate Balance*. Westport, CT: , 2003. K. Babe Howell, *Gang Databases: Labeled for Life. The Champion*, July and August 2011. Associated Press, *Anti-Terror Program Tracks Innocents, ACLU Says*. <http://losangeles.cbslocal.com/2013/09/19/anti-terror-program-tracks-innocents-aclu-says>.

⁴¹ Between 1997 and 2007, the United States deported the legal permanent resident (“LPR”) parent of approximately 103,000 children, of which at least 85 percent (or 88,000) were United States citizens. See J. Baum, R. Jones & C. Barry, *In the Child’s Best Interest?: The Consequences of Losing a Lawful Immigrant Parent to Deportation*, Int’l Human Rights Law Clinic, University of California, Berkeley, School of Law et al., 4-5 (2010). http://www.law.berkeley.edu/files/Human_Rights_report.pdf.

⁴² Baum, et al., *In the Child’s Best Interest?* 4-5 (2010) Manuel Pedroza, R. Maria Castañeda, R. Santos & M. Scott, *Facing Our Future: Children in the Aftermath of Immigration Enforcement*, Urban Institute, viii (2010), http://www.urban.org/UploadedPDF/412020_FacingOurFuture_final.pdf.

⁴³ *Padilla v. Kentucky*, 559 U.S. 356, 373 (2010).

⁴⁴ New York Immigrant Representation Study, *Accessing Justice: The Availability and Adequacy of Counsel in Immigration Proceedings*, 33 *Cardozo L.Rev.* 357, 384 (Dec. 2011).

⁴⁵ *Ibid.*

⁴⁶ Center for Popular Democracy, *The New York Immigrant Family Unity Project: Good for Families, Good for Employers, and Good for All New Yorkers*. http://populardemocracy.org/sites/default/files/immigrant_family_unity_project_print_layout.pdf.

⁴⁷ *Ibid.* The NYIFUP will cost \$5.3 million to implement in NYC; it will cost \$7.4 million statewide.

G. Labor

New York City's unemployment rate as of February 2014 is around 7.9%, higher than both the state and national average.⁴⁸ While the economic downturn continues to affect unemployed New Yorkers in their job search, it has disproportionately affected marginalized communities, often the communities who need a stable income the most. The Mayor's Office has a responsibility to ensure that job creation and training programs provide all New Yorkers with the opportunity to work for a living wage.

1. Address Gender Wage and Employment Discrimination

According to the latest CEO Poverty report, women in New York City are more likely to live in poverty than men. The poverty rate in 2012 for women was 22.3%, compared with 20.5% for men.⁴⁹ Furthermore, the poverty rate for single-mother headed households was 35.9%.⁵⁰ It is estimated that New York City women are paid 85 cents for every dollar paid to men; the yearly wage gap between full-time working men and women amounts to over \$8000.⁵¹ With women heading over 1 million households in the city,⁵² combating wage discrimination and strengthening the economic power of women is critical to supporting New York families.

We recommend:

- Settle the School Safety Agents of Teamsters Local 237's equal pay lawsuit, which would bring the wages of 5000 School Safety Agents, predominantly female, in line with those with other peace officers, who are predominantly male. Currently, School Safety Agents are paid on average \$7000 less than other peace officers.⁵³
- Proactively evaluate and address existing gender wage gaps among city employees.
- Expand opportunities for minority- and women-owned business enterprises. The city's current M/WBE program has consistently failed to meet goals for women-owned business participation in city contracts.⁵⁴
- Fully fund and staff the Human Rights Commission to ensure enforcement of workplace legal protections like the Pregnant Workers Fairness Act, particularly for all vendors awarded city contracts.

2. Address LGBTQ Youth Unemployment

While youth currently have the highest unemployment rate among all age groups in the City - 19% for young people ages 16 to 21 - the job development programs are inadequately funded to deal with this crisis.⁵⁵ In 2013 there were approximately 30,000 slots available in City youth job development programs with a staggering 131,000 applications.⁵⁶ In addition, the program was shortened from seven weeks to six. In NYC, where the youth employment is nearly 20%, LGBTQ youth face even steeper obstacles to finding work since they are vulnerable to discrimination on the basis of sexual orientation and gender identity. Nationally, 21% of LGBTQ respondents in a PEW study reported being discriminated against in hiring, pay, or promotions.⁵⁷

Employment discrimination against transgender workers in New York State results in costs of \$1.5 to \$7 million in Medicaid and housing expenditures each year.⁵⁸

We recommend:

- Increase the number of slots available for youth in job development programs.
- Ensure that all slots have adopted non-discrimination policies to protect LGBTQ youth.
- Advertise employment opportunities available to youth by creating a dedicated website that consolidates the job programs, employment services and training opportunities that the City and State provide, developing an advertising campaign including online, TV, subway and bus ads, and targeting outreach to at risk youth by working collaboratively with outreach centers, shelters, and transitional living shelters.
- Support the capacity of worksite assignments in various job development programs to be able to adequately support LGBTQ youth whom they employ to avoid workplace discrimination.

3. Create Programs to Develop Financial Independence for Survivors of Sexual and Intimate-Partner Violence

Violence can impoverish people through increased medical bills and missed work days necessary to cope with the trauma of a violent incident. For IPV survivors, economic abuse and dependence on the abusive partner create significant, often insurmountable, barriers to leaving an abusive relationship. A sustainable income, at a living wage, is critical to help survivors of violence escape and live safely.

We recommend:

- Create and provide funding to programs that assist sexual and intimate-partner violence survivors with economic sustainability, including public benefits, employment training and development, long term counseling, job readiness, and job training.
- Provide specific focus on underserved populations, including immigrants, non-English speakers, people with disabilities, and LGBTQ survivors.

4. Support Training and Employment for LGBTQ Elder Workers

Finding and retaining a fulfilling job can be difficult for many people, but it is especially challenging for LGBTQ people as they enter their later years. Age discrimination in the workplace is a growing problem, even though it is illegal. For LGBTQ older people, the danger of age discrimination is exacerbated since they must often deal with the added barriers of LGBT-bias and discrimination.⁵⁹ Given that LGBTQ older adults are at heightened risk for poverty and have lower levels of retirement savings than older people in general, the ability to secure employment during the later working years is critically important.

We recommend:

- Provide NYC funding for Workforce Development skills-building programs that focus on LGBTQ older adults.
- Fund outreach to employers to encourage them to employ LGBTQ older workers.
- Expand opportunities for older adults to engage in employment by increasing access to Title V programs.

5. Facilitate Access to Services for Trafficking Survivors

Trafficked people may be coerced or forced to work for little or no pay in a variety of conditions – as sex workers, domestic workers, restaurant workers, etc. As a practical matter, in many circumstances there is little difference between the working conditions of trafficked people and those who are trapped in low-wage work. Indeed, many people who escape from working conditions that meet the legal definition of “trafficked” find themselves “freed” to work in low-wage work that could hardly be considered “free”. Given the practical similarities between “trafficked” work and “low-wage” work for many residents of New York City we strongly urge the administration to resist the current trend of describing trafficked labor as a modern form of human slavery. It does two counterproductive things: erases the fact that trafficked persons are performing work, albeit on account of force, fraud or coercion, and erases the similarities in working conditions that many trafficked people share with persons doing low-wage labor. For these reasons we urge the administration to shift its frame of analysis of the problem of human trafficking from a problem of crime and criminal justice to one of labor and workers’ rights.

Survivors of human trafficking need substantial services and resources. The City should deemphasize incarceration and deportation in favor of providing supportive services and resources. Services should empower survivors with the resources they need.

We recommend:

- Devote resources for case management, shelter, and legal services to organizations with a demonstrated track record serving survivors of trafficking with a range of experiences.
- Systematically shift the City’s approach to human trafficking from a model of “modern slavery” best addressed through the criminal law to one that recognizes the problem of trafficking as necessarily tied to coercive labor migration, low-wage work, and the under-regulation of vulnerable populations in the City more generally.
- Convene a task force of advocates and thought-leaders on human trafficking that can assist the City in formulating innovative approaches to human trafficking that look beyond the current trend of tying it to human slavery.
- Encourage law enforcement agencies to sign U & T non-immigrant visa certifications for undocumented survivors of trafficking without requiring that the applicants testify or otherwise cooperate in criminal investigations or prosecutions. These demands for applicant cooperation undermine the visa programs’ purpose of protecting survivors. Policies should be transparent and clear for

those seeking a certification.

- Services for trafficked youth should be in the least restrictive setting to allow for case management, social support, and legal services. Access to job development and meaningful economic opportunities should be presented in a setting that encourages decision-making.
- All services for trafficking survivors should be non-discriminatory and open to all ages and genders.
- The Human Trafficking Intervention Courts should be open to survivors of all forms of human trafficking and all programs should be evaluated or meet a minimum standard.
- Root solutions in enhancing quality of and access to services and community-based outreach and education rather than focusing on enhanced criminal penalties.

6. Develop City Policies on Labor Trafficking

Trafficking into most sectors of wage labor is grossly underreported and under-recognized. Trafficked individuals may come into contact with city agencies without their trafficked status becoming known. Furthermore, labor trafficking also may be found in sourcing through supply chains. Establishing City policies will help provide a more unified front against trafficking.

We recommend:

- Train City agencies to develop training and policies on labor trafficking.
- Develop City policy on not engaging with businesses that do not examine their supply chains for slave labor and human trafficking.

⁴⁸ New York State Department of Labor. <http://labor.ny.gov/stats/pressreleases/pr-laus.shtm>.

⁴⁹ NYC Center for Economic Opportunity, *The CEO Poverty Measure, 2005 - 2012*.

http://www.nyc.gov/html/ceo/downloads/pdf/ceo_poverty_measure_2005_2012.pdf.

⁵⁰ The New York Women’s Foundation, *Economic Security and Well-Being Index For Women in New York City*. <http://www.nywf.org/wp-content/uploads/2013/04/New-York-Womens-Foundation-Report.pdf>.

⁵¹ National Partnership for Women and Families, *New York City Women and the Wage Gap*. http://go.nationalpartnership.org/site/DocServer/Wage_Gap_NewYorkCity.pdf.

⁵² Ibid.

⁵³ Beth Fertig, *School Safety Agents Claim Pay Discrimination*. <http://www.wnyc.org/story/301884-school-safety-agents-claim-pay-discrimination/>.

⁵⁴ Adam Wisniewski, *Push to Diversify City Contracting Falls Short of Goals*. <http://www.citylimits.org/news/articles/5012/push-to-diversify-city-contracting-falls-short-of-goals#.U2kQ7KWMWDW>

http://www.cdp-ny.org/report/The_Struggle_Report.pdf.

⁵⁶ Ibid.

⁵⁷ Pew Research Center, *A Survey of LGBT Americans*. <http://www.pewsocialtrends.org/2013/06/13/a-survey-of-lgbt-americans/8/#top-issues>

⁵⁸ *The High Cost of Anti-Transgender Discrimination*. <http://thetaskforceblog.org/2013/05/20/the-high-cost-of-anti-transgender-discrimination/>

⁵⁹ SAGE, *Economic Security*. <https://www.sageusa.org/issues/economic.cfm>

H. People Living with HIV/AIDS (PLWHA)

Since the disease's first outbreak in the 1980s, New York City has remained at the center of the HIV/AIDS epidemic. New York City leads the nation in new cases of HIV/AIDS.⁶⁰ According to the latest surveillance data from 2013, over 116,000 New Yorkers are living with HIV/AIDS,⁶¹ roughly 10% of all of the HIV/AIDS cases nationally.⁶² We applaud the Mayor's Office for recently securing a 30% rent cap for HASA clients in the newest state budget. The Mayor's Office has the responsibility to support initiatives like the rent cap that prevent new infections and ensure that PLWHA receive the resources they need to support positive treatment outcomes and healthy, full lives.

1. Increase Access to HASA Benefits

The HIV/AIDS Services Administration (HASA) provides essential benefits and services to people living with HIV/AIDS in New York City. Today, only people with an AIDS diagnosis (defined as individuals with a T-cell count of 200 or lower, or two opportunistic infections) are eligible for those benefits.⁶³ That distinction has prompted some poor people to allow themselves to become sick just to qualify for benefits.⁶⁴ The HASA for All Act, introduced in 2008 by Councilwoman Anabel Palma, would extend HASA benefits to *all* poor New Yorkers living with HIV. Advocates estimate that the HASA for all Act would help at least 7,000 people receive full HASA assistance, including critical housing assistance.

We recommend:

- Provide support for passage of the HASA for All Act.

2. Reform HASA Policies to Ensure Access to Affordable Housing

One of the most critical services HASA provides is assistance in securing affordable housing. Yet two recent policies, adopted as cost-saving measures, have made this process even more difficult. Providing access to stable, affordable housing is critical in ensuring the well-being of people living with HIV/AIDS, as well as saving millions in future emergency housing and medical care costs.

In March 2011, HASA instituted a new policy to pay only 50% of brokers' fees on behalf of clients securing new housing. The vast majority of brokers are unwilling to accept this reduced fee, and have either stopped working with HASA clients, or have informally asked HASA clients to pay the other half themselves.⁶⁵ Without brokers to provide that critical level of reassurance to new landlords, the stigma that so many HASA clients face in their housing search goes unmanaged.

Furthermore, recent HRA policy now requires HASA to pay landlords their security deposit in the form of a voucher, rather than a check. In order for landlords to collect on this voucher, they must submit extensive paperwork: documentation of damages, estimates for repair work, and receipts for work done. The prospect

of such an onerous process is daunting, and disincentivizes landlords from accepting HASA clients.

We recommend:

- Reverse recent HASA policy that pays only 50% of broker fees.
- Reform HASA policy to pay landlords their security deposits via check and not voucher.

3. Provide Resources to Support Services for Elders Living with or At Risk for HIV/AIDS

The number of older adults living with HIV/AIDS in NYC is growing rapidly. The latest data from 2013 found that nearly 77% of PLWHA in New York City were 40 and older; 47.5% were 50 and older.⁶⁶ This is due in part to advances in science and treatment of HIV. It is also due to the continued spread of HIV - the latest CDC report found that newly infected older adults accounted for 16% of all new HIV diagnoses annually.⁶⁷ Unfortunately, because many mistakenly assume older adults are sexually inactive, and because LGBTQ older adults often fear discrimination and therefore delay or avoid seeking services and care, many LGBTQ older adults aren't tested or diagnosed. As a result, when LGBTQ older adults are finally tested, it is more often a dual diagnosis of HIV and AIDS.

We recommend:

- Increase funding for direct service provision to older adults living with HIV and/or AIDS.
- Provide funding for training to NYC providers on HIV and aging.

4. Address HIV Stigma

Although some of the fear and scapegoating that were rampant in the early years of the epidemic have abated, PLWHA are still subject to stigmatizing behavior and attitudes. People living with HIV may be ostracized by their families, lose their homes, or be subject to intimate-partner violence, even murder. Furthermore, social rejection, disapproval, discrimination, and even the perception that stigma exists make an HIV-positive individual less likely to seek treatment, attend medical appointments, or adhere to a drug regimen. PLWHA who are highly concerned with stigma are three times less likely to adhere to their drug regimens.⁶⁸ Stigma can also impede testing efforts. People who fear negative fallout from a positive HIV test often forego testing.

People living with HIV/AIDS also often encounter stigma at the doctor's office. Healthcare professionals can be insensitive to concerns about stigma and may not follow appropriate procedures for maintaining patient confidentiality or may lack such procedures altogether. Healthcare providers' own fear of infection may also result in diminished care and services. At its most extreme, discrimination by healthcare providers results in denial of treatment or access to health facilities. High levels of experienced stigma correlate with

low access to care, negative mental health outcomes, and suboptimal adherence to drug therapies.

We recommend:

- Develop social marketing campaigns to address HIV stigma through the Commission on Human Rights and the Department of Health and Mental Hygiene.
- Provide funding for HIV stigma training for health care workers in city hospitals and clinics.

5. Increase Funding for Essential Supportive Services for PLWHA

People living with HIV/AIDS deserve the right to access an array of supportive services to ensure their health and well-being. These services are also potentially cost saving and beneficial to the public health, helping to prevent future transmissions and emergency care.

We recommend:

- Develop food and nutrition programs for PLWHA, including in-home food delivery services and nutrition counseling. Nutrition services have been shown to slow disease progression, reduce complications associated with HIV treatment, and increase treatment adherence.
- Enhance mental health services for PLWHA, who are disproportionately likely to suffer from mental health conditions. Mental health interventions have the demonstrated potential to increase treatment adherence and to help reduce risk-taking behaviors, thereby slowing transmission of HIV.
- Provide funding for legal services for PLWHA. Legal services are necessary to assist PLWHA in guaranteeing and maintaining access to health care services, primarily by addressing legal issues that would otherwise compete with these priorities – housing, immigration, enforcement of legal rights, and ben-

efits.

- Ensure that youth in foster care receive essential HIV prevention programming. Foster care youth are particularly vulnerable to contracting HIV. Efforts to improve prevention programming must be given by trained staff and with sensitivity to the range of sexual orientations and gender identities of young people in the foster care system.
- Provide funding for services that address the connection between HIV and intimate-partner violence (IPV). Regardless of gender, half of HIV-positive patients who seek treatment have been affected by intimate-partner violence or childhood sexual abuse. HHC should incorporate IPV screening into all health care and social work encounters with PLWHA and trans and gender non-conforming individuals, who are additionally at high risk. Staff must be trained to provide necessary referrals, resources, counseling, or strategies for safety planning.

⁶⁰ Centers for Disease Control and Prevention, *HIV Surveillance Report*. http://www.cdc.gov/hiv/pdf/HSSR_MSA_2013-PDF04.pdf.

⁶¹ NYC Department of Health and Mental Hygiene, *HIV Surveillance Mid-Year Report, 2013*. <http://www.nyc.gov/html/doh/downloads/pdf/dires/1st-half-2013-surveillance-statistics-tables.pdf>.

⁶² See 57.

⁶³ Community HIV/AIDS Mobilization Project, *New York City's HASA For All Campaign*. <http://www.thebody.com/content/art47447.html>.

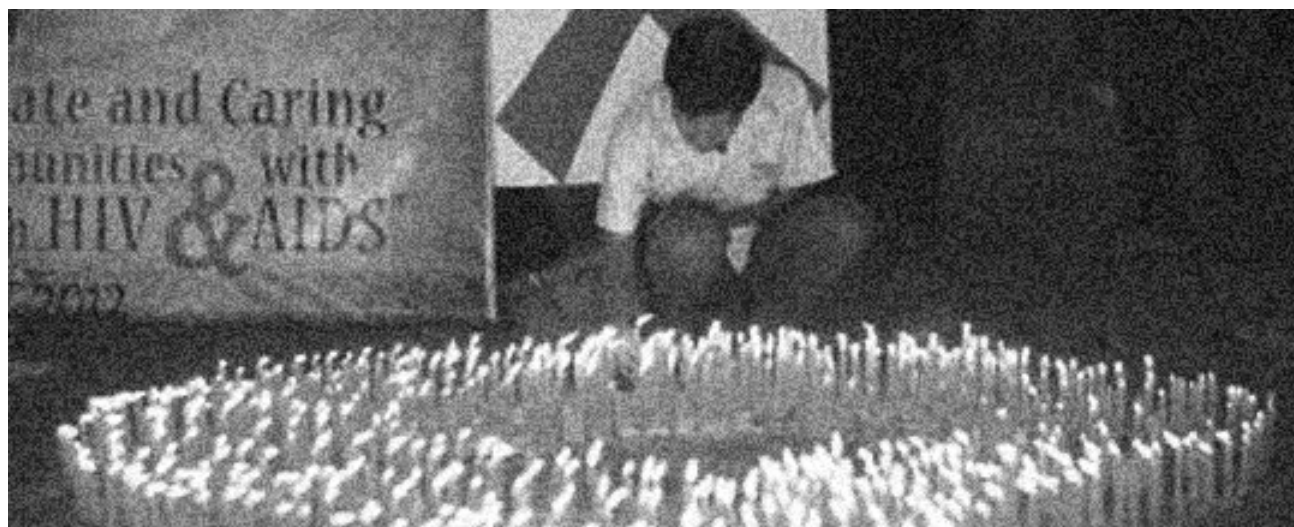
⁶⁴ Maral Sharifi, *The Men Who Want AIDS - and How It Improved Their Lives*. <http://www.out.com/news-opinion/2013/08/02/men-who-want-aids-bronx-new-york>.

⁶⁵ Housing Works. *NYC Brokers Refuse to Work with AIDS Housing Groups*. <http://www.housingworks.org/advocate/detail/nyc-brokers-refuse-to-work-with-aids-housing-groups/>.

⁶⁶ See 58.

⁶⁷ Centers for Disease Control and Prevention, *HIV Surveillance Report*. <http://www.cdc.gov/hiv/topics/surveillance/resources/reports>.

⁶⁸ Rintamaki LS. Davis TC. Skripkauska S. Bennett CL. Wolf MS. *Social stigma concerns and HIV medication adherence*. *AIDS Patient Care STDs*. (2006)



I. Sexual and Intimate-Partner Violence

A recent scientific nation-wide survey by the Centers for Disease Control found that 1 in 4 women and 1 in 7 men have experienced intimate partner violence and 1 in 5 women and 1 in 71 men have been raped at some time in their lives.⁶⁹ The CDC also found that lesbian, gay, and bisexual people experience intimate partner and sexual violence at the same rates as non-LGBTQ people.⁷⁰ People of color, including African American, multiracial, and Native American women experience higher rates of both sexual assault and intimate-partner violence than white women.⁷¹ Both forms of violence are vastly underreported crimes, and no doubt the numbers are significantly higher. Yet, despite the high rate of rape and intimate-partner violence, services to respond to and prevent this violence are grossly inadequate. Culturally competent services for marginalized communities - especially communities of color, immigrants, non-English speaking people, people with disabilities and lesbian, gay, bisexual and transgender people - are even more limited.

The Mayor's Office has the responsibility to raise awareness of intimate and sexual violence, and to expand and ensure culturally competent services for all survivors.

1. Provide Executive Branch Funding for Sexual and Intimate-Partner Violence Programs

Social and legal services for intimate partner violence survivors are essential to their ability to escape violence and begin the healing process. In particular, research shows that legal services are strongly correlated with a reduction in intimate partner violence and enable survivors to escape abusive relationships.⁷² Existing resources are inadequate to meet the needs of survivors of sexual and domestic violence. Discretionary allocations from the City Council (\$2.825M in the Domestic Violence Empowerment DoVE and \$200K for the Sexual Assault Initiative) are uncertain from year to year, making it difficult to plan and sustain programs. Without this funding, survivors of abuse, particularly low-income survivors and those from marginalized communities, have few options for vital preventive, social and legal services.

We recommend:

- Provide consistent and increased Executive Branch funding to support survivors of sexual and domestic violence.

2. Create a High Level Citywide Position on Violence and Poverty

There is a strong correlation between poverty and violence: intimate partner violence is a primary cause of homelessness and women who are homeless report a far higher recent sexual assault than non-homeless women.⁷³ There is an immediate need to create a position that can holistically address the violence of sexual and intimate partner violence, as well as trafficking, and the poverty

that these crimes so often cause. These crimes are also in some part caused by poverty, lack of viable options for income and homelessness. This position should focus on the intersection of poverty and violence so as to lower the rate of child sexual assault, violence against women and intimate partner violence, including in the LGBTQ community.

We recommend:

- Create a high-level citywide position on violence and poverty that has the power to convene all city agencies, including the DOH, NYPD, NYCHA, HPD, HRA, ACS, CHR, DHS, and OCDV to provide a coordinated response to problems faced by survivors and to address gaps in policy and practices.
- Create multi-disciplinary group for each county to trouble shoot on individual cases to allow city-wide position to address broader, systemic issues.
- Use this position to utilize proven tools to reveal policies and practices that place survivors of intimate partner violence and sexual assault at risk, such as fatality reviews and safety audits.

3. Gather Data on Sexual and Intimate-Partner Violence

New York City should routinely gather data in order to properly allocate funding and resources for survivors of sexual and intimate partner violence and track progress on anti-violence initiatives. Surveys that are conducted by city agencies should not only collect information on sexual and intimate partner violence and harassment but the demographics that characterize them.

We recommend:

- All New York City surveys, reports and data about sexual and intimate partner violence, and all agencies funding or overseeing work on sexual and intimate partner violence in which demographic information is collected, should include questions about race, ethnicity, sexual orientation, age and gender identity.
- The New York City Department of Health and Mental Hygiene conducts a Community Health survey each year with 10,000 respondents from all five boroughs.⁷⁴ This survey should include questions about sexual violence and intimate partner violence as well as demographic information about race, ethnicity, sexual orientation, age and gender identity. This survey should also collect information on the prevalence and impact of sexual harassment in the workplace, schools, and public space so that this information can be used to baseline progress.
- Enhance and improve automated data collection systems and data communication systems that link police, prosecutors, courts and victims service agencies. Specific examples include the Domestic Incident Report database, Order of Protection Registry, and Child Abuse Registry.
- Support community needs assessments that seek to

identify members of underserved populations and victim needs currently not met through existing community-based programs including cultural specific programs that serve underserved populations; e.g. LGBTQ anti-violence organizations.

- Collect and publish information about the number of homeless domestic violence survivors, trafficking and sexual assault survivors using HRA and DHS shelters annually.

4. Increase Access to Services for LGBTQ Survivors of Violence

According to the United States Centers for Disease Control and Prevention (CDC), lesbian, gay and bisexual people experience intimate partner violence at about the same or slightly higher rate than non-LGBTQ people.⁷⁵ In the National Coalition of Anti-Violence Programs (NCAVP) 2012 report on intimate partner violence, transgender and gender non-conforming (TGNC) people, people of color and LGBTQ youth/young adults were the most impacted by intimate partner violence and rates of intimate partner violence were highest for LGBTQ people of color.⁷⁶ However, services remain largely inaccessible to LGBTQ survivors of violence. A 2010 study with the National Center for Victims of Crime and NCAVP found that 94% of mainstream service providers did not have LGBTQ-specific services.⁷⁷ In 2012, fewer than 5% of survivors reporting intimate partner violence sought domestic violence shelters or orders of protection and fewer than 20% reported this violence to the police.⁷⁸ These findings clearly demonstrate the need for a comprehensive and culturally competent response to the needs of LGBTQ survivors of intimate partner violence.

We recommend:

- Fund public awareness campaigns, focused on allies and bystanders, that raise awareness about violence faced by LGBTQ and HIV-affected communities highlighting resources throughout New York City to deal with the trauma of the violence and the aftermath.
- Fund the development of technology that allows LGBTQ and HIV-affected people to report the violence that they experience and find culturally specific and competent services and support in response to that violence.
- Require all city-funded domestic violence shelters to create and enforce non-discrimination protections that explicitly include sexual orientation and gender identity, similar to the 2013 reauthorization of the Violence Against Women Act and as required by Local Law 3, as a condition of receipt of grant funds.
- Ensure that LGBTQ survivors are included in all prevention assessments, including homicide and lethality assessments, as well as coordinated community response models such as Family Justice Centers.
- Require and fund regular and consistent LGBTQ-specific train-

ing of all city agencies, such as the NYPD Sex Crime Unit, for all staff, including Commissioners, on the issues of working with LGBTQ and HIV-affected communities in a culturally competent way and in the unique dynamics of violence as it impacts these communities.

- Provide all non-profits funded by the city with free access to Language Line to allow critical crisis intervention, economic empowerment and safety support services to be accessed by all New Yorkers to increase access to services.

5. Create Sexual Violence Public Campaign

It has been many years since the last NYC Sexual Assault campaign. It is one of the most unreported crimes and increasing awareness will increase reporting of this violence. The goal would be to raise awareness and encourage survivors to reach out for assistance.

We recommend:

- Create a subway and bus campaign through the New York City Department of Health that addresses diverse communities in NYC with messaging that recognizes and responds to the needs of these communities.
- Work with advocates to tailor messages to specific communities for effective outreach.

⁶⁹ Center for Disease Control and Prevention, *National Intimate Partner and Sexual Violence Survey 2010 Summary Report*. http://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² A. Reckdenwald, K.K. Parker, *Understanding Gender-Specific Intimate Partner Homicide: A Theoretical and Domestic Service-Oriented Approach*. (2010)

⁷³ American Civil Liberties Union, *Domestic Violence and Homelessness*. <https://www.aclu.org/sites/default/files/pdfs/dvhomelessness032106.pdf>.

⁷⁴ NYC Department of Health and Mental Hygiene, *Data and Statistics*. <http://www.nyc.gov/html/doh/html/data/survey.shtml>.

⁷⁵ Centers for Disease Control and Prevention, *National Center for Injury Prevention and Control, The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Findings on Victimization by Sexual Orientation*. http://www.cdc.gov/ViolencePrevention/pdf/NISVS_SOFindings.pdf. This survey did not include transgender or gender non-conforming people and no national federal study does.

⁷⁶ National Coalition of Anti-Violence Programs, *Lesbian, Gay, Bisexual, Transgender and Queer Intimate Partner Violence in the United States in 2012*. http://www.avp.org/storage/documents/ncavp_2012_ipvreport.final.pdf.

⁷⁸ National Coalition of Anti-Violence Programs and the National Center for Victims of Crime, *Why It Matters*. http://www.avp.org/storage/documents/Reports/Why-ItMatters_LGBTQreport.pdf.

⁷⁸ See 76.

J. Social Services

1. Address HRA Discriminatory Practices

In 2010, the Audre Lorde Project, Housing Works, and the Sylvia Rivera Law Project led the Welfare Justice Campaign resulting in Human Resources Administration creating new policy that would ensure that HRA provided quality care without regard to a person's gender, race or sexual identity. Despite this, community organizations are hearing about more and more cases of HRA discriminatory practices, especially against trans women of color.⁷⁸

We recommend:

- Issue a statement emphasizing the importance of the non-discrimination policy and insisting on its enforcement.
- Evaluate HRA's non-discrimination policy to be sure that trans and gender non-conforming clients of the HRA are receiving non-discriminatory services.
- Develop new and better training of relevant actors at HRA to assure compliance with the agency's non-discrimination policy.
- Require appropriate managers for each HRA unit to report bi-annually on compliance with non-discrimination policies.

2. Facilitate Gender Changes on Public Identification Documents

The ability to change one's sex designation on identity documents is an important issue for many transgender people. Transgender persons face serious obstacles in accessing these necessary identity documents without a birth certificate that accurately reflects their current gender. Incorrect gender identification may lead to bias, harassment, or discrimination, and makes it more difficult for government officials or agencies to accurately identify transgender people.

The New York State Department of Health, Vital Records Division has a policy providing for the change of sex designation on birth certificates upon the receipt of a completed application; a letter from the surgeon specifying date, place, and type of sex reassignment surgery performed; an operative report from the sex reassignment surgery; and additional medical documentation.

New York City has a vital records division separate from the State. New York City's current policy, which resulted from a 1965 report and was adopted in 1971, provides that a new birth certificate will be filed when the name of the person has been changed pursuant to court order and proof satisfactory to the New York City Department of Health and Mental Hygiene has been submitted that such person has undergone "convertive" surgery.

There are no practical medical or legal reasons for why gender change should be linked with sex reassignment surgery. A 2009 study estimated that fewer than 20% of transgender women and fewer than 5% of transgender men have undergone genital surgery, due to its severe limitations and associated medical risks.⁷⁹ Relaxed

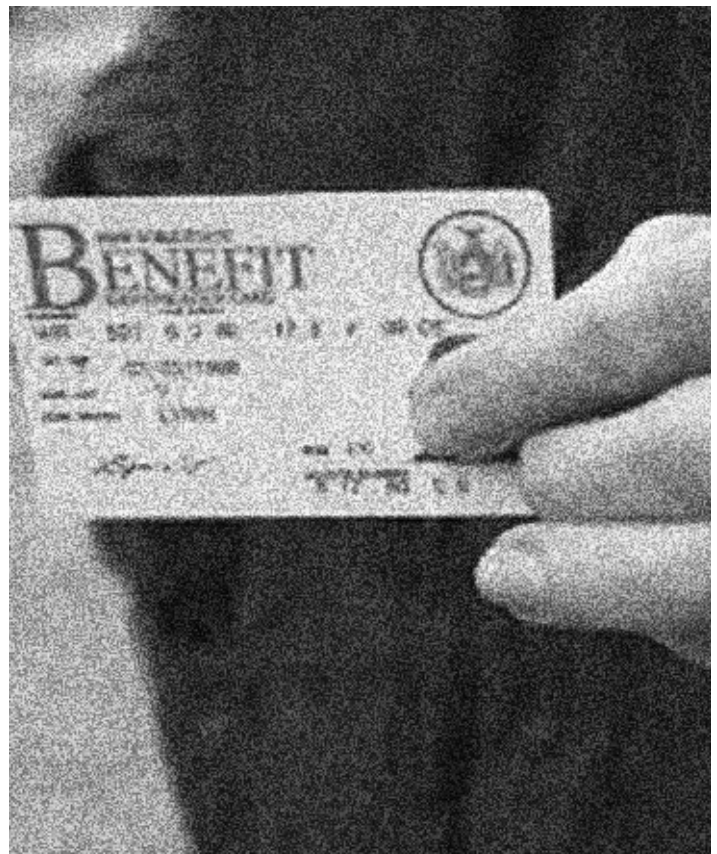
gender change laws are unlikely to encourage identity fraud. Even without the sex reassignment surgery requirement, gender change will still require a number of procedural steps that make the potential for identity fraud unrealistic.

We recommend:

- Mandate that the HRA commissioner to implement a policy for gender change on New York State benefits cards that does not require genital surgery.
- Compel DOHMH to update its gender marker change policy for transgender people who are born in New York City. The new policy should be consistent with Medicare, Social Security Administration, United States Citizenship and Immigration Services, and State Department policies, which only require certification from a physician confirming that the individual has undergone appropriate clinical treatment for gender transition.
- Ensure that the updated gender change policy applies to the municipal ID card proposed by City Council.

⁷⁸ Josie Bartlett, *Queens Transgender Woman Files Lawsuit Against City*. http://www.qchron.com/editions/western/queens-transgender-woman-files-lawsuit-against-city/article_89cb4320-7ecd-5a32-9657-5a52d005b306.html.

⁷⁹ *National Transgender Discrimination Survey Report on Health and Health Care*. http://transequality.org/PDFs/NTDSReportonHealth_final.pdf.



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“Without Community there can be no liberation...” Audre Lorde

On behalf of the Audre Lorde Project, we seek to transform conditions and sustain the political and cultural strategies of Lesbian Gay Bisexual Two Spirit Trans & Gender Non Conforming (LGBTSTGNC) People of Color communities in New York City. In the name of Caribbean Lesbian NY Poet Laureate, Audre Lorde; the Audre Lorde Project, is an intergenerational organizing center serving New York City, bringing action, voice and visibility to the extreme marginalization facing our communities based on our race, class, gender identity, physical ability, immigrant status, and sexual orientation.

Our Conditions:

- Much of our community lives in poverty yet cannot access support from shelters due to discrimination and harassment, nor are able to seek well paying and safe jobs.
- We face higher rates of violence with increased policing through Stop & Frisk and communal violence targeting us, as we are at least 1.82 times more likely to experience physical violence than white LGBT. We are also experiencing an exponential increase of violence targeting, Trans women of African and Latina descent specifically.
- Increasingly we experience a disproportionately higher rate of wide range health conditions, including HIV/AIDS, Hepatitis and Cancer. Yet often services are still not culturally competent or gender affirming for low-income communities especially so our communities do not seek services for their own safety.

The Audre Lorde Project has a 16 year old history of organizing in NY City and leading LGBTSTGNC community led strategies for our collective safety, well being and survival yet we are still fighting for New York City to transform these conditions to live quality lives. These times of transition call for even more critical strategies to include:

- 1) More citywide supported survivor support and strategies for building safe community spaces. Our six year old, ‘Safe Neighborhood Campaign’, seeks to work with small businesses, religious institutions and organizations to build safety within Central Brooklyn neighborhoods and we would like to see more active participation in the city leveraging resources towards our campaign efforts for all of our collective safety. As well as to resource community led efforts and strategies that seek to transform violence in our communities by supporting more creative, non-policing, community led strategies.
- 2) The implementation of the Community Safety Act and the removal of any citywide policy or legislation using ‘condoms as evidence’ that continues to condone discriminatory policing; including homophobic/transphobic and racial profiling of our communities.
- 3) The Audre Lorde Project, with partners such as the Housing Works, and the Sylvia Rivera Law Project, led the Welfare Justice Campaign towards a win within the Human Resources Administration to create a policy that would ensure HRA quality care no matter your gender, race or sexual identify. Yet we are hearing more and more of increased cases of HRA discriminatory practices, especially against Trans Women of Color. We need this administration to reinstate and ensure this policy or enforce institutional accountability if it is not met.
- 4) Citywide support to eliminate the Medicaid regulation barring coverage of gender affirming healthcare.

In closing, we are a part of this city’s communities and need to be seen, heard and resources for our strategies and vision towards building collective well being and safety for all. We look forward to building clear, and transformative changes with this new administration.

Cara

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**Recommendations of the NEW YORK CITY GAY AND LESBIAN ANTI-VIOLENCE PROJECT (AVP) for LBGTQ AND HIV-AFFECTED HEALTH AND SAFETY
FALL 2013**

Introduction

The New York City Gay and Lesbian Anti-Violence Project (AVP) has more than 30 years experience working with lesbian, gay, bisexual, transgender, queer (LGBTQ) and HIV-affected survivors of hate violence, sexual violence, intimate partner violence and institutional violence.

LGBTQ and HIV-affected people face **disproportionate rates of violence**, very **limited access to culturally competent services** to address that violence and **institutionalized homophobia, biphobia and transphobia** when engaging with New York City systems and institutions meant to serve survivors of violence.

To address these issues, AVP recommends **enacting the following policy changes to meet the health and safety** of LGBTQ and HIV-affected survivors.

Reduce Anti-LGBTQ Hate Violence

LGBTQ violence is a public health issues. 2012 data shows a very violent year for LGBTQ people with some of the highest numbers of hate violence homicides¹ and the highest number of intimate partner violence homicides recorded². People of color and transgender people were disproportionately murdered and faced higher incidents of police violence. 2013 is on course for exceeding those numbers.

LGBTQ and HIV-affected people face hate violence every day in the streets on New York City. AVP gets almost 500 reports of this violence each year in New York City. That's an average of 1.3 reports of violence each day. We see 25-30 anti-LGBT homicides a year nationally and transgender and gender non-conforming people and people of color are most impacted by homicide: 73.1% of all anti-LGBTQ homicide victims in 2012 were people of color and 53.8% were transgender people. In 2013, we saw a disturbing increase in violence against LGBTQ and HIV-affected people. From May to September we saw 19 high profile incidents of violence (that is, those that make the newspaper and engender a tremendous amount of public information and need for support), including the homicides of Mark Carson and Islan Nettles. LGBTQ New Yorkers look to the Mayor and City Council for strong leadership in denouncing this violence and working to reduce and end it so that New York City is safe for all its residents.

To address this violence, we recommend:

- Publically denounce, alongside City Agency Commissioners, anti-LGBTQ and anti-HIV hate crimes in mainstream media, generally in the work of the City and immediately in response to individual incidents, to make clear the City will not tolerate this violence.

¹ National Coalition of Anti-Violence Programs, *Lesbian, Gay, Bisexual, Transgender and Queer Hate Violence in the United States in 2012* (published June 4, 2013), available at http://www.avp.org/storage/documents/ncavp_2012_ivrreport_final.pdf.

² and National Coalition of Anti-Violence Programs, *Lesbian, Gay, Bisexual, Transgender and Queer Intimate Partner Violence in the United States in 2012* (published October 1, 2013), available at http://www.avp.org/storage/documents/ncavp_2012_ivrreport_final.pdf.

Appendix I — Full Memos *cont'd*

- Fund public awareness campaigns, focused on allies and bystanders, that raise awareness about the issues of hate violence, intimate partner violence and sexual violence faced by LGBTQ and HIV-affected communities and with resources throughout New York City to deal with the trauma of the violence and the aftermath, including economic instability.

Increase access to services for LGBTQ survivors of violence

According to the United States Centers for Disease Control and Prevention (CDC), lesbian, gay and bisexual people experience intimate partner violence at about the same or slightly higher rate than non-LGB people.³ In the National Coalition of Anti-Violence Programs (NCAVP) 2012 report on intimate partner violence, transgender and gender non-conforming (TGNC) people, people of color and LGBTQ youth/young adults were the most impacted by intimate partner violence and rates of intimate partner violence were highest for LGBTQ people of color.⁴ However, services remain largely inaccessible to LGBTQ survivors of violence. A 2010 study with the National Center for Victims of Crime and NCAVP found that 94% of mainstream service providers did not have LGBTQ-specific services. In 2012, fewer than 5% of survivors reporting intimate partner violence sought domestic violence shelters or orders of protection and fewer than 20% reported this violence to the police.⁵ These findings clearly demonstrate the need for a comprehensive and culturally competent response to the needs of LGBTQ survivors of intimate partner violence.

- Fund public awareness campaigns, focused on allies and bystanders, that raise awareness about violence faced by LGBTQ and HIV-affected communities highlighting resources throughout New York City to deal with the trauma of the violence and the aftermath.
- Fund the development of technology that allows LGBTQ and HIV-affected people to report the violence that they experience and find culturally specific and competent services and support in response to that violence.
- Require all city-funded domestic violence shelters to create and enforce non-discrimination protections that explicitly include sexual orientation and gender identity, similar to the 2013 reauthorization of the Violence Against Women Act and as required by Local Law 3, as a condition of receipt of grant funds.
- Direct the Mayor's Office to Combat Domestic Violence to ensure that LGBTQ survivors are included in all prevention assessments, including homicide and lethality assessments, as well as coordinated community response models such as Family Justice Centers.
- Require and fund regular and consistent LGBTQ-specific training of all city agencies, such as the NYPD Sex Crime Unit and others, for all staff, including Commissioners, on the issues of working with LGBTQ and HIV-affected communities in a culturally competent way and in the unique dynamics of violence as it impacts these communities.
- Provide all non-profits funded by the city with free access to Language Line to allow critical crisis intervention, economic empowerment and safety support services to be accessed by all New Yorkers to increase access to services.

³ Centers for Diseases Control and Prevention, National Center for Injury Prevention and Control, *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Findings on Victimization by Sexual Orientation* (Jan. 2013). Avail. at http://www.cdc.gov/ViolencePrevention/pdf/NISVS_SOfindings.pdf (Last retr. 1/26/13.) This survey did not include transgender or gender non-conforming people and no national federal study does.

⁴ National Coalition of Anti-Violence Programs, *Lesbian, Gay, Bisexual, Transgender and Queer Intimate Partner Violence in the United States in 2012* (published October 1, 2013), available at http://www.avp.org/storage/documents/ncavp_2012_ipvreport.final.pdf.

⁵ National Coalition of Anti-Violence Programs, *Lesbian, Gay, Bisexual, Transgender and Queer Intimate Partner Violence in the United States in 2012* (published October 1, 2013), available at http://www.avp.org/storage/documents/ncavp_2012_ipvreport.final.pdf.

Increase data about LGBTQ people and violence

Research and literature on heterosexual domestic violence began in earnest in the 1970's and 1980's with the emergence of the battered women's movement. Until the late 1980's, there was virtually no research on domestic/intimate partner violence within the context of LGBTQ communities, and even now the majority of research on domestic/intimate partner violence has been conducted in a heteronormative context. Members of LGBTQ communities who are survivors of violence within intimate relationships are often either missing from this research entirely or they may be there, but invisible—bisexual and lesbian women assumed to be straight, only those identified as non-transgender female being studied, or subjects of the research being offered only binary options for gender identity (i.e. male or female) which do not accurately demonstrate the gender identity and expression of some survivors.

There is a still small but growing body of research being conducted across the country to assess the prevalence of domestic/intimate partner violence within LGBTQ communities and to explore the experiences of LGBTQ identified survivors. Without further research, however, we will not have the information necessary to understand the prevalence or impact of violence on LGBTQ communities or to create effective prevention measures.

- All New York City surveys, reports and data about sexual and intimate partner violence, and all agencies funding or overseeing work on sexual and intimate partner violence in which demographic information is collected, should include questions about race, ethnicity, sexual orientation and gender identity.
- The New York City Department of Health conducts a Community Health survey each year with 10,000 respondents from all five boroughs. This survey should include questions about sexual violence and intimate partner violence as well as demographic information about race, ethnicity, sexual orientation and gender identity. This survey should also collect information on the prevalence and impact of sexual harassment in the workplace, schools, and public space so that this information can be used to baseline progress.
- Enhance and improve automated data collection systems and data communication systems that link police, prosecutors, courts and victims service agencies. Specific examples include the Domestic Incident Report database, Order of Protection Registry, and Child Abuse Registry.
- Support community needs assessments that seek to identify members of underserved populations and victim needs currently not met through existing community based programs including culturally specific programs that serve underserved populations; e.g. LGBTQ anti-violence organizations.

End police profiling and violence of LGBTQ communities

When LGBTQ survivors do seek help, they are often met with institutional violence and re-victimizing homophobia, biphobia and transphobia. The 2012 NCAVP hate violence report also documents a number of troubling findings related to the interaction of LGBTQ survivors of violence with police. Of survivors reporting violence to the police, 48% reported incidents of police misconduct, a considerable increase from 2011 (32%). Of those survivors who interacted with the police, 26.8% reported that the police attitudes were hostile, an 18% increase from 2011. Transgender people were 3.32 times as likely to experience police violence, transgender people of color were 2.46 times as likely to experience physical violence by the police,

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transgender women, in particular, were 2.90 times as likely to experience police violence, and they were also 2.71 times as likely to experience physical violence by the police.

Additionally, reports of police violence and misconduct mirrored the larger trend of the disproportionate targeting of people of color and transgender people by the police. In New York City, nearly 40% of survivors reported police misconduct and reports of hostile police attitudes doubled in 2012. TGNC people and people of color tell us stories every day about being profiled by police and subjected to harassment, misarrest, and even violence, based on their perceived gender identity, sexual orientation, and immigration status. Many LGBTQ people who are stopped and frisked are then arrested for carrying condoms, where the NYPD and District Attorneys' Offices use those condoms as "evidence" of prostitution or trafficking-related criminal offenses. TGNC people, people of color, TGNC people of color and LGBTQ youth report high rates of profiling, resulting in stops, frisks, discovery of condoms and arrests based on the condoms as "evidence" of prostitution. Not only is this practice discriminatory, it has a devastating chilling effect on the carrying and use of condoms by LGBTQ people, including LGBTQ youth.

- Withdraw the legal challenge to the End the Discriminatory Profiling Act (Local Law 71 of 2013) and ensure effective implementation of ban on profiling and discriminatory policing and NYPD Oversight Act (Local Law 70 of 2013).
- Withdraw objections to Floyd v. City of New York and refrain from further litigation, allowing U.S. District Judge Shira Scheindlin's opinion to stand and work with the federal monitor to revise stop and frisk practices.
- Issue an Executive Order and promote policies that prohibit the use of condoms as evidence in prostitution or trafficking-related criminal court proceedings, including directing the new Police Commissioner to issue policies and directives necessary to stop police officers from collecting condoms as evidence.
- Continue to support the LGBT Advisory Committee to the NYPD Police Commissioner and consider other Advisory Committees to other Commissioners as necessary, such as the Mayor's Office to Combat Domestic Violence Commissioner. This will give LGBTQ communities a voice in the agencies that respond to their need while also providing expert and culturally competent resources for Commissioners.
- The NYPD Police Commissioner should issue an Executive Order/Patrol Guide provision (or amend the existing 208-44 and 208-45) to prohibit confiscating condoms as "evidence" of prostitution or trafficking-related offenses.
- End the application of the federal Secure Communities Program in New York City, including legislation that refuses to honor ICE holds, which inhibit LGBTQ immigrants' engagement with first responders and law enforcement when they experience violence.

Reduce poverty and homelessness in LGBTQ communities

LGBTQ people are disproportionately poor. The Bloomberg Administration issued a report in April 2013, indicating that the recession left nearly half of New Yorkers poor or near poor, living below 150% of the poverty level.⁶ LGBTQ people⁷ and people of color, particularly those who identify as Black and Latin@, have higher unemployment and poverty rates,⁸ and within LGBTQ communities, rates vary due to intersecting oppressions. For example, Black lesbians suffer the

⁶ Roberts, Sam. (2013) "City Report Shows More Were Near Poverty in 2011," *The New York Times* April 24, 2013.

⁷ Albelda, R, Badgett, M.V.L., Schneebaum, A., and Gates, G. *Poverty in the Lesbian, Gay, and Bisexual Community* (2009). Retr on 3/2/13: <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Albelda-Badgett-Schneebaum-Gates-LGB-Poverty-Report-March-2009.pdf>.

⁸ US Department of Labor, Bureau of Labor Statistics data, retrieved on 3/2/13 from: <http://www.bls.gov/cps/cpsrace2009.pdf>

Appendix I — Full Memos *cont'd*

economic consequences at the intersection of racism and homophobia;⁹ TGNC people experience bias, violence, and employment discrimination, and have twice the national rates of poverty; and TGNC people of color, especially those who identify as Black and Latin@, face the intersecting oppressions of transphobia and racism, experiencing poverty at four times the national average.¹⁰ Local LGBTQ poverty and unemployment rates are significantly higher, particular for people of color who live outside Manhattan. Violence can further impoverish people with increased medical bills and missed work days necessary to cope with the trauma of a violent incident. For intimate partner violence survivors, economic abuse and dependence on the abusive partner creates significant, often insurmountable barriers to leaving an abusive relationship.¹¹ Intimate partner violence is also a leading cause of homelessness, and survivors are included as "special needs populations," along with LGBTQ runaway and homeless youth, who may have experienced rejection from their families, and/or dating violence.¹² For LGBTQ survivors disproportionately impacted by poverty, unemployment, and employment discrimination, economic dependence on abusive partners is devastating.

At the same time, the New York City housing market is the most expensive in the nation¹³. Housing stability is essential to stability for survivors of hate and intimate partner violence, yet LGBTQ people, particularly TGNC¹⁴ people and LGBTQ youth¹⁵, experience homelessness and related physical and sexual violence¹⁶ at disproportionate rates. Additionally, LGBTQ people experience high rates of bullying, harassment, discrimination, and violence in and around their home, including from roommates, neighbors, supers, and landlords.¹⁷

Increased violence, lack of access to services, institutional discrimination and violence, poverty, homelessness and more are a public health crisis in LGBTQ communities, particularly for TGNC people, people of color and especially for TGNC people of color.

- Provide funding for NYC non-profit infrastructure costs that support programs to encourage and assure NYC non-profits have sufficient foundation and stability to provide services that assist individuals with economic security.
- Prioritize housing and shelter, both homeless and domestic violence shelter, for LGBTQ and HIV-affected survivors, especially transgender men and women, and gay, bisexual and queer men. To do this, ensure that all service providers are trained on LGBTQ cultural competency and inclusive in their shelters.
- Prioritize economic sustainability, including public entitlements and employment training and development, for LGBTQ and HIV-affected survivors.

⁹ Ramsey, F., Hill, M., and Kellam, C. *Black Lesbians Matter: An examination of the unique experiences, perspectives, and priorities of the Black Lesbian community* (2009). Retrieved on 3/2/13 from: <http://zunainstitute.org/2010/research/blm/blacklesbiansmatter.pdf>

¹⁰ Grant, Jaime M., Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Kelsling. (2011) *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*. Retrieved on 3/2/13 at http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf

¹¹ Raphael, J. (1997). *Trapped by Poverty, Trapped by Abuse: New Evidence Documenting the Relationship Between Domestic Violence and Welfare*. Retrieved on 6/16/13 at

<http://humanservices.uscdavis.edu/resource/spinoadfiles/r%20Trapped%20by%20Poverty,%20Trapped%20by%20Abuse.pdf>.

¹² The 2010 Consolidated Plan is the City of New York's annual application to the United States Department of Housing and Urban Development (HUD) for the four Office of Community Planning and Development entitlement programs: Community Development Block Grant (CDBG), HOME Investment Partnership (HOME), Emergency Shelter Grant (ESG), and Housing Opportunities for Persons with AIDS (HOPWA), which was retrieved at http://www.nyc.gov/html/dcp/pdf/pub/complan10_vol1.pdf on 6/17/13.

¹³ Huffington Post (2013). "New York City Rent Now Averages Over \$3,000 A Month" retrieved on 7/10/13 at http://www.huffingtonpost.com/2013/07/09/new-york-city-rent_n_3568278.html?utm_hp_ref=email_share

¹⁴ Grant, Jaime M., et al. *Ibid.*

¹⁵ Durso, L.E., & Gates, G.J. (2012). *Serving Our Youth: Findings from a National Survey of Service Providers Working with Lesbian, Gay, Bisexual, and Transgender Youth who are Homeless or At Risk of Becoming Homeless*. Los Angeles: The Williams Institute with True Colors Fund and The Palette Fund.

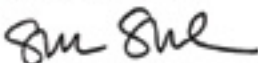
¹⁶ Cochran, B. et al. (2002) "Challenges Faced by Homeless Sexual Minorities: Comparison of Gay, Lesbian, Bisexual, and Transgender Homeless Adolescents with their Heterosexual Counterparts." *In American Journal of Public Health* | May 2002, Vol 92, No. 5.

¹⁷ Grant, J., et al. *Ibid.* and NCAVP *Ibid.*

- End the application of the federal Secure Communities Program in New York City, including legislation that refuses to honor ICE holds, which inhibit LGBTQ immigrants' engagement with first responders and law enforcement when they experience violence.

We look forward to working with Mayor-Elect de Blasio and his team, the City Council and City agency Commissioners to make this goal a reality for all New Yorkers. If there is any way that AVP can be of assistance, please do not hesitate to contact me at ssapel@avp.org or 212.714.1184. Together, we can end this violence.

Very truly yours,



Sharon Stapel
Executive Director

About AVP

AVP is a critical source of support to LGBTQ and HIV-affected people in New York City. Our 24 hour, free, confidential and bilingual (English/Spanish) hotline gets nearly 3,500 hotline calls a year, which is a call every 2.5 hours, 365 days a year.

AVP's mission is to empower LGBTQ, and HIV-affected communities and allies to end all forms of violence through organizing and education, and support survivors through counseling and advocacy. AVP is the largest LGBTQ-specific anti-violence project in the country and leads local, state and national policy initiatives. AVP provides free and confidential assistance to thousands of individual LGBTQ and HIV-affected survivors, meeting the needs that arise from the stressors and trauma of experiencing violence through our 24-hour hotline, crisis intervention, counseling, advocacy and safety planning. We have nine community-based locations in all five boroughs so that survivors of violence can see us in the same boroughs and neighborhoods where they work, live and hang out. We also have a newly launched legal program with an attorney who provides free representation to AVP clients. AVP is New York City's only culturally specific LGBTQ anti-violence organization and there are no other comparable services in the area to address LGBTQ-specific intimate partner violence and sexual violence. AVP does not charge for our services and is often the first and last resort for survivors of violence who have no other options or cannot afford private treatment to address the trauma they experience.

At the same time, AVP provide policy advocacy through the city, state and country and reaches more than 40,000 people in New York City with safety and resource information. We sit on the NYPD Police Commissioner's LGBT Advisory Committee, where we helped to create the first transgender and gender non-conforming patrol guidelines, the New York City Family Court LGBT Advisory Committee, where we have trained judges statewide to work with LGBTQ litigants, and works closely with local policy makers on issues such as the use of condoms as "evidence" and the impact of "stop and frisk" on LGBTQ people. Statewide, we run the New York state LGBTQ Intimate Partner Violence Network where we helped to pass an LGBTQ-inclusive order of protection law and have worked with domestic violence shelters throughout the state to make them LGBTQ-inclusive. The Network also provides training and technical assistance to organizations throughout the state to replicate the policy work we do in New York City throughout the state.

Nationally, AVP is the Department of Justice's Office (DOJ) on Violence Against Women's National LGBTQ Training and Technical Assistance Center for intimate partner and sexual violence, training mainstream national and local organizations on replicable models of best practice to provide culturally competent services to LGBTQ survivors, is DOJ's Office for Victims of Crime's (OVC) Subject Matter Expert on LGBTQ violence, training national and state institutions to create LGBTQ-inclusive policy, and has been funded by DOJ OVC to create a demonstration initiative to create data-driven, replicable models of effective training and technical assistance for working with LGBTQ survivors of violence. AVP works closely with the Williams Institute, the National Gay and Lesbian Task Force, the National Center for Transgender Equality, the Center for American Progress and the Human Rights Committee on national violence policy. In 2011, AVP was named a White House Champion of Change for our work on intimate partner violence within LGBTQ communities, received the National Crime Victims' Service Award in 2012 and in 2013 President Obama recognized AVP and its executive director for our work in the passage of an LGBTQ-inclusive Violence Against Women Act which includes the nation's first LGBTQ specific non-discrimination protections. Locally, AVP has been recognized for our work by the Lawyers Committee Against Domestic Violence, the Urban Justice Center, the Stonewall Independent Democrats and the Stonewall Community Foundation. The AVP Board of Directors has been awarded Board excellence awards twice for outstanding governance and non-profit best practices. GuideStar has recognized AVP as an organization committed to transparency in our fiscal operations, and has given AVP five stars (its highest rating) for our work.

FIERCE works with LGBTQ youth of color between 13-24. Our organizing work and leadership development programs support youth to gain skills, build communities, and organize to change the conditions they are facing.

Many of the youth in our membership are homeless or home-free (have chosen to leave their homes of origin for safety reasons or because they experience transphobic or homophobic discrimination and violence). It is estimated that at least 40% of New York City's homeless youth are LGBTQ, and an uncounted number "couch surf" or are marginally-housed. The lack of domestic or familial stability in many LGBTQ young people's lives contributes to high rates of unemployment and underemployment. In addition, LGBTQ youth of color in New York City are often bullied and ostracized within their homes, schools, and communities for a desire to be true to who they are. This contributes to high levels of school drop-outs, homelessness, and other issues. As a result FIERCE's membership includes members who are low-income or contending with economic challenges, who often enter into street economies for survival increasing their chances at coming into contact with the criminal justice system and law enforcement.

In addition to homelessness, identity-based bullying, and a lack of services, LGBTQ youth who are low-income and of color, also contend with acute social isolation, harassment, violence, and poverty. FIERCE members often report experiencing a second level of trauma on the streets, in shelters, group homes, and by law enforcement agencies and the juvenile justice system. Testimony to the challenges that LGBTQ youth face are the studies that show that LGBTQ youth are anywhere from eight to fourteen times more likely to commit suicide than their heterosexual peers. Furthermore LGBTQ people, in particular youth are invisibilized. This leads to a lack of culturally appropriate services and solutions that really address the underlying problems that lead to their circumstances in the first place.

Three Key issues

1) LGBTQ youth homelessness

- LGBTQ youth face significantly greater incidents of physical and sexual assault than heterosexual youth.
- LGBTQ youth experience greater incidents of substance abuse and mental health disorders.
- As many homeless LGBTQ youth are forced to resort to prostitution to survive, recent studies have indicated that approximately 20% of NYC's homeless LGBTQ youth become infected with HIV.
- Depressive disorders disproportionately impact LGBTQ youth, with 63% of LGBTQ youth having considered or attempted suicide compared with 29% of heterosexual youth who indicated the same.
- There are only 253 beds for LGBTQ youth when we know that there are at least 3800 youth out on the streets nightly. Many of the shelters each year are at the mercy of city politics and budgets fights and are in constant struggle to maintain the funding needed to require to maintain the beds and services that already exist.

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Recommendations for LGBTQ youth homelessness

- **Make change to New York State regulations to allow providers of runaway and homeless youth programs to serve young adults ages 21 to 24 years**
 - **Broaden access to runaway and homeless youth services for lgbtq youth.**
 - The city's continuum of services for homeless youth, administered by DYCD, funds only 253 age-appropriate shelter and transitional beds. There are an estimated 3,800 homeless youth in NYC. We need an increase in beds. The *2010 Mayor's Commission on Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Runaway and Homeless Youth* stated we must: Seek ways to expand the number of regulated shelter beds for LGBTQ homeless youth and young adults ages 16 to 24 by at least 200 over the next five years. We are calling on support for the "Campaign for Youth Shelter" which calls on city and state budgets to dedicate adequate funding to Runaway and Homeless Youth.
 - In addition Incorporate additional outreach and drop-in center services to reach LGBTQ homeless youth who are less connected to services
 - **DHS Takes responsibility for ensuring accurate counts occur**
 - Undercounting homeless youth leads directly to the shortage of resources for them, which perpetuates a vicious cycle of homeless youths' invisibility to support systems. DHS must take responsibility for counting homeless youth and not relegate its responsibility to non-profits or other city agencies who are not resourced to conduct the effort and have no control over the final tally. DHS is the city entity in charge of the count each year and the agency resourced for it. It's their responsibility.
 - DHS should work with service providers and those who work with this population to determine appropriate strategies to conduct the count safely and effectively
 - **Accountability of the city to implement various recommendations and best practices**
 - There have been countless studies, reports and recommendations on how to address LGBTQ youth homelessness. The city has taken action on only a few. It's the responsibility of the city to look into the recommendations and to be transparent on their processes, barriers and ideas around implementation and addressing obstacles.
- 2) Issue: LGBTQ youth unemployment:**
- While youth currently have the highest unemployment rate among all age groups in the city- 19% for young people ages 16 to 21- the job development programs are inadequately funded to deal with this crisis.
 - In 2009, the city enrolled 52,255 youth in the program, the most in a decade, according to the city's DYCD. In 2013 there were approx. 30,000 slots available were available with as staggering 131,000 applications, in addition the program was shortened from 7 weeks to 6.
 - There are no current job training programs that are specifically geared towards LGBTQ youth.
 - NY state only protects against discrimination based on sexual orientation, and not for gender identity based on gender identity

- The unemployment rate for 18 to 24 year old African Americans is 25.4%.
- Almost double the rates of unemployment for whites in the same age group, 13.1%. Young Hispanic workers have an unemployment rate that is 25% higher than white workers.
- The trainings that are offered do **offer youth a good chance at employment, they are not reaching enough people:** 52% of youth who used job development programs to search for a job were successful in finding a job, however less than 50% of survey respondents had heard of these employment programs.

Recommendations:

- 1. Increase the number of slots available** for youth in job development programs. Ensure that all slots have adopted similar state employment non discrimination policies to protect LGBTQ youth. To make this fiscally possible, the NYC Mayor and City Council should shift budget priorities to increase funding for youth job programs and advocate for more funds from State, Federal and private sources.
- 2. The City and State should advertise the employment opportunities that are available to youth. This can be done by:**
 - a. Creating a website that consolidates job programs, employment services and training opportunities that the City and State provide.
 - b. Developing a joint advertising campaign between the City and State for this website. This would include online, TV, subway and bus ads.
 - c. Target outreach to at risk youth, including LGBTQ youth by working collaboratively with outreach centers, shelters, transitional living shelters, etc.
- 3. Support the capacity of worksite assignments** in various job development programs to be able to adequately support LGBTQ youth whom they employ to avoid work place discrimination

3) Issue: LGBTQ youth criminalization

- LGBTQ youth, adults, especially LGBTQ people of color and youth of color, Transgender and GNC people have been targets of discriminatory police profiling and practices. Many youth FIERCE has worked with have reported being targeted and harassed by police.
- A clear indicator that this is still the frequent experience are the statistics of stop and frisk. In 2012, the 6th Precinct, which covers the West Village, aggressively increased stop-and-frisks by 23% - the largest percent increase in the whole of New York City. The **latest statistics from NYCLU** also show that 83.5% of the stops in 6th Precinct were conducted on Black and Latino folks, yet these racial groups make up only 8% of residents in the area. Invisible in these statistics are our experiences as LGBTQ people of color who face daily profiling based on our race, gender, class, immigration status, and sexual orientations.
- LGBTQ youth of color who are homeless are even more vulnerable. In searching for means of safety and survival they face increased risk of being targeted and interacting with police. The enforcement of quality of life laws such as: No Loitering, no public urination, excessive noise, etc, target those most directly in need of services and safety such as homeless individuals and LGBTQ youth who seek safety on the streets.

Recommendations LGBTQ youth criminalization

1. Enforce the Community Safety Act bills:

- End Discriminatory Profiling Act - Protecting New Yorkers against discriminatory profiling by the NYPD ([Intro. 1080](#)) – which will expand the ban of profiling to include gender identity and sexual orientation.
- 2. NYPD Oversight Act - Establishing independent oversight of the NYPD – Intro 1079

2. Set up a task force to create new procedures to assess LGBTQ youth when arrested to support them in decreasing their interactions with the criminal justice system an ensuring their needs that caused the interaction in the first place is addressed.

- Ensure that LGBTQ youth who are arrested cases are reviewed to determine the mental health status of the arrested youth to be used to determine sentencing and placement
- Work with service providers and community based organizations to determine effective community-based alternatives to detention.
- Where community based alternatives are not an option, ensure that LGBT prisoners have a safe space in the jail that does not isolate them for 23 hours a day

Sources:

- FUREE – Fureeous Youth Program and The Urban Justice Center: Community development Project - *The Struggle Report: Findings & Recommendations by NYC Youth for New York Job Development Programs*
- Communities United for Police Reform – website
- Commission on Runaway and Homeless Youth – Report
- Empire State Coalition
- Ali Forney Center

Girls for Gender Equity – de Blasio Recommendations

Sexual Harassment in Public Schools

Sexual harassment in New York City public schools is widespread and normalized. In 2008, Girls for Gender Equity conducted student led research¹ of 1,189 students (grades 6-12) from over 90 public schools and CBO's located in Brooklyn, Manhattan, Queens, and the Bronx. The researchers asked their peers: **What is The Impact of Sexual Harassment on Students in New York City Schools?**

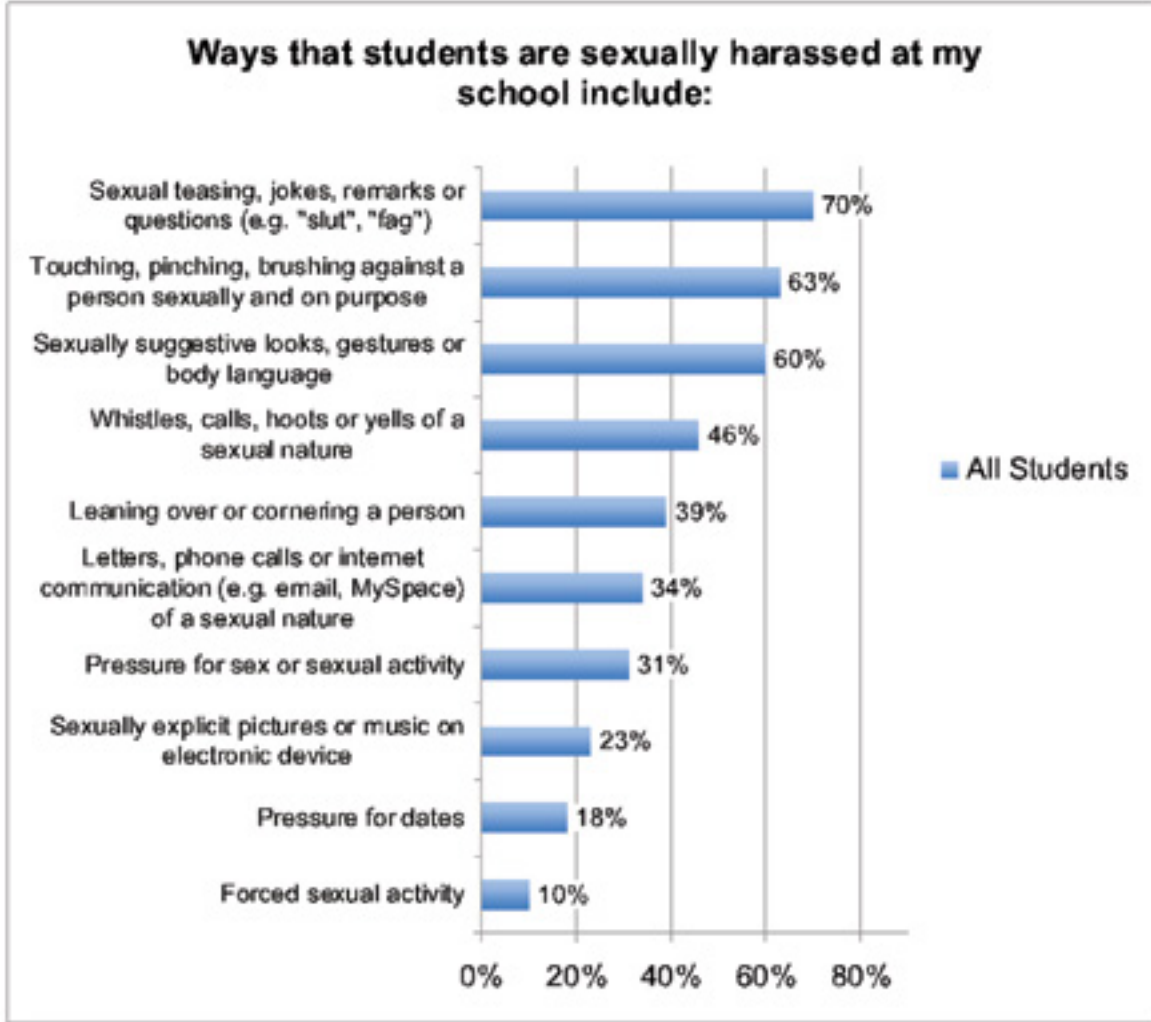
The research results revealed:

- 70.5% of NYC public school students observe sexual teasing in their school
- 67 % of students reported being sexually harassed
- 31.2% observe pressure for sex or sexual activity
- Students who had experienced sexual harassment said that it impacted their ability to focus in school due to depression, fear/insecurity and feeling violated:
"I couldn't concentrate and kept crying for no reason." "My grades dropped and I was always depressed." "I was scared to come to school."
- Sexual harassment *is* normalized; educators and students alike are unaware of their rights or how to apply them

Furthermore, when students were given the opportunity to indicate whether or not certain types of sexual harassment behaviors occurred at school, every single behavior was noted as occurring (Table 1). The data indicated that sexual harassment is occurring regularly and when students were asked if schools should provide more help for victims of sexual harassment a whopping 89% females and 76% males said yes.

¹ Girls for Gender Equity (GGE), Joanne Smith, Meghan Huppuch & Mandy Van Deven. *Hey, Shorty! A Guide to Combating Sexual Harassment and Violence in Schools and on the Streets*. New York: Feminist Press, 2011.

Table 1.



In addition, these results also mirror a 2011 national survey conducted by The American Association of University Women (AAUW)², where 48 percent of those surveyed reported experiencing sexual harassment in school and the majority of those students (87 percent) said that it had a negative effect on them.

To ensure that all students have an opportunity to do well in school, the next administration must take concert steps towards addressing sexual harassment.

² Catherine Hill, Ph.D., and Holly Kearl, M.A. *Crossing the Line: Sexual Harassment at School*. Washington, DC: American Association of University Women, 2011. Available at <http://www.aauw.org/learn/research/upload/CrossingTheLine.pdf>

1. Education for Students about Sexual Harassment

Despite students' assertions that sexual harassment occurs often, students do not report sexual harassment when it occurs nor do they consider sexual harassment to be a problem in their school. When Girls for Gender Equity asked students to further indicate if they have ever reported sexual harassment, regardless of whether it happened to them directly, almost all of the youth (97 percent) said that they did not. When students were further prompted to elaborate on why they did not report harassment, the most common response was that sexual harassment was simply just a part of what it meant to be at school. In addition, the study conducted by AAUW found that the majority of students who engaged in sexual harassment thought that they were just being funny. Therefore, it is important that students are educated about what sexual harassment is, when joking crosses the line and what their rights are if they are experiencing sexual harassment.

We recommend:

- Providing workshops for students that cover what sexual harassment is and what their rights are if they are being harassed.
- Incorporating discussions about sexual harassment within the class room setting.

2. Responsive School Authorities

In addition to the lack of reporting by students, many school employees do not respond when sexual harassment is reported. When Girls for Gender Equity asked students who did report sexual harassment to elaborate on what happened the majority of students (52 percent) said that they did not know because there was no follow up. In addition, 22 percent of those who reported sexual harassment said that they were further victimized and were made to feel that they were to blame for the harassment. In fact, Girls for Gender Equity discovered that only 1.5 percent of the participants (or 18 out of 1,189) felt that school authorities dealt with the harasser appropriately.

We recommend:

- Providing education for school employees on how to recognize and respond to sexual harassment.
- Schools should create a sexual harassment policy so there is support and clear guidelines on how to both prevent and deal with sexual harassment. The policy should include interventions by counseling staff with separate counseling for the perpetrator and victim of an infraction, if necessary.

3. Title IX Coordinator and Reporting

Through Title IX, there is existing federal law that ensures students have the right not to be sexually harassed at school. A main component to this legislation is a Title IX coordinator at each school who can receive and act on reports of sexual harassment. However, many New York City public schools do not have a coordinator in place. The AAUW study found that 39 percent of students surveyed said that it would be useful to have a coordinator in place to address sexual harassment. In addition, AAUW found that a majority of the participants (57 percent), wanted the option to anonymously report sexual harassment; thus, having a Title IX coordinator in place could provide that option.

We recommend:

- The DOE works to ensure that there is a Title IX coordinator at every public school.
- The Title IX coordinator should be listed with contact information on the school website
- The DOE provides training and support to the person serving as the Title IX coordinator.
- Reports made to the Title IX coordinator about sexual harassment have the option of being anonymous.

4. Creating an Holistic Approach to Sexual Harassment

Sexual harassment in schools is normalized, can happen to anyone and can happen anywhere. Of the students surveyed, Girls for Gender Equity found that participants believed female students (81 percent), male students (71 percent) and LGBTQ students (64 percent) to be the targets of sexual harassment and that the harassment took place throughout school grounds.

We recommend:

- Schools adopt sexual harassment policies that are inclusive of a spectrum of identities.

5. Updating the New York City Public School Discipline Code to Better Address Sexual Harassment

Currently, Level 4 is the only place in the Discipline Code that school employees are instructed to address verbally and physically sexually harassing behaviors. However, there are many types of sexual harassment that may be appropriately classified as behavior that is “Disorderly” or “Disruptive” to other students rather than “Dangerous” or “Violent”. Therefore, it is necessary to address the whole range of these behaviors to make it clear to all students that respectful behavior is the only option in New York City public schools.

We recommend:

- Additional language in existing Level 1, 2, 3 and 4 infractions in order to encourage school employees to step in, speak up and stop sexually harassing behaviors they may have previously ignored. Below are suggested modifications:

Grade 6-12: Level 1

Infractions- Uncooperative/Noncompliant Behavior

- B07 Behaving in a manner which disrupts the educational process (e.g., making excessive noise in a classroom, library or hallway; disturbing and/or making unwanted comments to a classmate in a classroom, library, or hallway)
- B08 Engaging in verbally rude or disrespectful behavior to school employees or fellow students
- B09 Wearing clothing, headgear (e.g., caps or hats), or other items that are unsafe or disruptive to the educational process (e.g., clothing with lewd or violent language, symbols, or images)

Range of Possible Disciplinary Responses

- A. *Intervention by school staff observing behavior or hearing of alleged behavior (e.g. teacher reminding student of expectations/school rules and providing choice to student to stop insubordinate behavior or be subject to the disciplinary responses listed below)

*School staff have the right to address and appropriately remedy insubordinate behaviors affecting other students, without waiting for a complaint for the victim(s), as the victim(s) may be embarrassed or may not realize that they have rights that are being violated.

Range of Possible Guidance Interventions to Be Used in Addition to Disciplinary Responses, as Appropriate

- Intervention by counseling staff (with separate counseling for the perpetrator and victim of an infraction, if necessary)

Grade 6-12: Level 2

Infractions – Disorderly Behavior

- B15 Using profane, obscene, vulgar, overtly sexualized or lewd language, gestures, or behavior (e.g., cursing in the classroom setting, making unwanted sexualized or body related comments to a classmate)
- B__ Unwanted and unwelcome sexually suggestive non-verbal behaviors (i.e. nonverbal sexual harassment) absent violent or threatening content, including but not limited to looks, stares directed at another's body, facial expressions (e.g., winking, licking lips), and/or distributing or displaying sexual pictures or drawings to one or more persons
- B__ Verbal sexual harassment (unwanted and unwelcome sexually suggestive verbal behaviors) absent a violent or threatening connotation, including but not limited to comments, jokes, stories, song lyrics

Range of Possible Disciplinary Responses

- A. *Intervention by school staff observing behavior or hearing of alleged behavior (e.g. teacher reminding student of expectations/school rules and providing choice to student to stop insubordinate behavior or be subject to the disciplinary responses listed below)

*School staff have the right to address and appropriately remedy insubordinate behaviors affecting other students, without waiting for a complaint for the victim(s), as the victim(s) may be embarrassed or may not realize that they have rights that are being violated.

Range of Possible Guidance Interventions to Be Used in Addition to Disciplinary Responses, as Appropriate

- Intervention by counseling staff (with separate counseling for the perpetrator and victim of an infraction, if necessary)
- Referral to counseling services for youth relationship abuse or sexual violence (with separate counseling for the perpetrator and victim of an infraction, if necessary)
- Referral to counseling services for bias-based bullying, intimidation, or harassment (with separate counseling for the perpetrator and victim of an infraction, if necessary)

Grade 6-12: Level 3

Infractions – Disruptive Behavior

- B23 Using slurs,* whether directed towards an individual or group, based upon actual or perceived race, ethnicity, color, national origin, citizenship/immigration status, weight, religion, gender, gender identity, gender expression, sexual orientation, disability or economic status.

*A slur is defined as any disparaging and/or negative remark

- B32 Posting or distributing libelous* material or literature (including posting such material on the Internet) (e.g., posting or distributing materials detailing false rumors about a school employee's or student's sexual history, behavior, or orientation); repeatedly slandering a teacher or classmate (e.g., spreading false rumors about a teacher or student's sexual history, behavior, or orientation)

*Libel is defined as false statement expressed in a fixed medium (e.g. in writing, pictures, signs, or in an electronic broadcast), that is: (1) defamatory either on its face or indirectly, (2) about someone who is identifiable to one or more persons, and (3) distributed to someone other than the offended party; i.e. published. Slander is defined as a false statement about another person expressed in transitory form, such as speech, gestures, or sign language, which can harm their reputation and/or cast them in a negative light

- B33 Engaging in mutually consensual sexual conduct on school premises or at school-related functions (for nonconsensual sexual conduct, e.g., rape and sexual assault, use B56)
- B_ Unwanted and unwelcome sexually suggestive verbal behaviors (i.e. verbal sexual harassment) with violent or threatening content as defined by the recipient(s) of the behavior, including but not limited to innuendos, rumors, propositions, sexually suggestive of explicit internet and/or cell phone communication
- B_ Unwanted and unwelcome sexually harassing behaviors, including but not limited to pulling or removing one's clothing to reveal one's own body; touching, pinching, or grabbing one's own breasts, butt or genitals in front of others; sexual gestures or motions

Range of Possible Disciplinary Responses

- B. *Intervention by school staff observing behavior or hearing of alleged behavior (e.g. teacher reminding student of expectations/school rules and providing choice to student to stop insubordinate behavior or be subject to the disciplinary responses listed below)

*School staff have the right to address and appropriately remedy insubordinate behaviors affecting other students, without waiting for a complaint for the victim(s), as the victim(s) may be embarrassed or may not realize that they have rights that are being violated.

Range of Possible Guidance Interventions to Be Used in Addition to Disciplinary Responses, as Appropriate

- Intervention by counseling staff (with separate counseling for the perpetrator and victim of an infraction, if necessary)
- Referral to counseling services for youth relationship abuse or sexual violence (with separate counseling for the perpetrator and victim of an infraction, if necessary)
- Referral to counseling services for bias-based bullying, intimidation, or harassment (with separate counseling for the perpetrator and victim of an infraction, if necessary)

Grade 6-12: Level 4

Infractions – Aggressive or Injurious/Harmful Behavior

- B35 Posting, distributing, displaying, or sharing literature or material containing a threat of violence, injury, harm or nonconsensual sexual conduct, or depicting violent actions or nonconsensual sexual conduct against or obscene, vulgar or lewd pictures of students or staff, including posting such material on the Internet
- B__ Unwanted and unwelcomed sexually harassing behaviors with violent or threatening content, as defined by the recipient(s) of the behavior, including but not limited to pulling or removing another’s clothing to reveal their body; touching, pinching, slapping or grabbing someone else’s breasts, butt, or genitals; demands for sexual activity; physical intimidation (e.g., standing too close to someone, blocking someone’s way, following someone, pinning someone so they can’t leave)

HIV Law Project Policy Recommendations for Mayor DeBlasio

- **Housing**

- *Scale up housing for all people living with HIV/AIDS (PLWHA) and recently incarcerated, who are at high risk for HIV.*
- *Scale up “low threshold”, “housing first” housing, which eliminates many of the onerous admissions requirements typical of public housing.*

HIV and homelessness are intimately connected, and housing status is among the strongest predictors of health status for PLWHA. HIV prevalence among the homeless population is nearly nine times that of the general population.¹ Over 500,000 households in the United States with HIV/AIDS will require housing assistance at some point in their lives.² Homeless or marginally housed individuals are more likely to delay treatment, less likely to have regular access to care, less likely to receive optimal drug therapy, and less likely to adhere to their medication than are stably housed individuals—all of which increase the individual’s viral load and decrease health outcomes.³ Also, persons with declining housing status are three times as likely to exchange sex for money or other needed goods, whereas persons with improving housing status reduce their risk behaviors by half.⁴ Said differently, housing works: In a six-month longitudinal study of adherence to HAART (Highly Active Antiretroviral Treatment) regimens in New York City, residents in long-term housing were sixteen times more likely to report strong adherence to their treatment regimens than were unstably housed participants.⁵

- **Education**

- *Continue to support and expand comprehensive, age-appropriate, medically accurate sex education by committing additional resources to sex ed programming, and by codifying Mayor Bloomberg’s initiative to require one semester of sex ed in both middle and high school.*

According to the Centers for Disease Control and Prevention, in 2005, 47% of high school students had had sex at some time. Further, that same year 34% of high school students who were then sexually active had not used a condom the last time they had had sex. Accordingly, youth suffer intolerable sexual health outcomes. According to the CDC, almost half of all new STD infections are among youth aged 15 to 24. Further, approximately 13% of the persons diagnosed with HIV in 2004 were youth, between the ages of 13 and 24. Additionally, in 2000, 13% of all pregnancies were among adolescents aged 15-19 (approximately 831,000 teen pregnancies).⁶

- **Law Enforcement**

- *Put an end to the police practice of using condoms as evidence in prostitution convictions.*

There is mounting evidence that the practice of police seizure of condoms as evidence of prostitution-related offenses, and introduction of condoms as evidence of prostitution-related offenses in criminal proceedings undermines New York’s important efforts to fight HIV and AIDS.⁷ New York City’s police officers routinely confiscate and enter condoms as evidence in prostitution-related cases, and prosecutors routinely cite seized condoms as evidence of a prostitution-related offense in criminal court complaints. The fear generated by this practice leads some people in the sex trade to carry fewer condoms, and

¹ National Coalition for the Homeless, “HIV/AIDS and Homelessness,” (July 2009), <http://www.nationalhomeless.org/factsheets/HIV.pdf>.

² Virginia Shubert and Nancy Bernstine, “Moving from Fact to Policy: Housing is HIV Prevention and Health Care.” *AIDS and Behavior* 11: Supplement 2 (2007): S175, http://www.aidschicago.org/pdf/2008/housing_plan_MovingfromFact.pdf.

³ Richard J. Wolitski, “HIV, Homelessness, and Public Health: Critical Issues and a Call for Increased Action,” *AIDS and Behavior* 11: Supplement 2 (2007): S168.

⁴ Angela Aidala et al., “Housing Status and HIV Risk Behaviors: Implications for Prevention and Policy.” *AIDS and Behavior* 9.3 (2005): 259.

⁵ Chad A. Leaver et al., “The Effects of Housing Status on Health-Related Outcomes in People Living with HIV: A Systematic Review of the Literature.” *AIDS and Behavior* 11: Supplement 2 (2007): S96.

⁶ <http://www.cdc.gov/HealthyYouth/sexualbehaviors/>

⁷ Human Rights Watch, *Sex Workers at Risk: Condoms as Evidence of Prostitution in Four US Cities*. New York: Human Rights Watch, July 2012, available at <http://www.hrw.org/reports/2012/07/19/sex-workers-risk-0>

sometimes to engage in sex work without the protection of condoms. In the age of HIV, discouraging the use of condoms, particularly among high-risk and vulnerable groups, can have disastrous public health consequences. A 2011 study in New York City among people who exchange sex for money or other goods found that 14 percent of the men and 10 percent of the women were HIV-positive,⁸ as compared to a 1.4 percent HIV prevalence in New York City generally and a 0.6 percent prevalence in the United States overall.⁹ We must ensure that this vulnerable community is not deterred from using condoms.

- ***Expand community courts to continue to divert individuals away from incarceration***

Approximately 150,000 Americans living with HIV/AIDS are released annually from a correctional facility. Studies show that as many as half of HIV-positive inmates leave prison or jail with no home to return to and no income to meet basic subsistence needs. A criminal record complicates the already challenging search for employment, as well as eligibility for housing and safety net programs. Stable, appropriate housing is consistently found to be the greatest unmet need of persons with HIV/AIDS reentering the community from prison and jail, and a history of incarceration has been found to double the risk of subsequent homelessness among low-income persons living with HIV/AIDS.¹⁰ Accordingly, the City should further invest in community court programs that divert individuals from incarceration, and the instability that follows.

- **HASA**

- ***Reverse recent HASA policy that pays only 50% of brokers' fees.***

As of March 2011, HASA pays only 50% of brokers' fees on behalf of clients securing new housing. The vast majority of brokers are unwilling to accept this reduced fee, and have either stopped working with HASA clients, or have informally asked HASA clients to pay the other half themselves. This shift has made it nearly impossible for HASA clients and their advocates to secure new apartments and has forced many PLWHA to spend long periods of time living in single room occupancies (S.R.O.s), which are both unhealthy and unduly expensive. Further, it has forced many HASA clients to take undue and unhealthy risks to secure money to pay a broker. Brokers play an essential role in placing HASA clients in housing. Cutting their fee by 50% has meant that very few of those brokers who once worked with HASA clients will do so now. But HASA and its clients rely on brokers not just to show apartments, but also to serve as an intermediary between client and landlord, especially with landlords inexperienced in renting to HASA clients. Without brokers to provide that critical level of reassurance to new landlords, the stigma and discrimination so many HASA clients face in their housing search goes unmanaged.

- ***Landlords should be paid their security deposit via check, not voucher.***

And landlords now have further reason to be wary of renting to HASA clients. Recent HRA policy now requires HASA to pay landlords their security deposit in the form of a voucher, rather than a check. In order for landlords to collect on this voucher, they must submit extensive paperwork: documentation of damages, estimates for repair work, and receipts for work done. The prospect of such an onerous process is daunting, and disincentivizes landlords from accepting HASA clients. While the city's attempt to control the loss of unreturned security deposits is understandable, the process that has been established is too burdensome on landlords, and must be revised to ensure that landlords will continue to work with HASA.

Though these new policies were adopted as cost-saving measures, an honest assessment of the new reality shows that in fact they have had an unintended, and costly, impact. The lack of brokers willing to accept just half of their fee, and the disinterest of landlords in accepting the security voucher has left our clients seeking permanent housing with very few options. As a result, many HASA clients are stuck in emergency housing. This is both inefficient and unhealthy. The city pays approximately \$55.00 per night for

⁸ Samuel M. Jenness et al., "Patterns of Exchange Sex and HIV Infection in High-Risk Heterosexual Men and Women," *Journal of Urban Health*, vol. 88, no. 2 (2011), pp. 329-341.

⁹ New York City Department of Health and Mental Hygiene, New York City HIV/AIDS Surveillance Slide Sets, March 2012, http://www.nyc.gov/html/doh/html/dires/epi_surveillance.shtml (accessed December 3, 2012).

¹⁰ Ginny Schubert for the National Minority AIDS Council and Housing Works, *Mass Incarceration, Housing Instability, and HIV/AIDS: Research Findings and Policy Recommendations*, February 2013, available at <http://www.housingworks.org/advocate/detail/on-natl-black-hiv-aids-awareness-day-report-on-incarceration-illuminates-ba/>

emergency housing at an SRO. That amounts to \$1,650.00 per month. By comparison, HASA will pay up to \$940 per month for a one bedroom apartment. The math just does not add up.

- ***HASA for All***

The HASA for All Act, introduced in 2008 by City Council member Annabel Palma, would extend HIV/AIDS Services Administration (HASA) benefits, including enhanced rental assistance and other lifesaving services, to *all* poor New Yorkers living with HIV.

Today, only people with an AIDS diagnosis (defined as individuals with a T-cell count of 200 or lower or two opportunistic infections) are eligible for those benefits. That distinction has prompted some poor people to allow themselves to become sick just to qualify for benefits. Additionally, advocates estimate that the HASA for All Act would help at least 7,000 people receive full HASA assistance, including critical housing assistance.

- ***30% Rent Cap***

While most people who live in public and/or supportive housing have their rental payments capped at 30% of their income, New York City residents with HIV/AIDS who live in subsidized housing are excluded from the 30% rent cap. The New York State Office of Temporary and Disability Assistance instead mandated several years ago that HASA clients who receive shelter assistance and have other forms of income, such as SSI, SSDI, veteran's benefits or work, pay all but \$344 a month toward their rent, which works out to less than \$12 per day, is all that HASA clients have to spend each month on nutritious food, transportation, utilities, toiletries, clothing, laundry and other basic necessities.¹¹ While a bill to rectify this injustice was passed by both houses of the state legislature in 2010, it was vetoed by then-Governor Patterson, after Mayor Bloomberg pushed for a veto.

- **Address Stigma**

- ***Social marketing campaign to address HIV stigma***

Although some of the fear and scapegoating that were rampant in the early years of the epidemic have abated, PLWHA are still subject to stigmatizing behavior and attitudes. This maltreatment can occur in the context of work (23% of people report discomfort with an HIV-positive colleague), school (35% of parents express discomfort with HIV-positive teachers), home life (42% of people would not be comfortable with an HIV-positive roommate), and commercial interactions (51% of people distrust a meal prepared by an HIV-positive person).¹² This discomfort leads to concrete actions that deny PLWHA access enjoyed by others. HIV-positive young people have been, even quite recently, denied admission to school, excluded from school activities, or expelled.¹³ People living with HIV may be ostracized by their families, lose their homes, or subjected to intimate partner violence, even murder.¹⁴

The consequences of HIV stigma extend beyond the isolation from family, peers, and the wider community that PLWHA experience.¹⁵ Social rejection, disapproval, discrimination, and even the perception that stigma exists make an HIV-positive individual less likely to seek treatment, attend medical appointments, or adhere to a drug regimen.^{16,17} PLWHA who are highly concerned with stigma are three times less likely

¹¹ Senator Thomas Duane, *Senate Passes Legislation to Cap Rent Share At 30% of Income for Poor New Yorkers with HIV/AIDS*, April 27, 2010, available at <http://www.nysenate.gov/press-release/senate-passes-legislation-cap-rent-share-30-income-poor-new-yorkers-hiv-aids>

¹² Kaiser Family Foundation, *2009 Survey of Americans on HIV/AIDS: Summary of Findings on the Domestic Epidemic*, April 2009, <http://www.kff.org/kaiserpolls/upload/7889.pdf>.

¹³ Richard Parker, Peter Aggleton, et al, *HIV/AIDS-related Stigma and Discrimination: A Conceptual Framework and an Agenda for Action* (2002), 6, http://pdf.usaid.gov/pdf_docs/Pnacq832.pdf. See also: Eric Johnson, *HIV Positive Boy Denied Admission Sues Hershey School*, Reuters, <http://www.reuters.com/article/2011/12/02/us-hershey-hiv-school-idUSTRE7B100Z20111202>.

¹⁴ Kaiser Family Foundation, *2009 Survey of Americans on HIV/AIDS: Summary of Findings on the Domestic Epidemic*, April 2009, <http://www.kff.org/kaiserpolls/upload/7889.pdf>.

¹⁵ AVERT, *HIV and AIDS Discrimination and Stigma*, May 2010, <http://www.avert.org/hiv-aids-stigma.htm>.

¹⁶ *Id.*

to adhere to their drug regimens.¹⁸ Stigma can also impede testing efforts.¹⁹ People who fear negative fall-out from a positive HIV test often forego testing.²⁰ An alarming 16% of adults believe people would think less of them if they got tested for HIV.²¹ Public education campaigns are essential to disrupting the ignorance and the stigma that continues to threaten our efforts to end AIDS.

- ***HIV stigma training for health care workers in city hospitals and clinics***

Ironically, people living with HIV/AIDS often encounter stigma at the doctor's office.²² Healthcare professionals can be insensitive to concerns about stigma and may not follow appropriate procedures for maintaining patient confidentiality or may lack such procedures altogether. Healthcare providers' own fear of infection may also result in diminished care and services.²³ At its most extreme, discrimination by healthcare providers results in denial of treatment or access to health facilities.²⁴ High levels of experienced stigma correlate with low access to care, negative mental health outcomes, and suboptimal adherence to drug therapies.²⁵ By way of redress, health care professionals in Health and Hospitals Corporation facilities must receive training about HIV stigma in order to heighten awareness, and institutions must ensure that staff are aware of adherent to patient privacy policies and procedures.

- **Increase Funding for Essential Supportive Services**

- ***Food and nutrition programs***

The specific progression of HIV/AIDS makes nutrition a salient concern for PLWHAs, their caregivers, and social service providers. By slowing disease progression and reducing complications associated with HIV treatment, nutrition services have the potential to be a cost-saving measure. In fact, while in-home food delivery services average approximately \$1,500 per person, per year²⁶, the average hospital stay for a PLWHA in 2007 was over 13 days, at an average cost of over \$2,000 a day in 2006.^{27,28} Further, food programs and nutritional counseling can greatly improve physiological health outcomes and treatment compliance. In fact, one study in Atlanta found that food insufficiency was a better predictor of non-adherence to HIV treatment than years of education, employment status, income, housing, depression, social support, and non-alcohol substance use.²⁹ Consequently, food services have the potential to reduce significantly the need for expensive medical services, and to retain people in care.

- ***Mental health services***

¹⁷ Mary Ann Liebert Inc., *Social Stigma Concern and HIV Medical Adherence, AIDS Patient Care and STDs*, 2005, http://www.hawaii.edu/hivandaids/Social_Stigma_Concerns_and_HIV_Medication_Adherence.pdf.

¹⁸ *Id.*

http://www.hawaii.edu/hivandaids/Social_Stigma_Concerns_and_HIV_Medication_Adherence.pdf.

¹⁹ AVERT, *HIV and AIDS Discrimination and Stigma*, May 2010.

²⁰ U.S. Department of Health and Human Services Health Resources and Services Administration, *Stigma and Access to Care: Stigma and HIV/AIDS: A Review of the Literature*, May 2003, http://hab.hrsa.gov/publications/stigma/stigma_and_access_to_care.htm.

²¹ Kaiser Family Foundation, *2009 Survey of Americans on HIV/AIDS: Summary of Findings on the Domestic Epidemic*, April 2009, <http://www.kff.org/kaiserpolls/upload/7889.pdf>.

²² U.S. Department of Health and Human Services Health Resources and Services Administration, *Stigma and Access to Care: Stigma and HIV/AIDS: A Review of the Literature*, May 2003, http://hab.hrsa.gov/publications/stigma/stigma_and_access_to_care.htm.

²³ AVERT, *HIV and AIDS Discrimination and Stigma*, May 2010.

²⁴ *Id.*

²⁵ Jennifer N. Sayles, MD, MPH, *The Association of Stigma with Self-Reported Access to Medical Care and Antiretroviral Therapy Adherence in People Living with HIV/AIDS*, <http://www.springerlink.com/content/71h5331844161x75/fulltext.pdf>

²⁶ Food Security for Seniors and Persons with Disabilities Project, "A Look at Household Food Security for Seniors and Persons with Disabilities in Seattle's Low-income Housing," February 2008, 17, <http://www.solid-ground.org/AboutUs/Publications/Documents/FoodSecurityForSeniors-PersonsW-Disabilities.pdf>.

²⁷ Baligh R. Yehia et al., "Inpatient Health Services Utilization among HIV-Infected Adult Patients in Care 2002-2007," *Journal of Acquired Immune Deficiency Syndrome* 53.3 (2010):397-404, <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2831106/pdf/nihms153873.pdf>.

²⁸ Kelly A. Gebo, et al., "Contemporary Costs of HIV Healthcare in the HAART Era," *AIDS* 24.17 (2010): 2708.

²⁹ Seth C. Kalichman et al., "Health and Treatment Implications of Food Insufficiency Among People Living with HIV/AIDS, Atlanta, Georgia," *Journal of Urban Health* 87.4 (2010), http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2900577/pdf/11524_2010_Article_9446.pdf.

PLWHA with mental health conditions experience elevated rates of HIV-related morbidity and mortality.³⁰ This may be due in part to the fact that mental illness reduces an individual's ability to mount an effective immune response against the virus,³¹ increases the likelihood of engaging in risk behaviors as a way to mitigate stress, and negatively affects motivation to alter risk behaviors or make other positive steps to increase quality of life.^{32,33} Further, the particularly strong correlation between HIV and domestic violence³⁴ amplifies the need for and benefits of mental health care for HIV-positive women. Mental health interventions have been shown to be effective in this context. In a 2004 study of women with a history of sexual violence, those who participated in an intervention examining their sexual histories and linking these experiences to their current decision-making were 150% more likely to reduce risky sexual behaviors (such as unprotected sex) than women who did not receive the intervention.³⁵

Mental health interventions have the demonstrated potential to increase treatment adherence and to help reduce risk-taking behaviors, thereby slowing transmission of HIV. In a study published in 2007, HIV-positive participants in a mental health treatment program achieved decreases in the use of drugs and alcohol, as well as improvements in mental health.³⁶ Individuals in the study also demonstrated improved capacity to manage their disease progression, including increased usage of both antiretroviral and appropriate psychiatric medications.³⁷ One study found that, overall, clinics that employed a mental health professional had fewer missed appointments, and other research found that substance abuse services had a similar effect.³⁸

○ *Legal services (including legal services for housing and immigration)*

Provision of legal services has been shown to have distinctly positive effects, including improved individual health, on the lives of people with HIV/AIDS. A 2002 study reviewed the need for, availability of, and impact of legal services for PLWHA and determined that “[Legal] services improve access to health care, housing, and support services through education, empowerment, and enforcement of legal rights.”³⁹ It found that these services were especially effective in guaranteeing access to and the maintenance of health care services⁴⁰ primarily by addressing issues that would otherwise compete with these priorities.⁴¹ A 2007 survey by LegalHealth in New York City assessed the impact of legal services on individuals with cancer. Of the respondents, 83% said legal assistance helped reduce their stress, and 51% reported that it had a positive effect on their financial situation.⁴²

The need for access to legal services is arguably even more urgent for people living with HIV, given the strong association between poverty and HIV status, the historical stigma associated with the disease,⁴³ the heightened risk of discrimination in employment, housing, and other contexts, and the negative health

³⁰ Stephanie Bouis et al., “An Integrated, Multidimensional Treatment Model for Individuals Living with HIV, Mental Illness, and Substance Abuse,” *Health and Social Work* 32.4 (2007): 268, <http://www.dhs.wisconsin.gov/aids-hiv/PDFdocuments/CMResManual0309/Section%203-%20Mental%20Health/Mental%20Health,%20Substance%20Abuse%20and%20HIV%20Treatment%20Model%20article.pdf>.

³¹ Dalmida, “Spirituality, Mental Health, Physical Health,” 187.

³² Heidi E. Hutton et al., “Depression and HIV Risk Behaviors among Patients in a Sexually Transmitted Disease Clinic,” *American Journal of Psychiatry* 161 (2004): 912-14, <http://ajp.psychiatryonline.org/data/Journals/AJP/3760/912.pdf>.

³³ *Ibid.*

³⁴ U.S. Dept. of Health and Human Services, HRSA CARE Action, “Intimate Partner Violence,” (September 2009): 1, <http://hab.hrsa.gov/newspublications/careactionnewsletter/sept2009.pdf>.

³⁵ Wyatt, “The Efficacy of an Integrated Risk Reduction Intervention,” 459-60.

³⁶ Bouis, “An Integrated, Multidimensional Treatment Model,” 268.

³⁷ *Ibid.*, 277.

³⁸ Elizabeth Horstmann et al., “Retaining HIV-Infected Patients in Care: Where Are We? Where Do We Go from Here?,” *Clinical Infectious Diseases* 50 (2010): 755, <http://cid.oxfordjournals.org/content/50/5/752.full.pdf>.

³⁹ John-Manuel Androite & R. Bradley Sears, *Ensuring Access to Health Care for People with HIV/AIDS: The Role of Legal Services (A Ryan White CARE Act Policy Study)* (April 2000): 6.

⁴⁰ *Ibid.*, 12.

⁴¹ *Ibid.*, 11.

⁴² David I. Schulman et al., “Public Health Legal Services: A New Vision,” *Georgetown Journal on Poverty Law and Policy*, 15(2008): 729, <http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=1219&context=lsfp>.

⁴³ Ronda B. Goldfein and Sarah R. Schalman-Bergen, “From the Streets of Philadelphia: The AIDS Law Project of Pennsylvania’s How-To Primer on Mitigating Health Disparities,” *Temple Law Review* 82 (2010): 1208-13.

outcomes associated with stress and anxiety for PLWHA.⁴⁴ Studies show that individuals perceiving higher levels of cumulative negative life burden and stress-inducing circumstances have viral loads twice as high as those with lower levels of negative life burden, controlling for adherence to HAART.⁴⁵ Furthermore, higher levels of stress are associated with faster disease progression.⁴⁶ The resolution of legal cases, including housing, immigration, and benefits matters, is essential, therefore, in diminishing stressors and ensuring stability.

- ***Services for foster care and runaway youth***

The City must ensure that youth in foster care receive essential HIV prevention programming. These services must be given by trained staff and with sensitivity to the range of sexual orientations and gender identities of young people in the foster care system. Efforts to improve prevention programming also must work to tackle the institutionalization of sexism, homophobia and heterocentrism in that system.⁴⁷

Homeless youth, many of whom have aged out of foster care, are at high risk for HIV infection. While it is estimated that the rate of HIV among homeless youth is 5 percent, one study reported a rate as high as 17 percent among street youth in San Francisco. This alarmingly high rate is likely attributable, at least in part, to the prevalence of survival sex, reported as high as 43 percent in one study of street youth in Los Angeles.⁴⁸ Accordingly, it is imperative that the City boost its investment in programs that offer prevention services, housing, and other supports to this vulnerable population.

- **HIV and Intimate Partner Violence**

- ***Fund services that address the connection between HIV and intimate partner violence.***

Regardless of gender, half of HIV-positive patients who seek treatment have been affected by intimate partner violence (IPV) or childhood sexual abuse.⁴⁹ But despite the co-occurrence of IPV and HIV, fewer than 10 percent of HIV providers routinely screen for IPV.⁵⁰ Because past or current IPV increases transmission risks and negatively affects health outcomes,⁵¹ improved awareness of IPV can facilitate HIV prevention and risk reduction, as well as improve health outcomes for PLWHA.⁵²

Accordingly, HHC should incorporate IPV screening into all healthcare and social work encounters with PLWHA, and transgendered individuals, who are additionally at high risk, and ensure that staffed are trained to provide necessary referrals, resources, counseling, or strategies for safety planning. Further, the City must continue to invest in legal and social services for survivors of intimate partner violence. Finally, the City must increase the supply of temporary and permanent housing for survivors of IPV, and ensure that housing is available for survivors regardless of their family status, sexual orientation, gender, or HIV/AIDS diagnosis.

⁴⁴ Adam W. Carrico et al., "Psychoneuroimmunology and HIV," in *Comprehensive Textbook of AIDS Psychiatry*, ed. Mary Ann Cohen and Jack M. Gorman (New York: Oxford University Press, 2008), 28.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ The Center for HIV Law and Policy, *Sexual Health Advocacy for Youth in Foster Care and Detention Facilities, Legal and Policy Outline*, available at <http://www.hivlawandpolicy.org/resources/sexual-health-advocacy-youth-foster-care-and-detention-facilities-legal-and-policy-outline>

⁴⁸ U.S. Department of Health and Human Services, Health Resources and Services Administration, *Understanding the Healthcare Needs of Homeless Youth*, available at: <http://bphc.hrsa.gov/policiesregulations/policies/pa200110.html>

⁴⁹ U.S. Dept. of Health and Human Services, HRSA CARE Action, *Intimate Partner Violence*, (September 2009): 1, <http://hab.hrsa.gov/newspublications/careactionnewsletter/sept2009.pdf>.

⁵⁰ U.S. Dept. of Health and Human Services, *Intimate Partner Violence*, 1.

⁵¹ Karen A. McDonnell, et. al., "Abuse, HIV Status and Health-Related Quality of Life among a Sample of HIV Positive and HIV Negative Low Income Women," *Quality of Life Research* 14.4 (May 2005): 945-957.

⁵² U.S. Dept. of Health and Human Services, HRSA CARE Action, *Intimate Partner Violence*, (September 2009), <http://hab.hrsa.gov/newspublications/careactionnewsletter/sept2009.pdf>.

De Blasio briefing by Immigrant Defense Project

The Immigrant Defense Project (IDP) is a non-profit organization based in New York City that works to protect and promote the legal, constitutional, and human rights of immigrants with criminal arrests and convictions. IDP seeks to minimize the harsh and disproportionate immigration consequences of contact with the criminal justice system by working to transform unjust deportation laws and policies and educating and advising immigrants, their criminal defense attorneys, and other advocates. IDP operates a free, national criminal-immigration hotline that serves over 2000 people a year—including people facing deportation and their attorneys. For more information on the following recommendations, please contact the Immigrant Defense Project (IDP) at info@immigrantdefenseproject.org.

1. End New York City's collaboration with unfair Immigration and Customs Enforcement (ICE) mass detention and deportation machine.

In the past ten years, the U.S. has massively expanded its deportation apparatus, achieving record-breaking numbers of deportations. The Obama administration has identified the "criminal alien" as the primary target and New York City as a key area of ICE activity. The government has increasingly used the criminal justice system—most notably the police and jails—to funnel people into an unjust mass detention and deportation system. This collaboration has expanded rapidly, with very little scrutiny, despite the well-documented problems with the criminal legal system, including the discriminatory policies and policing practices that fuel it.

One devastating example of this flawed collaboration is ICE's "Secure Communities" (S-Comm) program, where police send an arrestee's fingerprints to immigration at booking to allow for the rapid identification of potential deportees. When ICE identifies someone they may want to deport, they issue a detainer. A detainer (or "hold") is ICE's request that the police or jails hold that person for up to 48 hours after they would otherwise be released so ICE can assume custody. The detainer request undermines the due process rights of immigrants as it encourages a two-tiered system of criminal justice in which noncitizens are routinely denied bail, jailed for longer periods, and disqualified from alternative release programs.

The weight of police/ICE collaboration falls hard on vulnerable immigrant populations. Programs like S-Comm reinforce the fear and mistrust that community members have of the police. As a result, immigrant community members are often reluctant to report possible criminal activity to law enforcement. For example, IDP works closely with advocates for survivors of domestic violence who are finding it increasingly challenging to suggest involving law enforcement because of the heightened risk of deportation for survivors, their abuses and other family members. ICE's presence in the criminal legal system increases the likelihood that survivors of violence, despite their eligibility, will be funneled into the detention and deportation system and therefore would be disconnected from the social service providers and attorneys who would work with them to access hard-won protections—such as U-visa status for crime victims or diversionary courts. Furthermore, the complex dynamics of abuse scenarios are difficult for law enforcement to sort out, often leading to a survivor's arrest and prosecution and requiring tremendous advocacy to avoid deportation. People caught up in the criminal legal system face enormous pressure to accept pleas, which may have immigration consequences. LGBTQ people, especially those who are transgender, often suffer gender-related abuse in jail, which creates additional pressure to take a plea to avoid ongoing incarceration. Thus, for all these reasons, ICE's presence in local law enforcement rather than protecting public safety, places individuals at an increased risk for violence thereby undermining decades of advocacy to end violence in our communities.

We appreciate Mayor Bill de Blasio's call for a safe, open city for immigrants and the end of the City's collaboration with the abusive federal immigration detainers process. Our recommendations reflect and build upon some of the recommendations made by Mayor de Blasio.

We recommend that NYC prioritize public safety and protect the due process rights of all New Yorkers by refusing to participate in ICE's detention and deportation, ending all City collaboration with ICE. The City must expand its policies of not honoring detainers to protect more New Yorkers. Other counties and cities across the U.S. have refused to collaborate with ICE along these lines:

- Ending cooperation with all ICE detainer requests, including those with prior civil deportation orders, pending criminal charges, and prior convictions. We also recommend that the City not honor ICE requests for New Yorkers on "gang" and "terrorist" databases, given the well-documented problems with these databases—including over-inclusion, inaccuracy, and lack of mechanisms to challenge one's inclusion in these databases.¹
- Refusing to allow ICE to conduct civil immigration interviews at police precincts or at Rikers Island.
- Revoking the City's support for ICE's "Criminal Alien Program" operations at Rikers Island, including removing ICE's trailer office from Rikers Island.
- Refusing, at minimum, to collaborate with ICE without reimbursement. The presence of ICE in the criminal legal system has significant fiscal impacts, as the number of people and their length of stay in the City's jails has grown significantly due to ICE interference in the system. Immigrants who have ICE detainers may choose to stay in jail to fight their cases, as paying bail will likely cause them to be turned over to ICE custody, often far from their families.

Given the problems that arise for New Yorkers from discriminatory policing, including that immigrants now face an increased risk of detention and deportation when encountering police, we further recommend that the City take immediate steps to end discriminatory policing practices as advocated by Communities United for Police Reform, including ending the legal challenges to the End Discriminatory Profiling Act, implementing the judicial remedies in *Floyd v. City of New York*, and ending the illegal surveillance of Muslim communities.

2. Ensure that public defenders and appointed counsel have resources to advise their immigrant clients about immigration consequences

Countless New York families lose loved ones to deportation, often as a result of a past conviction for which they have already completed their criminal sentence. These deported New Yorkers have been spouses, sons, daughters, parents, friends, employers, and clergy. They have been lawful permanent residents (greencard holders), undocumented immigrants (many with citizen spouses who want to sponsor them), people who came to New York as children, Dreamers, small business owners, and American veterans. The convictions range from the smallest to the most serious offenses and include offenses that the prosecutor and judge felt merited no time in jail. In many cases, the person had pled guilty to a crime without understanding that it would have led to deportation. Then, days or years after the criminal case was over, they found themselves in immigration detention and facing deportation – often mandatory, with the conviction closing off all avenues to fight to remain here with their families.

In 2010, the U.S. Supreme Court noted in *Padilla v. Kentucky* the unfairness of such a process and recognized a criminal defense attorneys' obligation under the Sixth Amendment to the U.S. Constitution to provide affirmative, competent advice to their clients of the immigration consequences of their criminal cases. For the second time in ten years, the Court stated that "preserving the client's right to remain in the United States may be more important to the client than any potential jail sentence." Therefore, the Court said, "accurate legal advice for noncitizens accused of crimes has never been more important." This same year, the New York City Office of the Criminal Justice Coordinator (CJC) offered a base level of funding to every institutional defender office to hire in-house immigration counsel to more fully integrate immigration advisals and

¹ "The New Blacklists: The Threat to Civil Liberties Posed by Gang Databases." *Crime Control and Social Justice: The Delicate Balance*. Westport, CT: , 2003. *The African American Experience*. Greenwood Publishing Group; K. Babe Howell, "Gang Databases: Labeled for Life," *The Champion*, July and August 2011; Associated Press, "Anti-Terror Program Tracks Innocents, ACLU Says," September 19, 2013 available at: <http://losangeles.cbslocal.com/2013/09/19/anti-terror-program-tracks-innocents-aclu-says/>

mitigation strategies into their work. This has elevated New York City as a national model in implementing *Padilla*. This funding is critical to ensure that defenders meet their ethical duty, that the City meet its Constitutional obligation under *Padilla*, and that New Yorkers have a fighting chance to keep their families together and communities strong.

We recommend:

- Continuing to fund immigration experts at the institutional defender offices to ensure that immigrants facing criminal charges in New York are advised of immigration consequences and have a defense that works to mitigate these consequences when possible.
- Ensuring that counsel appointed under the “18-b” program have access to timely and accurate immigration advice for their clients.
- Funding the appellate defender offices to represent immigrants seeking post-conviction relief in cases where they pled guilty without being informed of immigration consequences by their attorneys, as required by *Padilla*. Despite the gains made in New York City toward full compliance with *Padilla*, some people fall through the cracks and plead guilty without getting important immigration advice. Even when such convictions are constitutionally defective, and where vacating the guilty plea would be appropriate, most people are not able to assert their rights in court without counsel – and do not have resources to hire private counsel. Better access to post-conviction representation will reduce the deportations from unlawful convictions.

3. Encourage prosecutors to consider immigration consequences during plea negotiations

Immigration consequences such as deportation, or lifetime bars to getting a green card, impose heavy, disproportionate penalties on noncitizen defendants in the criminal justice system.

For example, these consequences can have severe ramifications for women and LGBTQ defendants. Women facing deportation may be the primary caretaker for United States citizen children.² Separating the child from her mother can have devastating consequences for the child left behind,³ as well as for the mother faced with the decision whether to leave her child in the United States, or to take her along to a country where mother and child may experience serious poverty, violence, and lack of educational opportunities, among other negative impacts.

LGBTQ defendants may have left their country of origin to escape extreme transphobic or homophobic discrimination or violence. Forced removal to that country may put them once again at risk for such discrimination or violence.

Precisely because such dire immigration consequences often play a more important role in the criminal case than the criminal justice sanctions, the United States Supreme Court has stated that “informed consideration” of immigration consequences benefits the prosecution as well as the immigrant defendant.⁴

² Between 1997 and 2007, the United States deported the legal permanent resident (“LPR”) parent of approximately 103,000 children, of which at least 85 percent (or 88,000) were United States citizens. See J. Baum, R. Jones & C. Barry, *In the Child’s Best Interest?: The Consequences of Losing a Lawful Immigrant Parent to Deportation*, Int’l Human Rights Law Clinic, University of California, Berkeley, School of Law et al., 4-5 (2010), available at http://www.law.berkeley.edu/files/Human_Rights_report.pdf.

³ See Baum, et al., *In the Child’s Best Interest?* 4-5 (2010) (“By removing a lawful permanent resident parent of a U.S. citizen child, the government . . . creates immense secondary social and economic effects.”); J. Hagan, B. Castro & N. Rodriguez, *The Effects of U.S. Deportation Policies on Immigrant Families and Communities: Cross-Border Perspectives*, 88 N.C. L. Rev. 1799, 1820 (2010) (“The physical removal of parents can have long-lasting traumatic effects on children and spouses left behind in the United States.”). In one recent study examining “the consequences of parental arrest, detention, and deportation on 190 children in 85 families in six locations across the country,” researchers reported that immigrant parental separation “pose[d] serious risks to children’s immediate safety, economic security, well-being, and longer-term development.” A. Chaudry, R. Capps, J. Manuel Pedroza, R. Maria Castañeda, R. Santos & M. Scott, *Facing Our Future: Children in the Aftermath of Immigration Enforcement*, Urban Institute, viii (2010), http://www.urban.org/UploadedPDF/412020_FacingOurFuture_final.pdf. “[A]bout two thirds of [the] children [in the study] experienced changes in eating and sleeping habits”; “[m]ore than half of [the] children . . . cried more often and were more afraid, and more than a third were more anxious, withdrawn, clingy, angry, or aggressive.” *Id.* at ix.

⁴ See *Padilla v. Kentucky*, 559 U.S. 356, 373 (2010).

Prosecutors in other jurisdictions, including Alameda and Santa Clara Counties in California, have accomplished this by encouraging their attorneys to factor immigration consequences into the resolution decision and issuing formal guidelines to assist them in doing so.⁵ Informed consideration of immigration consequences assists prosecutors in using their discretion to pursue justice, ensure community safety, and maintain the integrity of the prosecution profession.⁶

We recommend:

- Encouraging District Attorneys to adopt policies reminding its prosecutors that the Supreme Court encourages the consideration of immigration consequences in the resolution of criminal cases and requiring them to attempt, wherever possible and appropriate, to agree to immigration neutral pleas and sentences.

4. Ensure legal representation for all New Yorkers detained by ICE and placed in deportation proceedings

IDP supports the work of the New York Immigrant Family Unity Project (NYIFUP) to create the **nation's first system of universal immigration representation** to ensure that no New York family will be torn apart simply because they cannot afford counsel.

This local campaign was initiated by the Center for Popular Democracy (CPD), Northern Manhattan Coalition for Immigrant Rights (NMCIR), Make the Road New York and the Vera Institute for Justice with the support of the Kathryn O. Greenberg Immigration Justice Clinic at Cardozo Law School.

Each year, approximately **1700 residents of New York City** are detained and confront **possible deportation with no legal counsel**. These residents face government-trained attorneys often without the representation of a lawyer, often with a language barrier, and no or limited financial resources—all while behind bars and separated from their loved ones. Data shows that only 3% of those who are detained and unrepresented prevail in their proceedings.⁷ But lawyers make a huge difference—the success rate jumps to 18% for those who are detained and represented.⁸ Beyond the family unity toll, a recent study demonstrated that the economic costs that New York City and State bear as a result of deportations are substantial. Once fully implemented statewide, the **NYIFUP will result in almost \$6 million dollars of annual economic offsets** to the city, state and to New York employers.⁹

Recently, the New York City Council allocated \$500,000 during this fiscal year to fund the nation's first immigration representation pilot. The pilot will serve 190 out of the approximately 900 detained New Yorkers who will have their removal proceedings at the New York City Immigration Court this year.

We recommend the full implementation of NYIFUP. At an annual cost of \$5.3 million,¹⁰ implementation at this scale would provide deportation defense to all New Yorkers who face removal in area immigration courts, including those who have hearings at the New York City Immigration Court and the New Yorkers whose hearings are venued in nearby New Jersey immigration courts (Elizabeth and Newark).

⁵ See, e.g., *Immigration Consequences, Charging Decisions, Dispositions and Sentencing in Light of Padilla v. Kentucky* (www.ilrc.org/files/documents/unit_7b_3_sample_da_padilla_policy_final.pdf); *Memo re: Collateral Consequences*, District Attorney of Santa Clara County, California (www.ilrc.org/files/documents/unit_7b_4_santa_clara_da_policy.pdf).

⁶ See Heidi Altman, *Prosecuting Post-Padilla: State Interests and the Pursuit of Justice for Noncitizen Defendants*, 101 *Geo.L.J.* 1 (Nov. 2012).

⁷ See New York Immigrant Representation Study, *Accessing Justice: The Availability and Adequacy of Counsel in Immigration Proceedings*, 33 *Cardozo L.Rev.* 357, 384 (Dec. 2011).

⁸ See *id.*

⁹ "The New York Immigrant Family Unity Project: Good for Families, Good for Employers, and Good for All New Yorkers," October 2013

¹⁰ *Ibid.*



Advancing the Women and Girls of New York City *Priority Action Items for the Next Mayor*

Women's Issues Are Issues for All New Yorkers

The issues that impact women are urgent. Yet, they are often sidelined rather than fully integrated into public policy as they should be. In New York City, 40% of single mothers and their children live in poverty;¹ the poverty rate for women age 65 and over is one in five, almost double the national rate;² the number of rapes has increased by 57% since 2009,³ and full-time working women in the metropolitan area face a 15% wage gap.⁴

Lifting women out of poverty, ending gender discrimination, closing the wage gap, and ensuring women's health and physical safety, together, have a cumulative impact on both the state of our families and the economy. Dismantling the barriers that exist for women is at the crux of reducing our city's growing economic divide, a central promise of the incoming administration and one that has a clear mandate from New York voters.

NOW-NYC aims to promote reproductive rights, secure women's economic empowerment, and end discrimination and violence against women. NOW-NYC is excited to be welcoming a mayor-elect whose vision so strongly overlaps with that of our organization and our members, and we look forward to working in partnership to proactively address women's inequality in our city. NOW-NYC calls on the mayor-elect to:

1. Make Women's Issues Central to the Mayor's Agenda

- Women's issues cannot be relegated as a niche issue but must become a fully integrated component of all issues. Women's equality must be a lens through which all city policies are developed, implemented, and enforced. The city must make a visible commitment to understanding and addressing how its policies impact women and marshal its resources to advance equality.

2. Advocate for Women's Economic Security

- Ensuring equal pay for New York City-area women would translate to an \$8,000 increase in the annual earnings of full-time working women, supporting families and lifting many out of poverty.⁵ Closing the income gap between men and women is imperative, considering that women are either the primary or sole source of income in 40% of all U.S. households with children.⁶ We can close the pay gap in New York City by: (A) increasing the minimum wage for tipped workers; (B) outlawing wage secrecy policies that keep pay differentials hidden; (C) addressing pay discrimination for city workers;
 - (A) Women constitute nearly two-thirds of all tipped workers and 71% of restaurant servers who experience poverty at three times the rate of the general workforce.⁷ The food and drink industry employs more than a quarter of a million workers in New York City.⁸ Although New York State instituted a minimum wage increase, tipped workers were excluded.⁹
 - (B) A majority of private sector workers in the U.S. are prohibited or discouraged from sharing salary information. Transparency without fear of retaliation is the only sure way women will be able to know whether they are earning their fair share.¹⁰
 - (C) The mayor-elect has pledged to settle the current lawsuit against the city brought by female school safety agents who are earning \$7,000 less than their male counterparts, impacting 5,000

workers.¹¹ The mayor-elect should also proactively evaluate and address any existing wage gaps among city employees.

- Ensuring affordable child care is one of the most significant ways to expand job opportunities for women. The mayor-elect should act to protect and expand child care options, by: (A) proactively increasing the number of eligible families utilizing subsidized day care (only 27% are currently being served)¹², and (B) making a commitment to re-allocate any new slots created by fulfilling the pledge to institute universal pre-kindergarten to eligible infants and toddlers.
- Create job opportunities for women, particularly in high paying and/or non-traditional occupations like construction by: (A) expanding opportunities for minority- and women-owned business enterprises (M/WBEs); and (B) ensuring 100% enforcement of New York City's Human Rights Law, particularly for all vendors awarded city contracts.
 - (A) New York City passed laws to expand opportunities for M/WBEs in both 2005 and 2013; however, data demonstrate that the program continues to fall short of established targets.¹³ Growing the program will be a vital component of expanding job opportunities for women and building strong local economies across the diverse communities of all five boroughs.
 - (B) New York City proudly has one of the strongest Human Rights Laws in the country, which it recently expanded to include protections for pregnant workers.¹⁴ However, our laws can only be as strong as their on-the-ground enforcement. The Human Rights Commission must be fully funded and staffed to effectively enforce the law. Furthermore, the city should ensure that all of its contractors explicitly meet the standards set forth in the law.
- Expand affordable housing. Thirty-one percent of renting New Yorkers spend more than half of their income on rent and utilities.¹⁵ A recent *New York Times* article paints a stark portrait of the working poor: 28% of families in homeless shelters include a working adult and are mostly women.¹⁶ This is why the mayor-elect's plan to increase affordable housing units by implementing stricter requirements on developers to create low and middle-income housing is critical.

3. Ensure Equity in Education

- Title IX prohibits sex discrimination in education, which includes sexual harassment and sexual violence¹⁷, as well as pregnancy discrimination.¹⁸ Preliminary investigations and anecdotal evidence collected by parents and advocates indicate that there is a lack of awareness among students and administrators of current Title IX protections and reporting channels.¹⁹ The mayor-elect should act to: (A) Ensure that the next NYC Schools Chancellor implements 100% compliance and enforcement of Title IX in all NYC public schools; (B) Immediately fill the vacancy in the Office of Equal Opportunity & Diversity Management's Executive Director position; and (C) Explicitly state in federally required training and nondiscrimination notices that protections include freedom from sexual harassment, sexual violence, and pregnancy discrimination.

4. Engage the NYPD

- Crimes against women are still at epidemic levels in New York City. The number of reported rapes has surged by 57% since 2009, from roughly 760 to 1200,²⁰ the NYPD receives an estimated 600 domestic violence calls every day,²¹ and the city is recognized by the Department of Justice as both a major point of entry and destination for victims of sex trafficking.
- The negative impact of aggressive stop and frisk policing on police-community relations has been a hallmark of this mayoral race. In the past few years, police-community relations also suffered on the heels of several high-profile rape cases involving NYPD officers which drew widespread attention and tested the public's trust, particularly that of women. With the appointment of Bill Bratton as the incoming police commissioner—a leader widely recognized for his expertise on community policing—we hope that this trust will be restored.
- We call on the mayor-elect and incoming police commissioner to institute a proactive, department-wide plan of action to address violence against women that includes: (A) Promoting a culture of integrity and respect for women and girls (B) Making it a system-wide priority to reduce the violent crime of rape; and (C) Prioritizing the investigation and prevention of human trafficking.

5. Budget for Women's Equality

- Budget priorities should reflect a tangible commitment to women's equality. Year after year, subsidized child care and after school programs are put on the chopping block. The lack of stability for these programs translates to a lack of stability for New York families, putting the well-being of the city's children as well as the jobs of both parents and day care workers at risk.²² Furthermore, other priorities, including services for sexual assault survivors²³ and funding for safety net programs that support low-income women and single mothers²⁴ face shrinking support. The mayor-elect should follow-through on his promise to end the "budget dance," with a long-term commitment to invest in families and communities.

6. Protect Reproductive Healthcare

- New York City has one of the highest maternal mortality rates in the country, and the rate of maternal mortality for African-American women in New York City is seven times higher than the rate for white women.²⁵ This means that in one of the richest cities in the world, more African-American women die of childbirth per 100,000 births than the women of Iran, Iraq, Vietnam, Egypt, or Saudi Arabia—all countries that struggle with fair and equitable treatment of women.²⁶ The fact that women are dying from giving birth in a city with some of the best hospitals in the country can be viewed as nothing less than an alarm bell.²⁷ The mayor-elect should consider the findings and recommendations of the New York Academy of Medicine²⁸ and work with local stakeholders, including community healthcare organizations, advocates, and the NYC Department of Health and Mental Hygiene to close this gap.
- We fully support the mayor-elect's promise to safeguard women's comprehensive reproductive health by: (A) ensuring access to abortion clinics and improving coordination with the NYPD; (B) enforcing consumer protections and transparency for crisis pregnancy centers; and (C) continuing abortion training for medical residents.

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November 2013

New York Anti-Trafficking Network (NYATN) has been providing direct services to almost 1,000 survivors of human trafficking for more than eleven years. NYATN was the first network in New York to promote the rights of survivors of human trafficking. We bring together the voices of those with first-hand experience of the injustices of human trafficking and those who work consistently to meet the needs of trafficked persons, and who advocate for a more rights-based, responsive, and prevention-oriented policy towards trafficked persons.

NYATN consists of a diverse group of service providers and advocates in New York, dedicated to ending human trafficking and coordinating resources for trafficked persons. Our membership includes over 90 organizations and individuals advocating on behalf of survivors of trafficking and other forms of violence. Since 2002, we provided direct services to survivors of human trafficking, and have fostered policy, legislation, education, and advocacy on a wide range of issues relating to trafficking in persons.

We establish dialogue on service and prevention options in a range of cases and enable cross-communication regarding each agency's work with trafficked persons. We provide direct services to trafficked persons; technical assistance to attorneys, case managers, and other service providers who work with trafficked persons; train law enforcement and non-governmental organizations on issues relating to trafficking in persons; outreach in communities to provide resources and information on trafficking in persons; and engage in policy advocacy on these issues.

NYATN played a key role in the passage of the New York Anti-Trafficking Law as well as all of the reauthorizations of the federal Trafficking Victims Protection Act. We continually advocate for legislation that promotes prevention and protects the rights of trafficked persons at the state and federal levels.

We congratulate Mayor-elect de Blasio and look forward to working with him and his team in this new administration on prevention trafficking in persons and supporting the human rights of survivors of trafficking and other forms of abuse here in New York City.

NYATN supports the following principles and supports deeper government engagement in the following areas:

1. Qualified and appropriate services for survivors of human trafficking are crucial. Devote resources for case management, shelter, and legal services to organizations with a demonstrated track record serving survivors of trafficking with a range of experiences.
2. Encourage law enforcement agencies to sign U & T non-immigrant visa certifications without extra requirements beyond what is required. Policies should be transparent and clear for those seeking a certification.
3. Encourage access to services without arrests by creating alternatives to a criminal justice track.

Appendix I — Full Memos *cont'd*

4. Services for trafficked youth should be in the least restrictive setting to allow for case management, social support, and legal services. Access to job development and meaningful economic opportunities should be presented in a setting that encourages decision-making.
5. All services for trafficking survivors should be non-discriminatory and open to all ages and genders.
6. The Human Trafficking Intervention Courts should be open to survivors of all forms of human trafficking and all programs should be evaluated or meet a minimum standard.
7. Trafficking into most forms of labor is grossly underreported and under-recognized. We encourage the city to train agencies to develop training and policies on labor trafficking.
8. Labor trafficking can also be found in sourcing through supply chains. We encourage the City to have a policy on not engaging with businesses that do not examine their supply chains for slave labor and human trafficking.
9. The Administration should support legislation requiring companies to disclose any measures taken to identify and address instances of human trafficking, slavery, and child labor in their supply chains in their annual report to the Securities and Exchange Commission (SEC).
10. In our years of working directly with survivors and crafting law and policy that both prevents trafficking in persons and better serves the rights and needs of survivors, NYATN has found that solutions rooted in enhancing quality of and access to services, as well as community-based outreach and education, are more effective than those focused largely on enhanced criminal penalties. While criminal penalties and prosecution play a crucial role in addressing human trafficking, it is prevention, education, and services that make the difference in prevention and the lives of trafficked persons.

For more information about NYATN, see <http://nyatn.wordpress.com/>. Please contact Juhu Thukral at 917/791.0682 or Ivy Suriyopas at 212/966.5932 or jsuriyopas@aaldef.org with any questions.

Recommendations from New York City's Anti-Violence Advocates to Mayor-Elect de Blasio's Transition Team regarding Intimate Partner and Sexual Violence

A recent scientific nation-wide survey by the Centers for Disease Control found that 1 in 4 women and 1 in 7 men have experienced intimate partner violence and 1 in 5 women and 1 in 71 men have been raped at some time in their lives. The CDC also found that lesbian, gay and bisexual people experience intimate partner and sexual violence at the same rates as non-LGB people. People of color, including African American, multiracial and Native American women experience higher rates of both sexual assault and intimate partner violence than white women. Both forms of violence are vastly underreported crimes, and no doubt the numbers are significantly higher. Yet, despite the high rate of rape and intimate partner violence, services to respond to and prevent this violence are grossly inadequate. Culturally competent services for marginalized communities, especially communities of color, immigrants, non-English speaking people, people with disabilities and lesbian, gay, bisexual and transgender people, are even more limited.

There is a great need to raise awareness of intimate partner and sexual violence, to increase services for survivors and to create culturally competent responses for survivors marginalized because of their race, ethnicity, immigration status, disability status, sexual orientation and/or gender identity. To that end, we recommend:

1. Executive Branch Funding For Sexual and Intimate Partner Violence Programs

There must be a steady source of City funding for intimate partner violence and sexual assault programs to respond to the needs of survivors as discussed below. Existing resources are inadequate to meet the needs of survivors of sexual and domestic violence. Furthermore, discretionary allocations from the City Council (\$2.874M in the Domestic Violence Empowerment DoVE and \$200K for the Sexual Assault Initiative) are uncertain from year to year making it difficult to plan and sustain programs. Instead, adequate funding should be included in the Executive budget to enhance services and ensure their stability. Without this funding, survivors of abuse, particularly low-income survivors and those from marginalized communities, have few options for vital preventive, social and legal services. The Rape Crisis Centers have experienced decreasing funding from the state and federal government, yet, state-wide their caseload has increased by 65% since 2011. This has forced Rape Crisis Centers to implement waiting lists and to limit long-term services. Social and legal services for intimate partner violence survivors are essential to their ability to escape violence and begin the healing process. In particular, research shows that legal services are strongly correlated with a reduction in intimate partner violence and enable survivors to escape abusive relationships. Access to safe, affordable housing and the ability to earn sustainable income are also crucial elements to ensure ongoing safety(see Sections 3 & 4).

2. High Level City-Wide Position on Violence and Poverty

There is an immediate need to create a position that can holistically address the violence of Intimate Partner and Sexual Violence as well as Trafficking on the one hand, and the poverty that these crimes so often cause. These crimes are also in some part caused by poverty, lack of viable options for income and homelessness. This position should have the power to both coordinate and rally resources for victims of violence as well as work to prevent the conditions that give rise to them. Twenty five per cent of women and girls are living in poverty among the 4 million females in NYC and in 2011 63% of children were born into poverty in NYC. There is a strong correlation between poverty and violence: intimate partner violence is a primary cause of homelessness and women who are homeless report a far higher recent sexual assault than non-homeless women. This position should focus on the intersection of poverty and violence so as to lower the rate of child sexual assault, violence against women and intimate partner violence, including in the LGBTQ community.

This position must have the power to convene all city agencies, including the DOH, NYPD, NYCHA, HPD, HRA, ACS, and DHS to provide a coordinated response to problems faced by survivors and to address gaps in policy and practice. For example, the office could address housing barriers by working with HPD and NYCHA to help low-income survivors secure permanent housing, work to prevent homelessness of survivors of violence and address issues faced by immigrant victims of violence. Survivors who are limited English proficient (LEP) often have extreme difficulty accessing services from city agencies. Under the auspices of this position, each county could have its own multi-disciplinary group to trouble shoot on individual cases while the city-wide position addresses the broader systemic issues. The person in this position should use proven tools to reveal policies and practices that place survivors of intimate partner violence and sexual assault at risk, such as fatality reviews and safety audits.

3. Housing

As noted above, intimate partner violence is a primary cause of homelessness in New York City; at least 1/3 of families using the family shelter system are survivors of domestic violence. Studies of the prevalence of sexual assault among homeless women found 43% reported sexual abuse in childhood as opposed to 20% of women in the general population. In addition, women who are homeless report a rate of recent sexual assault that is about 10 times that of non-homeless women. Secure housing is vital to the long-term safety and independence of survivors. It also prevents sexual assault. Yet, options for permanent housing are extremely limited. 80% of domestic violence shelter residents who left the emergency shelter system in 2011 were unable to secure permanent housing or transfer to a transitional shelter, leaving them with no safe place to go. Sadly, the lack of housing too often forces low-income survivors to reunite with their abusers.

We urge the Mayor-elect to create a rent subsidy program to provide permanent housing for low-income sexual assault, including trafficking, and intimate partner violence survivors. The cost to house a family in shelter (approximately \$36,000) for a year far exceeds the cost of affordable rental housing (\$12,000 per year). We recommend expanding and improving on HPD and NYCHA housing resources to accommodate intimate partner violence and sexual assault victims as well as creating programs to develop more housing and provide supportive services with the goal of helping survivors afford housing. Specific recommendations include:

- Extend existing HPD Section 8 and homelessness resources to survivors of sexual assault and intimate partner violence.
- Streamline and expedite the application process for NYCHA's domestic violence priority for public housing.
- Fund services that help low-income victims secure and maintain jobs so that they can achieve financial independence and afford housing on their own.
- Designate a City agency to fund domestic violence and sexual assault supportive services in permanent housing so that building developers can take advantage of capital funding to build more supportive housing for survivors.

In addition, domestic violence shelters must be LGBTQ-inclusive to increase access to emergency shelter for LGBTQ survivors of intimate partner violence.

4. Sustainable Income

Violence can impoverish people through increased medical bills and missed work days necessary to cope with the trauma of a violent incident. For intimate partner violence survivors, economic abuse and dependence on the abusive partner create significant, often insurmountable, barriers to leaving an abusive relationship. A sustainable income, at a living wage, is critical to help survivors of violence escape and live safely. We recommend that the administration create, fund and improve access to programs that assist sexual and intimate partner violence survivors with economic sustainability, including public benefits and employment training and development, long term counseling, and job readiness and job training, with a specific focus on immigrants, non-English speakers, people with disabilities and LGBTQ survivors of violence.

5. Sexual and Intimate Partner Violence and Criminal Justice Agencies

NYPD: In our experience, officers responding to sexual violence can be insensitive to survivors, not always taking their complaints seriously, investigating their allegations or even filing domestic incident reports. LEP survivors are particularly at risk as they may be denied access to life-saving services due to language barriers. This is well documented in *Padilla Torres v. City of New York*, brought by six survivors, some of whom were not only denied services but also humiliated and arrested. The NYPD must designate high level personnel to oversee crimes involving sexual assault and intimate partner violence in order to ensure high quality investigations and sensitivity to survivors. It must also increase the cultural competency of all of its officers, including the Domestic Violence Police Officers and the Special Victim Unit, for survivors who face additional barriers because of race, ethnicity, immigration status, language barriers, disability status, sexual orientation and/or gender identity.

We also recommend:

- Adequately staff the Special Victims Unit so they can handle their increased caseload of misdemeanor and felony cases and investigate sexual assault cases adequately;
- Clarify the policy for and improve police response to sexual assault cases in hospital emergency rooms;
- Continue the LGBT Advisory Committee to the Police Commissioner and consider issues-specific advisory committees such as a Sexual Violence Advisory Committee and/or an Intimate Partner Violence Advisory Committee;
- Enhance Evidence Collection in domestic violence cases;
- Address reoccurring domestic violence where an arrest is not made;

- Improve and increase training of law enforcement to, among other things, prevent dual arrest of survivors of intimate partner violence where there is a primary aggressor;
- Increase cooperation with District Attorney's Office on both domestic violence and sexual assault.

Criminal Justice Coordinator's Office. The Criminal Justice Coordinator's office must increase support for the prosecution of sexual assault and intimate partner violence cases. With the creation of specialized court rooms for sexual assault and trafficking, pilot programs that experiment with new techniques for prosecution will be crucial to the success of these courts.

6. **Sexual and Intimate Partner Violence and Schools**

The Department of Education must teach curricula on dating violence, sexual assault and harassment in health classes at all city middle and high schools that is inclusive of LGBTQ students and consulting with the below organizations when developing curriculum. Ensure that the Dignity for all Students Act is implemented in a comprehensive manner and enforced, allowing all students to learn in a non-violent environment.

7. **Sexual and Intimate Partner Violence Data Gathering**

All New York City surveys, reports and data about sexual and intimate partner violence, and all agencies funding or overseeing work on sexual and intimate partner violence in which demographic information is collected, should include questions about race, ethnicity, sexual orientation and gender identity.

The New York City Department of Health conducts a Community Health survey each year with 10,000 respondents from all five boroughs. This survey should include questions about sexual violence and intimate partner violence as well as demographic information about race, ethnicity, sexual orientation and gender identity. This survey should also collect information on the prevalence and impact of sexual harassment in the workplace, schools, and public space so that this information can be used to baseline progress.

Collect and publish information about the number of homeless domestic violence survivors, trafficking and sexual assault survivors using HRA and DHS shelters annually.

8. **Sexual Violence Public Campaign**

It has been many years since the last NYC Sexual Assault campaign. It is one of the most unreported crimes and increasing awareness will increase reporting of this violence. We propose a subway and bus campaign which addresses diverse communities in NYC with messaging that recognizes and responds to the needs of these communities. Advocates would like to work with New York City Department of Health to develop a campaign that has a unified look but tailors its message to multiple communities in New York City. The goal would be to raise awareness and encourage survivors to reach out for assistance.

We look forward to working with you to further explore and implement these recommendations. We are also working with other organizations that address issues of sexual and domestic violence and look forward to bringing our collective expertise to these and future recommendations. To schedule a meeting with the below groups, please contact Mary Haviland, Executive Director, New York City Alliance Against Sexual Assault, at (212)229-0345 ext 301.

Submitted by a consortium the following organizations:

Farah Tanis, Black Women's Blueprint
 Susan Xenarios, Crime Victims Treatment Center at St. Luke's-Roosevelt Hospital
 Emily May, Hollaback
 Carol Cordon, New Destiny Housing Corp.
 Mary Haviland, New York Alliance to End Sexual Assault
 Sharon Stapel, New York City Gay and Lesbian Anti-Violence Project
 Nancy Goldhill, Staten Island Legal Services
 Cecilia Gaston, Violence Intervention Program
 Karina Cruz-Rodriguez, Wyckoff Heights Medical Center - Violence Intervention and Treatment Program



Policy Recommendations of the New York Civil Liberties Union (NYCLU) for Columbia Law School Center for Gender & Sexuality Law Mayoral Briefing Book

The New York Civil Liberties Union (“NYCLU”) is one of the nation’s foremost defenders of civil liberties and civil rights. Our mission is to defend and promote the fundamental principles and values embodied in the Bill of Rights, the U.S. Constitution, and the New York Constitution through a multi-layered program of litigation, lobbying, organizing, and public education. The NYCLU is involved in work that together support gender equity, including access to education, reproductive justice, and rights of transgender and gender non-conforming individuals. The NYCLU hopes that the mayor will take action on the following items to advance gender equity, although it is far from a comprehensive list of issues that the mayor must address in this field.

Implementation of the Dignity for All Students Act (the “Dignity Act”)

The mayor of New York City should take an active role in monitoring the effects and enforcement of the local and state Dignity Act, which require that students are protected from bias-based harassment that creates a hostile learning experience. The Dignity Act requires intensive training of adults who work in schools, designation of an anti-bullying coordinator and additional staff members trained to respond to complaints of bullying and harassment, and clear explanations to students about the complaint process. When addressing complaints of bullying or harassment, schools should focus on effective interventions over punishment, and move from zero tolerance policies toward positive discipline alternatives. New York City should focus on preventing bullying by using culturally relevant curricula (including LGBTQ-positive curriculum), providing meaningful training on internet safety and responsibility, and encouraging access to LGBTQ-positive resources (including through the internet). Additionally, with the sophisticated data analysis tools at its disposal, the New York City Department of Education should aim to become a model district for reporting and transparency regarding bias-based incidents.

Supporting Transgender and Gender Non-Conforming Students in NYC Schools

With the passage of the Dignity Act, New York students are better protected than ever from discrimination and harassment based on gender identity and expression. Despite these legal protections, school administrators and staff are often untrained and uninformed about the rights of transgender and gender nonconforming youth. In order to fully support all New York City students, schools need increased guidance about the responsibility of New York City schools under local, state, and federal laws to use students' preferred names and gender pronouns, to provide access to bathrooms and locker rooms that are consistent with a student's gender identity, to ensure equal access to sport teams and gym classes, to respond to gender-based bullying and harassment, and to integrate LGBTQ positive programs into all New York City curricula. Increased training is needed for all staff members on youth development, cultural sensitivity specific to gender identity and expression, and the privacy rights of LGBTQ youth. This training should be required for all adults working in schools, including teachers, administrators, and support staff such as the New York City Police Department's School Safety Officers.

Comprehensive Sex Education

Comprehensive sex education is a critical component of a successful health education program and of a student's overall educational achievement and success in life. New York's young people need and deserve access to comprehensive, medically accurate, age-appropriate sex education that is respectful and inclusive of all students. The mayor should review New York City's sex education mandate for effectiveness and LGBTQ inclusiveness, audit schools for compliance, and make the mandate permanent.

Prohibiting the Use of Condoms as Evidence of Prostitution-Related Offenses

Despite widespread efforts to promote safe sex practices, New York is home to a policy that compromises the health of New Yorkers and punishes them for carrying condoms. Under New York State law, the possession of condoms can be used as evidence of prostitution-related offenses. This policy consequently discourages New Yorkers, especially those who are routinely stopped by the police – LGBT persons, persons of color, and young persons – from carrying and ultimately using condoms. As a public health matter, this policy has an especially harmful impact on New York City where more than 110,000 persons live with HIV, and the rate of AIDs cases is three times the national average. The use of condoms is critical

to reducing the rate of HIV/AIDs, other sexually-transmitted infections, and unwanted pregnancies. To protect the health of New Yorkers, New York City's Department of Health and Mental Hygiene distributes 40 million condoms each year through its NYC Condom Campaign. State law, however, undermines this public health initiative by discouraging the very condoms that are distributed by the City. New York City needs a sound public health policy that encourages and supports the ability of New Yorkers to protect their health. The NYCLU urges the mayor to issue an executive order prohibiting the use of condoms as evidence of prostitution-related offenses by the New York City Police Department.

City Support for State Legislation

The NYCLU also urges the mayor to support passage of important state-level legislation that would protect and advance gender equity, including the Gender Expression Non-Discrimination Act, Women's Equality Act, Family Leave Insurance, legislation supporting comprehensive sex education, and legislation to prohibit condoms from being used as evidence of prostitution-related offenses.

LGBT older adults and New York City: 2013 Platform for Policy Change

SAGE (Services & Advocacy for GLBT Elders)



Lesbian, gay, bisexual and transgender (LGBT) older people are a growing and vibrant part of New York City and have made significant contributions to this city in politics, culture and the economy. Many of today's LGBT older adults helped pave the way for the achievements we see today—from wins in marriage equality to efforts that protect against discrimination, and more.

Yet despite their profound contributions, LGBT older people deal with significant disparities in areas such as health and economic security (as two examples), and regularly face discrimination, stigma and other barriers in aging and long-term care settings, the workplace, and in their daily lives. Many LGBT elders have lived lifetimes of discrimination, which has compromised their social and economic safety nets. SAGE's experience confirms what's described in the available research: LGBT older people have thinner support networks; face high rates of social isolation (since they are much more likely to be childless and single), poverty and economic hardship; suffer from poor physical and mental health, employment and housing insecurity; and too often experience inappropriate treatment by aging and long-term care staff, medical providers, and even their own families and friends.

New York City leaders have a responsibility to address these disturbing trends and support public policies and budget practices that contribute to a better quality of life for LGBT older people. SAGE offers seven policy areas where elected officials can make significant improvements in the lives of LGBT older people throughout New York City. We look forward to working with government and policy leaders to help ensure that LGBT elders can age with broad community support, financially secure and in good health.

1. Guarantee sufficient funding for a 5-borough senior center for LGBT older adults.

The problem: Many LGBT older adults reside in community and long-term care settings that are not welcoming to their LGBT identities – and many report encountering hostility and discrimination. Few service providers are trained in LGBT cultural competence, few conduct outreach to the LGBT community, and few are prepared to address acts of discrimination aimed at LGBT elders. Fearful of mistreatment from peers and service providers, many LGBT elders all across New York City avoid accessing the services that they need. This is true in all 5 boroughs in New York City. The NYC-funded SAGE Center is a much-needed response since it provides a senior center space specifically designed for

LGBT older adults. But current SAGE Center funding allows for full on-site services only in lower Manhattan.

What SAGE offers LGBT elders in New York City: With NYC support, SAGE provides meals and an array of group programs for LGBT older adults at The SAGE Center in Chelsea. We also offer case management services. We offer more limited services at our satellite sites in Harlem and in Brooklyn.

Two recommendations:

1. Provide sufficient NYC funding to support LGBT-friendly senior center space and services in all five boroughs.
2. Provide funding to offer cultural competency training to service providers so that there is “no wrong door” for LGBT older adults who access services in NYC.

2. Support training for all city-funded aging service providers to ensure that they are welcoming to LGBT older adults.

The problem: Research and experience show LGBT older adults are less likely than their heterosexual peers to access aging services, and to engage with providers, senior centers, meal programs and other senior programs because they fear marginalization and/or discrimination based on their sexual orientation or gender identity. The effects of a lifetime of stigma and discrimination have placed many LGBT older adults at a greater risk for physical and mental distress, social isolation, depression and anxiety, poverty, chronic illness, delayed care-seeking, poor nutrition and premature mortality. Few service providers have undergone LGBT cultural competence training even though it creates more inclusive environments for all elders.

What SAGE is doing: To support aging providers in understanding the unique needs of LGBT older adults, SAGE’s National Resource Center on LGBT Aging has created a comprehensive LGBT cultural competence training program. In addition, SAGE has worked with the NYC Department for the Aging (DFTA) to offer LGBT competence training to newly hired case managers in the DFTA system.

Two Recommendations:

1. Fund LGBT cultural competency training for all aging service providers in New York City.
2. Require that all citywide agencies who support services for seniors e.g. Department for the Aging (DFTA), Department of Health and Mental Hygiene (DOHMH), Human Resources Administration (HRA), Adult Protective Services (APS) include LGBT cultural competence trainings as a standard component of their in-service array.

3. Provide NYC support for affordable housing for LGBT older adults.

The problem: Many LGBT older adults struggle to find secure and affordable housing—a reality that places them at a significant disadvantage at a vulnerable point in their lives. Due to higher levels of housing discrimination, financial insecurity and a general lack of affordable housing, many LGBT elders find that they cannot afford to continue living in the communities they have resided for many years. Others face discrimination or unwelcoming environments in elder housing and long-term care settings. In recent years, LGBT aging advocates have begun addressing these housing challenges through a variety of approaches, including developing LGBT-specific elder housing; working with local housing providers to increase their cultural competency with regard to LGBT older adults rights; informing LGBT elders about

their fair housing rights; developing innovative programs such as "homesharing"; and connecting LGBT elders to LGBT-friendly services, including housing supports, in their distinct geographic communities.

What SAGE offers LGBT elders in New York City: SAGE offers assistance with accessing low and affordable housing, advocates with LGBT older adults who are at risk of losing their housing, and works with local attorneys and community-based organizations to provide legal support on tenant advocacy. We partner with local organizations and developers who are seeking to address the affordable housing needs of LGBT older adults. And we make cultural competency training available to housing providers.

Three recommendations:

1. Fund LGBT cultural competency training for housing providers throughout New York City.
2. Fund the creation of affordable and affirming housing for LGBT older adults
3. Increase funding and access to LGBT-friendly support services in residential settings and NORC's (naturally occurring retirement communities).

4. Provide appropriate funding and other resources to support services for older people living with or at risk for HIV; fund and support HIV and aging training programs for service providers.

The problem: The number of older adults living with HIV/ AIDS in New York City is growing rapidly; 42% of positive New Yorkers are over fifty. This is due in part to advances in science and HIV. It is also due to the continued spread of HIV -- newly infected older adults account for 16% of all new HIV diagnoses annually. The AIDS epidemic has disproportionately affected gay men, transgender people, people of color, and poor and low-income people. Unfortunately, because many mistakenly assume older adults are sexually inactive, and because LGBT older adults often fear discrimination and therefore delay or avoid seeking services and care, many LGBT older adults aren't tested or diagnosed. As a result, when LGBT older adults are finally tested, it's more often a dual diagnosis of HIV and AIDS.

What SAGE is doing: SAGE promotes routine testing for HIV among its constituents and helps them to speak openly with their doctors about their health needs and behaviors. SAGE disseminates HIV and Aging resources in person and through our online channels. SAGE also facilitates Support Groups for LGBT older adults living with HIV, as well as Health and Wellness initiatives and case management specifically for HIV+ constituents across all of SAGE's sites.

Two recommendations:

1. Increase funding for direct service provision to older adults living with HIV and/or AIDS;
2. Provide funding for training to New York City providers on HIV and Aging.

5. Effectively protect LGBT older adults from all forms of elder abuse by harnessing existing New York City programs and policies.

The problem: LGBT older people, who are highly isolated in many instances, are at greater risk for elder abuse (including financial abuse), yet are less likely to report this abuse for fear of backlash and discrimination. Because LGBT older people are less likely to have children and more likely to be single, their support networks are thinner and they have fewer advocates available when incidents of elder abuse occur.

What SAGE is doing: SAGE provides case management and financial literacy programs to help prevent fiscal exploitation and elder abuse targeted at LGBT older adults. In addition, SAGE works with LGBT victims of elder abuse and provides individualized services to support and protect them. Within the

limits of our resources, SAGE provides training to service providers on identifying and treating LGBT older adults at-risk for elder abuse or exploitation.

Three recommendations:

1. **Provide funding for support services for specific populations at heightened risk for elder abuse (e.g. LGBT older adults)**
2. **Provide funding to train service providers and city agencies (e.g. APS) on identifying and working with LGBT older adults at risk for elder abuse.**
3. **Ensure that APS and all relevant city agencies prioritize LGBT older adults in their efforts to prevent and address elder abuse.**

6. New York City policies and programs must support training and employment for LGBT older adult workers.

The problem: Finding and retaining a fulfilling job can be difficult for many people, but it's especially challenging for LGBT people as they enter their later years. Age discrimination in the workplace is a growing problem, even though it is illegal. For lesbian, gay, bisexual and/or transgender (LGBT) older people, the danger of age discrimination is exacerbated since they must often deal with the added barriers of LGBT-bias and discrimination. Given that LGBT older adults are at heightened risk for poverty and have lower levels of retirement savings than older people in general, the ability to secure employment during the later working years is critically important.

What SAGE is doing: Through SAGEWorks, SAGE provides skills training to a limited number of LGBT workers age 40+ so that they can reach their maximum potential and remain productive, vital and contributing members of the work force. The number of program participants is limited due to limited funding. For those who participate, SAGEWorks offers a variety of workshops and seminars on job seeking, interviewing tips, computer skills and more. Participants also meet with trained coaches who review resumes and work experience and provide planning and support for job searches.

Three Recommendations:

1. Provide New York City funding for Workforce Development skills-building programs that focus on LGBT older adults;
2. Fund outreach to employers to encourage them to employ LGBT older workers.
3. Expand opportunities for older adults to engage in employment by increasing access to Title V programs.

7. Ensure that LGBT older New Yorkers in all 5 boroughs have access to at least 1 nutritious meal a day.

The problem: Adequate nutrition is a major concern for low income older adults. Senior centers are an important part of the solution since their services are used disproportionately by poor seniors. The New York City Department for the Aging (DFTA) estimates that more than 32% of older adults in NYC are living in poverty—with the poverty rate among senior center participants being even higher. SAGE's experience and the available research indicates that LGBT older adults face even higher levels of poverty, along with accompanying challenges with hunger and nutrition. The SAGE Center offers a nutritious meal program for LGBT older adults, but the program operates only in lower Manhattan and is only able to serve 130 seniors a day.

What SAGE is doing: The SAGE Center Healthy Food Program provides early dinners, nutritional assessments, educational seminars, greenmarket initiatives and, soon, a food pantry that will provide dry and canned goods for SAGE constituents to take home. But due to funding limitations this program is available only in lower Manhattan.

Two recommendations:

1. **Increase funding to support nutritious meals for LGBT older adults in all five boroughs.**
2. **Mandate flexibility in NYC-funded senior meal programs to accommodate innovations in senior nutritional programming (e.g. off-site dining options)**

SAGE (Services and Advocacy for GLBT Elders) is the country's largest and oldest organization dedicated to improving the lives of lesbian, gay, bisexual and transgender (LGBT) older adults. Founded in 1978 and headquartered in New York City, SAGE offers supportive services and consumer resources to LGBT older adults and their caregivers, advocates for public policy changes that address the needs of LGBT older people, and provides training for aging providers and LGBT organizations through its National Resource Center on LGBT Aging.

The SAGE Center is a full-time center for lesbian, gay, bisexual and transgender (LGBT) older people age 60+ in New York City—the first center of its kind in the country. Founded in 2012 as part of New York City's Innovative Senior Center initiative, The SAGE Center provides an array of unique services and programs related to arts and culture, fitness, food and nutrition, health and wellness, and lifelong education for LGBT elders.

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RECOMMENDATIONS TO INCOMING NEW YORK CITY MAYOR BILL DEBLASIO

- 1. Withdraw legal challenge to the End the Discriminatory Profiling Act (Local Law 71 of 2013) and ensure effective implementation of ban on profiling and discriminatory policing and NYPD Oversight Act (Local Law 70 of 2013).**

We urge incoming Mayor DeBlasio to immediately withdraw upon taking office the pending legal challenge to the historic End Discriminatory Profiling Act, which made history by creating an enforceable ban against profiling and discriminatory policing based on sexual orientation and gender identity in addition to race, religion, age, ability, HIV status, immigration status, and housing status. Effective implementation of this landmark legislation, along with the NYPD Oversight Act (Local Law 70 of 2013), is critical to promoting the safety LGBTQ youth of color who experience profiling and discriminatory policing on multiple fronts, including sexual orientation and gender identity.

- 2. Withdraw the appeal in *Floyd v. City of New York* and actively engage in effective implementation of the remedies ordered by Judge Scheindlin & meaningful engagement with communities directly affected to identify additional reforms to address profiling and discriminatory policing practices.**

We urge incoming Mayor DeBlasio to withdraw the City's appeal of the rulings in *Floyd v. City of New York* and *Ligon v. City of New York*, and to work with the federal monitor and the other parties to revise policies, training, monitoring, supervision and discipline systems related to stop and frisk practices. We urge the City to actively engage in good faith in a process of developing and implementing further reforms in collaboration with communities directly impacted by discriminatory policing, and to actively support creation of a formalized and sustained role for impacted communities in the implementation, monitoring and evaluation of the joint remedies.

- 3. Issue an Executive Order and promote administrative policies prohibiting the confiscation or citation of possession of condoms or presence of condoms on premises as evidence of intent to engage in prostitution-related offenses.**

Currently New York City police officers all too frequently confiscate and destroy condoms found during frisks and searches, or confiscate and cite condoms as arrest evidence of intent to engage in prostitution-related offenses. This widespread practice creates a strong disincentive to carrying condoms for fear of police harassment or that they will be used to justify arrest and criminal charges, particularly among women and LGBTQ people of color who are routinely profiled as being engaged in prostitution-related offenses. In order to protect the public health and reproductive rights of all New Yorkers and promote the goals of New York City's long standing condom distribution program, we urge incoming Mayor DeBlasio to issue an **executive**

order within 100 days of taking office that prohibits NYPD officers from confiscating or citing mere possession of condoms or presence of condoms on a premise as evidence of intent to engage in a prostitution-related offense.¹ Additionally, we urge the new Mayor to direct the new Police Commissioner to issue departmental directives and any necessary guidance on implementation of the Executive Order prohibiting confiscation or citation of condoms as evidence of intent to engage in prostitution-related offenses.

4. Issue an Executive Order and promote administrative policies requiring independent and objective proof of consent to search

Currently, too many New Yorkers are unaware that they are not required to consent to a search where no other constitutional basis for the search exists. Additionally, even where individuals are aware of and wish to exercise their right to not consent to a search, they all too often feel unable to do so in the face of officers' orders to empty their pockets or open up their purse during a stop or other law enforcement action. All too often, searches ostensibly conducted pursuant to an individual's "consent" lead to arrests of LGBTQ youth of color based on possession of small amounts of marijuana or condoms found during such searches. In order to ensure that all NYPD searches are constitutionally sound, we urge incoming Mayor DeBlasio to issue an **executive order within 100 days of taking office** that requires NYPD officers to inform New Yorkers of their right to not consent to a search where no other lawful basis for the search exists, and to obtain independent and objective proof of consent prior to conducting any search where no other lawful basis for the search exists.² Additionally, we urge the new Mayor to direct the new Police Commissioner to issue departmental directives and any necessary guidance on implementation of the Executive Order with respect to consent searches.

5. Issue Executive Orders and promote administrative policies and guidance on sexual harassment of members of the public by NYPD officers.

There is currently no NYPD policy, training or program explicitly prohibiting or addressing sexual harassment or assault of members of the public by NYPD officers. Sexual harassment of women and LGBTQ New Yorkers of color is an all too frequent, yet often invisible, characteristic of the NYPD's discriminatory stop and frisk practices, and takes place with alarming frequency in other contexts. We urge incoming Mayor Bill DeBlasio to issue an **Executive Order within 100 days of taking office** explicitly prohibiting sexual harassment and assault of members of the public by NYPD officers and instituting a program of training, monitoring and discipline with respect to sexual misconduct by law enforcement officers consistent with the Executive Guidance issued by the International Association of Chiefs of Police.³ Moreover, we urge the new Mayor to

¹ The President's Advisory Council on HIV/AIDS (PACHA) recently issued a recommendation that criminal laws be revised to eliminate the use of possession of condoms as the basis for a criminal prosecution or sentence enhancement. See <http://www.nocondomsasevidence.org/wp-content/uploads/2013/04/PACHA-Report-includes-a-proposition-to-eliminate-condom-consent-decrees-negotiated-with-the-New-Orleans-Police-Department-and-the-Puerto-Rico-Police-Department-indicating-that-such-policies-are-nationally-recognized-as-a-best-practice-for-local-police-departments>.

³ See International Association of Chiefs of Police, *Addressing Sexual Offenses and Misconduct by Law Enforcement: Executive Guide* (2011), available at:

direct the new Police Commissioner to issue departmental directives and any necessary guidance on implementation of the Executive Order on sexual harassment by NYPD officers.

6. Issue Executive Orders and promote administrative policies and guidance requiring police identification

For many New Yorkers—particularly those whose communities are most aggressively policed—encounters with police are characterized by the failure of officers to identify themselves as law enforcement officials. Research suggests that in the absence of anonymity officers are less likely to engage in brutal and discourteous behavior. We urge incoming Mayor DeBlasio to **issue an executive order in his first 100 days in office** requiring NYPD officers to identify themselves, explain the reasons for law enforcement action, and provide information about how to file a complaint or commend officers for professional and courteous behavior. Moreover, we urge the new Mayor to direct the new Police Commissioner to issue departmental directives and any necessary guidance on implementation of the Executive Order on officer identification.

7. Ensure sufficient funding for safe and appropriate emergency, temporary, and transitional shelters, and long term affordable housing for LGBTQ homeless youth.

One in four LGBTQ youth are kicked out or pushed out of their homes at some point, and it has been estimated that 30-50% of homeless youth identify as LGBTQ. We urge incoming Mayor DeBlasio to make a clear and consistent commitment to ensuring adequate funding to ensure access to safe and appropriate shelter and short and long term housing options for homeless youth, and particularly for LGBTQ youth, and to fully implementing the recommendations of the NYC Commission on LGBTQ runaway and homeless youth.

Streetwise & Safe (SAS) is a New York City-based organization focused on policing and criminalization of LGBTQ youth of color. Currently, SAS serves on the Steering Committee of Communities United for Police Reform, a city-wide campaign challenging the NYPD's use of "stop and frisk" and other discriminatory, unlawful and abusive policing practices, and on the Executive Committee of a statewide coalition of public health advocates, anti-trafficking groups, civil rights organizations, and LGBTQ groups working to end police and prosecutors' citation of possession of condoms as evidence of intent to engage in prostitution-related offenses. SAS also played a leadership role in developing, negotiating, and implementing widespread changes to the NYPD's Patrol Guide to protect the rights of transgender New Yorkers issued in June 2012. We conduct "know your rights" trainings reaching hundreds of LGBTQ youth across the city each year, and works to create opportunities for LGBTQ youth of color to claim a seat at policy discussion tables as full participants, speak out on their own behalf, act collectively to protect and advance their rights, and demand choices that allow them to maximize their safety, self-sufficiency, and self-determination. SAS also partners with organizations across the country to challenge laws and policies contributing to criminalization of LGBTQ youth.

<http://www.theiacp.org/Portals/0/pdfs/AddressingSexualOffensesandMisconductbyLawEnforcementExecutiveGuide.pdf>

Sylvia Rivera Law Project – De Blasio Briefing

The following recommendations are put forth by the Sylvia Rivera Law Project. The Sylvia Rivera Law Project (SRLP) works to guarantee that all people are able to self determine gender identity and expression regardless of income or race and without facing harassment, discrimination or violence. As a community based 501c(3) not for profit organization, SRLP provides free legal services and organizing opportunities to transgender, gender non-conforming and intersex individuals who are low-income and/or people of color. Through our legal services program, we work with hundreds of transgender immigrants each year who are caught at the intersections of our criminal and immigration enforcement systems. Many of our clients have experienced violence in their home countries as well as violence here in New York City, often at the hands of law enforcement.

1. Repeal the Secure Communities Program and/or create policy that further limits the enforcement of immigration detainees in New York City.

Federal, State and City legislation that support the devolution immigration enforcement such as Secure Communities (S-Comm) and the Criminal Alien Program (CAP) are devastating low income transgender immigrant communities. As much research and policy suggests, the NYPD disproportionately targets low income communities of color, lesbian, gay, bisexual and transgender communities and perceived immigrant communities¹. Low income transgender immigrants are among the most heavily policed for ‘quality of life crimes’ in New York City. Although the city counsel’s 2012-2013 initiatives somewhat limit the impact of S-Comm and CAP on the many immigrant communities of New York City, this legislation limits relief to individuals with no misdemeanor convictions in the past 10 years. This legislation does not benefit individuals who are profiled and targeted because of their transgender and gender non-conforming status and who are then forced to take unfavorable pleas to charges like solicitation or other prostitution-related offenses. . As a result, our communities face disproportionate levels of deportation under programs like Secure Communities. We ask instead that you follow the lead of jurisdictions such as Chicago in rejecting Secure Communities and refusing to honor ANY immigration detainees. A policy that separates police powers from immigration enforcement will the disproportionate impact of enforcement programs on transgender people and make the city safer for all immigrants.

2. Mandate the New York City Human Resource Administration to implement a policy for gender change on New York State Benefits Cards that does not require genital surgery, in order to better align with the Social Security Administration, U.S. Department of State, prevailing medical consensus and to increase safety from discrimination.

Many low income people rely on their NYS benefits Card, issued by the Human Resource Administration, as their sole form of identification. As such it is imperative that this identification card accurately reflect the gender of transgender welfare consumers.

Most forms of ID, including the New York State ID, Social Security Card, United States Passport, and all immigration documents – allow for a transgender person to update their gender with a simple doctor’s letter. HRA’s current policy requires either an amended birth certificate or proof of genital reassignment surgery. Less than 25% of transgender people – less than 5% of transgender men – have had this kind of procedure². Furthermore, such treatments are not covered by Medicaid, the primary health provider for most people on public benefits, and changing birth certificates can be cumbersome or impossible.

As a result, most people cannot obtain a Benefits card that accurately reflects their gender. When a person shows an ID that does not match their gender, it may “out” them as transgender, and subject them to a high risk of discrimination, harassment and violence. Despite years of advocacy from a broad coalition of service providers and activists about this discriminatory impact, HRA continues to insist it cannot change its policy.

We urge you to end a decade of plain discriminatory bias. New York City’s HRA must amend its outdated policy for transgender New Yorkers to be safe from transphobic discrimination.

¹ Need citation for this.

² Cite NCTE statistic on this

3. Challenge the New York State Department of Health to repeal its discriminatory regulation that excludes transition related healthcare from Medicaid Coverage. In the alternative, create a method for providing this coverage in New York City.

In 1998 the New York State Department of Health passed a regulation excluding from Medicaid coverage any care “for the purposes of gender transition”³, despite receiving only positive information about the necessity for providing the care⁴. As the public record shows, this denial was not based on medical information.

As the National Center For Transgender Equality and the National Gay and Lesbian Task Force [found](#): transgender people live in poverty at 4 times the national average⁵. Medicaid is meant to ensure that low-income people have the care they need to survive, and no one should be denied that just because of who they are. Yet transgender people on Medicaid are forced to go without critical, life-changing treatments⁶, or find ways to pay for them out of pocket, even though these same treatments are available to non-transgender people. In fact, most if not all of the care that is denied to transgender people is available to non-transgender people.

Today, organizations such as the American Medical Association, American Psychiatric Association, and American Psychological Association consider this to be essential, necessary care. Furthermore, denial of such care may be considered illegal under New York City law. For example, the Administration of Children’s Services (ACS) adopted a policy in 2010 that provides for transgender healthcare, even though it is not covered by Medicaid, under the principle that denial of such necessary care would be discriminatory⁷.

We urge the de Blasio administration to take a stand on this issue. Tell the Governor and Commission of Health Nirav Shah that New York City will not discriminate on the basis of gender identity when it comes to life-saving health care.

In the alternative, we urge you to follow in the examples of Portland, Oregon and San Francisco, California, and adopt a city-based means for covering what Medicaid will not. The truth is that covering this healthcare for transgender people is affordable. In 2011 the city of Portland determined that the cost increase was only .08% of its healthcare insurance budget. Furthermore, the city and county of San Francisco have provided comprehensive coverage for years with research showing no discernible cost difference. As [Basic Rights Oregon Points](#) out: No jurisdiction, employer or insurance company which covers trans health care has found the cost to be prohibitive.

4. Push the NYC Department of Corrections to implement its promised transgender specific housing option inside New York City jails so that transgender people in custody can be safer from rape, assault and harassment.

Transgender-specific housing has consistently been one of the top demands of our incarcerated community members. Following the adoption of the Prison Rape Elimination Act (PREA) guidelines, the NYC department of corrections instituted a PREA compliance team to meet with LGBT advocates with regards to NYC DOC’s efforts to improve the treatment of and conditions for the LGBTI population at Rikers Island.

SRLP began participating in these discussions during the fall of 2012 with Erik Berliner and Maggie Peck from the Department of Corrections. During these meetings SRLP, its clients and other advocates were promised a transgender specific pod as a means to comply with PREA’s safety from sexual assault requirements. The transgender housing unit was intended to be an optional, potentially safer space available upon request by inmates. Approximately one year ago the DOC team promised that the proposed policy was “on the Commissioner’s desk.” However, we have yet to hear any updates about its adoption and /or implementation.

We urge you to push the Department of Corrections to renew its meetings with SRLP and other advocates, and adopt and implement the proposed policy so that transgender people in NYC jails have more options for personal safety.

³ Cite regulation

⁴ Cite record of public comments submitted

⁵ Cite instead of hyperlink

⁶ Cite infographic, SRLP memo

⁷ ACS Medicaid Non-Reimbursables Policy

5. Compel the New York City of Mental Health and Hygiene to update its gender marker change policy for transgender people who are born in New York City.

New York City's Department of Health and Human Services continues to follow a medically outdated policy with regards to changing ones gender on their birth certificate. The Department onerously requires that a person submits documents that show:

"...you have had convertive surgery. In order for the DOHMH to determine that a person has had convertive surgery DOHMH looks for information such as 1) when the surgery was performed; 2) who performed the surgery; 3) the medically specific details of the trans-surgeries and reconstructive surgeries performed (for example, penectomy, orchietomy, vaginoplasty, hysterectomy and/or phalloplasty) ; 4) and signed statement or report from the surgeon who performed the surgery that the surgery was actually performed and successfully completed."⁸

The DOHMH also requires an original operative report as well as a post surgery evaluation.

This policy is not consistent with current medical standards or other progressive jurisdictions. Many transgender people do not want or need surgery. Many who do want and need surgery can not afford to get it. As stated above, New York State Medicaid specifically excludes transition related health care, including the required surgeries. As a result, most low-income transgender people are not able to update their birth certificates under the current policy.

In recent years several jurisdictions have updated their gender change policies for birth certificates to mirror those put forward by the Department of State, USCIS and the SSA – requiring simply a letter from a medical professional. This policy reflects the privacy and autonomy of individuals to make decisions between themselves and their Dr's. The States include Washington, Washington DC, Oregon ? (can you add the rest of this ?) Should we say NY State is considering this – or leave it out ?

It is imperative the New York City adopts a non discriminatory gender change policy for transgender New Yorkers.

6. Repeal Stop and Frisk legislation in New York City and honor the requirements set forward in the Floyd decision to limit the profiling of low income transgender people of color by the NYPD.

The decision in *Floyd* and the Judge's Remedial Order are essential for low income transgender people and transgender people of color. Many of SRLP's clients have been arrested and/or given a summons following unconstitutional stops and frisks. The remedies the judge ordered, specifically with respect to training, discipline, and supervision of officers will help my clients avoid needless entanglements with the criminal justice system. Low income transgender people are frequently stopped for engaging in prostitution simply of their gender expression and perceived race and not because they were engaged or about to engage in committing any crime. Many low income transgender people are also frisked following a stop, and these frisks often result in unjustified arrests. For example, when police officers find condoms on SRLP's clients, the police officers use the condoms to justify their arrests for prostitution even when they are not, and were not, engaged in such acts. Further, needles and hormones prescribed by doctors for hormone therapy are used to justify arrests for drug possession. Police officers frequently do not believe low income transgender people when they try to explain that their possession of these objects is legal.

Stop and frisk practices must be eradicated in their entirety in New York City so that no one is subject to disproportionate profiling and policing.

⁸ Cite to policy memo – that exists, right?

Appendix II — Contact Information

Audre Lorde Project (ALP)

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FIERCE

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Girls for Gender Equity (GGE)

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HIV Law Project

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Immigrant Defense Project (IDP)

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NYC Anti-Trafficking Network (NYATN)

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National Organization for Women - New York City (NOW-NYC)

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NYC Gay and Lesbian Anti-Violence Project (AVP)

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New York Civil Liberties Union (NYCLU)

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Services for GLBT Elders (SAGE)

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Streetwise and Safe (SAS)

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Sylvia Rivera Law Project

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Appendix III – Complaints

Special
Criminal Court of the City of New York
Part APAR County of Kings

THE PEOPLE OF THE STATE OF NEW YORK

State of New York

V.

County of Kings

THOMAS

Defendant

Police Officer John Dennis, shield number 15919, says that on or about [REDACTED] 2011 at approximately [REDACTED] at [REDACTED], County of Kings, State of New York, the defendant committed the offense of:

PL 240.37(2) LOITERING FOR THE PURPOSE OF ENGAGING IN A PROSTITUTION OFFENSE

In that the defendant did:

REMAIN OR WANDER ABOUT IN A PUBLIC PLACE AND REPEATEDLY BECKON TO, OR REPEATEDLY STOP, OR REPEATEDLY ATTEMPT TO STOP, OR REPEATEDLY ATTEMPT TO ENGAGE PASSERS-BY IN CONVERSATION, OR REPEATEDLY STOP OR ATTEMPT TO STOP MOTOR VEHICLES, OR REPEATEDLY INTERFERE WITH THE FREE PASSAGE OF OTHER PERSONS, FOR THE PURPOSE OF PROSTITUTION, OR OF PATRONIZING A PROSTITUTE AS THOSE TERMS ARE DEFINED IN ARTICLE TWO HUNDRED THIRTY OF THE PENAL LAW

The source of deponent's information and the ground for deponent's belief are as follows:

The deponent is informed by the sworn statement of Police Officer Thomas V. Hill, shield number 15783 that, at the above time and place, the informant observed the defendant remain in or wander about a public place for a period of thirty minutes, during which defendant repeatedly beckoned to passers-by and stopped one passers-by, engaging in conversation with said passers-by, stop only male passers-by and defendant did not beckon to or converse with female passers-by who passed by during the same period, thus stopping only passers-by of one gender, dressed in provocative or revealing clothing, specifically Long black wig, tight short jean shorts, light red shirt.

The deponent is informed by the sworn statement of informant that the above location is not a bus stop, nor an open commercial establishment, nor a house of worship or other place where people ordinarily congregate, the above area is a commercial location, informant is aware that the New York City Police Department has made numerous arrest for violations of Penal Law 240.37, 230.00 and/or 230.03 at the above location, informant is aware that the location is frequented by people engaging in promoting prostitution, patronizing a prostitute or loitering for the purpose of prostitution, informant is aware that defendant has previously been arrested for violating Penal Law 240.37, 230.00 and/or 230.03, informant recovered from defendant's person currency in the following denominations: \$1.25, Sexual paraphernalia, namely: One condom.

The deponent is informed by the sworn statement of informant that, based on the foregoing, and based on informant's training and experience as a police officer, informant believes that defendant was loitering for the purpose of prostitution and not engaging in other activity, such as panhandling or squeegeeing.

False statement made in this document are punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law.

[REDACTED] 2011

2011KNO [REDACTED]



Page [REDACTED] of [REDACTED]

Area [REDACTED] of [REDACTED]

SUPPORTING DEPOSITION - LOITERING FOR PROSTITUTION (PL 240.37.0) - Page 2 of 2

DEFENDANT Winters ARREST NO. 100-111111
(Last name, first name)

2. ADDITIONAL INDICATIONS OF PROSTITUTION:

Additionally,

- the above location is not a bus stop, bus or open commercial establishment, nor a house of worship or other place where people ordinarily congregate,
- the above area is:
 - a commercial location, an industrial location,
 - there was sexual-type debris, namely:
 - condom wrappers used condoms
 - other (describe debris) _____

located at or near the above location,

- I am aware that the New York City Police Department has made numerous arrests for violations of Penal Law sections 240.37, 240.00 and/or 230.03 at the above location,
- I am aware that the location is frequented by people engaging in promoting prostitution, patronizing a prostitute and/or loitering for the purpose of prostitution,
- I am aware that defendant has previously been:
 - arrested for convicted of arrested for and convicted of violating Penal Law Sections 240.37, 230.00 and/or 230.03,
- I recovered, from defendant's person:
 - currency in the following denomination: (fill in denomination) \$ 1.25
 - sexual paraphernalia, namely: (describe paraphernalia) Condoms
 - (fill in number) 1 condoms.

3. STATEMENTS BY THE DEFENDANT (if applicable, this constitutes notice pursuant to 210.50(3)(a) of the CPL)

On 1/11/02 (date), at 100-111111 (town) of NYC (location), the defendant stated the following in my presence: (fill in substance of statement) 4 MY OR YOU SLEEPING ME?

False statements made herein are punishable as a class A Misdemeanor pursuant to section 210.45 of the penal law.

1/11/02 Date PO [Signature] Signature of Police Officer

Appendix III — Complaints *cont'd*

FD-1

2011 902/25

SUPPORTING DEPOSITION - LOITERING FOR PROSTITUTION (PL 240.27.2) - Page 2 of 3

DEFENDANT: Thomas ARREST NO. [REDACTED]
(LAST NAME, FIRST NAME)

4. BASIS OF CONCLUSION THAT DEFENDANT WAS LOITERING FOR THE PURPOSE OF PROSTITUTION:

1. (check all that apply)

- have had professional training as a police officer in the detection of individuals loitering for the purpose of prostitution,
- have previously made arrests for loitering for the purpose of prostitution,

Based upon the foregoing, in my opinion, the defendant in this case was loitering for the purpose of prostitution, and not engaging in other activity, such as panhandling or begging.

5. RESISTING ARREST: (if applicable)

The defendant intentionally attempted to prevent me from arresting him/her by: (check all that apply)

- fleeing defendant's area
- giving a limp
- holding defendant's arms against defendant's body
- punching at me
- kicking at me
- struggling with me
- refusing to be handcuffed
- other (describe): _____

6. PROPERTY: (if applicable)

I recovered (describe property): 1 Black Rock + back, 1 Sledge, 1 Car, 1 Backpack, 1 Hat, 1 ID, 1 Paper, 2 Keys, 1 Card
from (describe location from which property recovered): road
and vouchered it under number(s) [REDACTED]

False statements made herein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law.

[Signature] Date: 1/11 Signature of Police Officer

Reviewed by: [Signature]
Signature

Print name of reviewing officer: [Signature]

Rev. 12/11/02

Criminal Court of the City of New York

Part APAR County of Kings

THE PEOPLE OF THE STATE OF NEW YORK

2011KNO [redacted] State of New York
County of Kings

v.

[redacted] Defendant



Police Officer Donald Seto, shield number 68057, says that on or about [redacted] 2011 at approximately 3:59 AM at 60 [redacted] County of Kings, State of New York, the defendant committed the offense of:

PL 240.37(2) LOITERING FOR THE PURPOSE OF ENGAGING IN A PROSTITUTION OFFENSE *prostitution*

in that the defendant did REMAIN OR WANDER ABOUT IN A PUBLIC PLACE AND REPEATEDLY BECKON TO, OR REPEATEDLY STOP, OR REPEATEDLY ATTEMPT TO STOP, OR REPEATEDLY ATTEMPT TO ENGAGE PASSERS-BY IN CONVERSATION, OR REPEATEDLY STOP OR ATTEMPT TO STOP MOTOR VEHICLES, OR REPEATEDLY INTERFERE WITH THE FREE PASSAGE OF OTHER PERSONS, FOR THE PURPOSE OF PROSTITUTION, OR OF PATRONIZING A PROSTITUTE, AS THOSE TERMS ARE DEFINED IN ARTICLE TWO HUNDRED THIRTY OF THE PENAL LAW.

The source of deponent's information and the ground for deponent's belief are as follows:

The deponent is informed by the sworn statement of Police Officer (Andrew J. Dede) shield number 28659 that, at the above time and place, the informant observed the defendant remain in or wander about a public place for a period of twenty minutes, during which defendant repeatedly beckoned to passers-by and stopped two passers-by, engaging in conversation with said passers-by, stop only male passers-by and defendant did not beckon to or converse with female passers-by who passed by during the same period, thus stopping only passers-by of one gender, dressed in provocative or revealing clothing, specifically see through stocking, blue sleeveless dress.

The deponent is informed by the sworn statement of informant that the above location is not a bus stop, nor an open commercial establishment, nor a house of worship or other place where people ordinarily congregate, the above area is an industrial location, informant is aware that the New York City Police Department has made numerous arrest for violations of Penal Law 240.37, 230.00 and/or 230.03 at the above location, informant is aware that the location is frequented by people engaging in promoting prostitution, patronizing a prostitute or loitering for the purpose of prostitution, informant is aware that defendant has previously been arrested for violating Penal Law 240.37, 230.00 and/or 230.03, informant recovered from defendant's person condoms in quantity of nineteen.

The deponent is informed by the sworn statement of informant that defendant admitted to informant that defendant was engaged in prostitution-related activity, in that defendant stated, in substance, to informant: 'I'm not doing anything'.

The deponent is informed by the sworn statement of informant that, based on the foregoing, and based on informant's training and experience as a police officer, informant believes that defendant was loitering for the purpose of prostitution and not engaging in other activity, such as panhandling or scavenging.

False statement made in this document are punishable as a class a misdemeanor pursuant to section 210.45 of the Penal Law.

[redacted] 2011

PO Seto

[redacted]

[redacted]

STATE OF NEW YORK
CRIMINAL COURT OF THE CITY OF NEW YORK
SUBMITTING DEPOSITION - LOITERING FOR PROSTITUTION OR PATRONIZING A PROSTITUTE - Penal Law

[redacted]

Appendix III — Complaints *cont'd*

Form 2211 10/23/02

SUPPORTING DEPOSITION - LOITERING FOR PROSTITUTION (PL 240.37.0) - Part 1 of 2

DEFENDANT Dominic ARREST NO. _____
(Last name, first name)

2. ADDITIONAL INDICATIONS OF PROSTITUTION:

Additionally,

the above location is not a bus stop, nor an open commercial establishment, nor a house of worship or other place where people ordinarily congregate,

the above area is:

a commercial location, an industrial location,

there was sexual type debris, namely:

condom wrappers used condoms

other (describe debris) _____

scattered at or near the above location.

I am aware that the New York City Police Department has made numerous arrests for violations of Penal Law Sections 240.37, 240.00 and/or 230.03 at the above location.

I am aware that the location is frequented by people engaging in promoting prostitution, patronizing a prostitute and/or loitering for the purpose of prostitution.

I am aware that defendant has previously been:

arrested for convicted of arrested for and convicted of

violating Penal Law Sections 240.37, 240.00 and/or 230.03.

I recovered, from defendant's person:

currency in the following denominations: (fill in denominations) _____

sexual paraphernalia, namely: (describe paraphernalia) condoms

(fill in number) 19 condoms.

3. STATEMENTS BY THE DEFENDANT: (if applicable, this constitutes notice pursuant to §10.50(1)(a) of the CPL)

On 11/11/02 (date), at 111th St (street), in Manhattan (borough), the defendant stated the following in my presence: (fill in substance of statement) "I'm not doing anything"

False statements made herein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law.

Date 11/11/02 Signature of Police Officer [Signature]

Rev. 12/11/02

SUPPORTING DEPOSITION - LOITERING FOR PROSTITUTION (PL 24637.0) - Page 2 of 3

DEFENDANT Demioff ARREST NO. _____
(LAST NAME, FIRST NAME)

4. BASIS OF CONCLUSION THAT DEFENDANT WAS LOITERING FOR THE PURPOSE OF PROSTITUTION:

(check all that apply)

- have had professional training as a police officer in the detection of individuals loitering for the purpose of prostitution,
- have previously made arrests for loitering for the purpose of prostitution.

Based upon the foregoing, in my opinion, the defendant in this case was loitering for the purpose of prostitution, and not engaging in other activity, such as prohanding or spicing.

5. RESISTING ARREST (if applicable)

- The defendant intentionally attempted to prevent me from arresting him/her by: (check all that apply)
 - falling defendant's arms
 - going limp
 - holding defendant's arms against defendant's body
 - punching at me
 - kicking at me
 - struggling with me
 - refusing to be handcuffed
 - other (describe) _____

6. PROPERTY: (if applicable)

I recovered (describe property) 19 Sealed condoms
 from (describe location from which property recovered) pocketbook
 and secured it under number(s) _____

False statements made herein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law.

 Date Signature of Police Officer

 Signature

Print name of reviewing officer Sgt Semas
 Rev. 12/11/02

Appendix III – Complaints *cont'd*

SUPPORTING DEPOSITION - LOITERING FOR PROSTITUTION (PL 240 37) - Part 1 of 3

CRIMINAL COURT OF THE CITY OF NEW YORK

PEOPLE OF THE STATE OF NEW YORK

against

Hilda
(Defendant)

Arrest No. _____

Criminal Court of the City of New York

Part APAR County of Kings

2011KNO

THE PEOPLE OF THE STATE OF NEW YORK

V.

HILDA

Defendant



Police Officer Ryan Hayes, shield number 21873, says that on or about _____, 2011 at approximately 3:13 PM at _____, County of Kings, State of New York, the defendant committed the offense of:

PL 240 37(2) LOITERING FOR THE PURPOSE OF ENGAGING IN A PROSTITUTION OFFENSE

in that the defendant did:

REMAIN OR WANDER ABOUT IN A PUBLIC PLACE AND REPEATEDLY BECKON TO, OR REPEATEDLY STOP, OR REPEATEDLY ATTEMPT TO STOP, OR REPEATEDLY ATTEMPT TO ENGAGE PASSERS-BY, IN CONVERSATION, OR REPEATEDLY STOP OR ATTEMPT TO STOP MOTOR VEHICLES, OR REPEATEDLY INTERFERE WITH THE FREE PASSAGE OF OTHER PERSONS, FOR THE PURPOSE OF PROSTITUTION, OR OF PATRONIZING A PROSTITUTE AS THOSE TERMS ARE DEFINED IN ARTICLE TWO HUNDRED THIRTY OF THE PENAL LAW.

The source of deponent's information and the ground for deponent's belief are as follows:

The deponent is informed by the sworn statement of Police Officer [Diego E. Dotrek, shield number 12213] that, at the above time and place, the informant observed the defendant remain in or wander about a public place for a period of thirty minutes, during which defendant repeatedly beckoned to passers-by and stopped two passers-by, engaging in conversation with said passers-by, stop only male passers-by and defendant did not beckon to or converse with female passers-by who passed by during the same period, thus stopping only passers-by of one gender, standing with other individuals whom informant is aware have previously been arrested for prostitution-related activities.

The deponent is informed by the sworn statement of informant that the above location is not a bus stop, nor an open commercial establishment, nor a house of worship or other place where people primarily congregate; the above area is an industrial location, informant is aware that the New York City Police Department has made numerous arrests for violations of Penal Law 240 37, 230 00 and/or 230 03 at the above location; informant is aware that the location is frequented by people engaging in promoting prostitution, patronizing a prostitute or loitering for the purpose of prostitution, informant is aware that defendant has previously been arrested for violating Penal Law 240 37, 230 00 and/or 230 03, informant recovered from defendant's person condoms in quantity of seventeen.

The deponent is informed by the sworn statement of informant that, based on the foregoing, and based on informant's training and experience as a police officer, informant believes that defendant was loitering for the purpose of prostitution and not engaging in other activity, such as panhandling or squeegeeing.

False statement made in this document are punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law.

_____ 2011

RD Hayes

Form _____

Arrest No. _____

SUPPORTING DEPOSITION - LOITERING FOR PROSTITUTION (PL 240.17) - Page 2 of 3

DEFENDANT Hilde ARREST NO.
(Last name, first name)

2. ADDITIONAL INDICATIONS OF PROSTITUTION:

Additionally,

- the above location is not a bus stop, nor an open commercial establishment, nor a house of worship or other place where people ordinarily congregate,
- the above area is:
 - a commercial location
 - an industrial location,
- there was sexual-type debris, namely:
 - condom wrappers
 - used condoms
 - other (describe debris) _____

scattered at or near the above location,

- I am aware that the New York City Police Department has made numerous arrests for violations of Penal Law Sections 240.17, 230.00 and/or 230.03 at the above location,
- I am aware that the location is frequented by people engaging in promoting prostitution, patronizing a prostitute and/or loitering for the purpose of prostitution,
- I am aware that defendant has previously been:
 - arrested for
 - convicted of
 - arrested for and convicted ofviolating Penal Law Sections 240.17, 230.00 and/or 230.03,
- I recovered, from defendant's person:
 - currency in the following denominations: (fill in denomination) _____
 - sexual paraphernalia, namely: (describe paraphernalia) Four liquid
Personal Lubricant
 - (fill in number) (17) condoms.

3. STATEMENTS BY THE DEFENDANT: (if applicable, this constitutes notice pursuant to 700.30(1)(a) of the CPL)

- On _____ (date), at _____ (time) at _____ (location), the defendant stated the following in my presence: (fill in substance of statement) _____
N/A

False statements made herein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law.

 / 11 PO
Date Signature of Police Officer

Appendix III — Complaints *cont'd*

SUPPORTING DEPOSITION - LOITERING FOR PROSTITUTION (PL 368.31) - Page 2 of 2

DEFENDANT Hilda ARREST NO.
(LAST NAME, FIRST NAME)

4. BASIS OF CONCLUSION THAT DEFENDANT WAS LOITERING FOR THE PURPOSE OF PROSTITUTION:

(check all that apply)

- have had professional training as a police officer in the detection of individuals loitering for the purpose of prostitution,
- have previously made arrests for loitering for the purpose of prostitution.

Based upon the foregoing, in my opinion, the defendant in this case was loitering for the purpose of prostitution, and not engaging in other activity, such as panhandling or squeegeeing.

5. RESISTING ARREST: (if applicable)

The defendant intentionally attempted to prevent me from arresting him/her by: (check all that apply)

- pulling defendant's arms
- going limp
- holding defendant's arms against defendant's body
- punching at me
- kicking at me
- struggling with me
- refusing to be handcuffed
- other (describe) _____

N A

6. PROPERTY: (if applicable)

I recovered (describe property) (12) Condoms and (4) Liquid Personal Lubricants
from (describe location from which property recovered) Def's Area
and vouchered it under number(s) Koucher #

False statements made herein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law.

 Date PO DTD Signature of Police Officer

Reviewed by: Signature

Print name of reviewing officer:

Rev. 1.2/11/02

Appendix IV — Annotated Bibliography

All Our Children: Strategies to Prevent Homelessness, Strengthen Services and Build Support for LGBTQ Youth (2010)

NYC Commission on Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Runaway and Homeless Youth

http://www.nyc.gov/html/om/pdf/2010/pr267_10_report.pdf

The NYC Commission on LGBTQ Runaway and Homeless Youth was convened in 2009 by Mayor Bloomberg; this was their final report to the Mayor in 2010. The report provides 10 policy recommendations with detailed strategies for implementation, as well as comprehensive contact information for organizations and service providers that work with LGBTQ youth. Emphasis is placed upon addressing the root causes of homelessness and running away – family rejection, lack of access to services, and unemployment. While some of the recommendations were instated (raising the age of eligibility for services from 21 to 24), many of the report's key recommendations – including increasing the number of shelter beds available for LGBTQ youth, have yet to be implemented.

A Count of Homeless Youth in New York City (2008)

Empire State Coalition of Youth and Family Services

http://www.citylimits.org/images_pdfs/pdfs/HomelessYouth.pdf

Pilot study conducted to more accurately estimate the size of the homeless youth population in New York City, commissioned by the New York City Council. While the survey estimated that there were roughly 3800 homeless youth on the streets nightly, the authors indicate that this number is likely an undercount given the study's funding limitations. Disproportionately represented in the homeless youth population are youth of color, LGBT youth, youth with some history of foster care, and youth who have been through the juvenile justice and/or criminal justice systems. This is the most recent and comprehensive count of homeless youth in NYC.

Discrimination at the Workplace, From Application to Termination: A Report on the Employment Experiences of Transgender and Gender Non-Conforming People (2013)

Make the Road-NY

http://www.maketheroad.org/pix_reports/Discrimination_at_the_Workplace_from_Application_to_Termination_Full_Report_Oct2013.pdf

Report on workplace discrimination against transgender and gender non-conforming people with research based on matched-pair testing and community surveys in Jackson Heights, Queens. 40% of transgender and gender non-conforming and 27.3% of LGBTQ survey respondents reported workplace discrimination. Provides recommendations at the federal, state, and city level.

Hey, Shorty! A Guide to Combating Sexual Harassment and Violence in Schools and on the Streets. (2011)

Girls for Gender Equity (GGE), Joanne Smith, Meghan Huppuch & Mandy Van Deven

Based upon research findings conducted by Girls for Gender Equity (GGE) in New York City public schools in 2008 on sexual harassment, which found sexual harassment to be pervasive and underreported. Provides action plans and strategies for students, educators, and policymakers on how to effectively address sexual harassment in schools.

Improving the Lives of LGBT Older Adults (2010)

Services and Advocacy for GLBT Elders (SAGE)

<http://www.sageusa.org/resources/publications.cfm?ID=21>

Focuses on LGBT people ages 65 and up and their unique needs as a population. Provides detailed background and sociological context for challenges facing LGBT elders, which are divided into three categories: financial security, good health and healthcare, and social support and community engagement. Provides recommendations at the federal, state and city level. SAGE also has a variety of additional publications on their website (<http://www.sageusa.org/resources/publications.cfm>), including the most recent Health Equity and LGBT Elders of Color.

Insecure Communities, Devastated Families: New Data on Immigrant Detention and Deportation Practices in New York City (2012)

Immigrant Defense Project, New York University School of Law Immigrant Rights Clinic, Families for Freedom

<http://immigrantdefenseproject.org/wp-content/uploads/2012/07/NYC-FOIA-Report-2012-FINAL.pdf>

Report on the effects of Immigration and Customs Enforcement (ICE) operations in New York City on immigrant communities.

Columbia Law School, Center for Gender & Sexuality Law, Mayoral Briefing Book

Analyzes previously never-before-seen ICE demographic data on detainees obtained through the Freedom of Information Act (FOIA). Since 2008, ICE has detained well over 7,000 New Yorkers, of which 91% were deported. Almost 77% of these apprehensions were through encounters with the criminal justice system. Over half of the detainees were transferred to centers outside of the New York area.

More Than a Home: How Affordable Housing for New Yorkers Living with HIV/AIDS Will Prevent Homelessness, Improve Health and Reduce Costs (2013)

VOCAL-NY, Community Development Project at the Urban Justice Center

<http://www.vocal-ny.org/wp-content/uploads/2013/05/More-Than-Home-4.pdf>

Focuses on how HASA's high-rent burden affects New Yorkers living with HIV/AIDS. Provides research from focus groups and surveys that were designed, collected and analyzed by low-income people living with HIV/AIDS. Current HASA policy requires clients receiving housing assistance to contribute all but \$376 of their income towards rent, leaving them with a little over \$3 per day for all other necessities. Stable, affordable housing for PLWHA is a public health necessity that helps PLWHA adhere to their treatment regimen and develop healthy habits. Provides recommendations at the city and state level.

The National School Climate Survey (2013)

Gay, Lesbian & Straight Education Network (GLSEN)

<http://www.glsen.org/sites/default/files/2011%20National%20School%20Climate%20Survey%20Full%20Report.pdf>

Comprehensive national survey of treatment of LGBT youth in schools analyzing data from 2011. Measures instances of negative treatment of LGBT, effects of such treatment, and reporting of such treatment, as well as access to positive supports like anti-bullying/harassment policies and LGBT-affirming curriculum.

National Intimate Partner and Sexual Violence Survey (2013)

Centers for Disease Control and Prevention (CDC)

<http://www.cdc.gov/violenceprevention/nisvs/>

Comprehensive national survey of the prevalence of intimate partner violence, sexual violence, and stalking among men and women. Data can be broken down by state, gender, sexual orientation, and race.

New York City Community Health Survey (CHS)

<http://www.nyc.gov/html/doh/html/data/survey.shtml>

Annual telephone survey conducted by the NYC Department of Health and Mental Hygiene (DOHMH). While this survey tracks chronic diseases and behavioral risk factors across the five boroughs, we recommend that it be expanded to include questions on sexual violence, intimate partner violence, and demographic information about race, ethnicity, sexual orientation, age and gender identity. This survey could also collect information on the prevalence and impact of sexual harassment in the workplace, schools and public space.

The New York Immigration Family Unity Project: Good for Families, Good for Employers, and Good for All New Yorkers (2013)

The Center for Popular Democracy, The Kathryn O. Greenberg Immigration Justice Clinic at Cardozo School of Law, The Northern Manhattan Coalition for Immigrant Rights, and Make the Road NY

http://populardemocracy.org/sites/default/files/immgrant_family_unity_project_print_layout.pdf

Cost-benefit analysis of New York Immigration Family Unity Project (NYIFUP) in its full implementation. The NYIFUP is currently only operating as a pilot program with funding of \$500,000; full implementation in New York City would cost \$5.3 million but is estimated to result in nearly \$6 million in annual economic offsets. (The \$7.4 million figure in the study refers to full implementation statewide.)

Public Health Crisis: The Impact of Using Condoms as Evidence of Prostitution in New York City (2012)

The PROS Network, Sex Workers Project (SWP)

<http://sexworkersproject.org/downloads/2012/20120417-public-health-crisis-summary.pdf>

Study of the public health effect of using condoms as evidence of prostitution on sex workers in New York City. Utilizing survey questions and interviews, researchers found

that condom confiscation was used to harass people in the sex trade and others profiled as sex workers based on sexual orientation, race, ethnicity and economic background. The study also found that the confiscation of condoms did nothing to deter sex work, and contributed to more instances of unsafe sex. Makes recommendations and provides statistical data.

The Struggle Report: Findings & Recommendations by NYC Youth for New York Job Development Programs (2013)

FUREEous Youth, Community Development Project of the Urban Justice Center

http://www.cdp-ny.org/report/The_Struggle_Report.pdf

Examines three city and state youth development programs – Summer Youth Employment Program (SYEP), Career and Technical Education (CTE) programs and NY Youth Works Program (NYYW). Youth were involved in collecting and analyzing the data for this report, which includes interviews with youth and statistical information on funding and participation in these programs. The report finds that the three programs are underfunded, underutilized, and under-advertised, and makes recommendations at the city and state level.

Sex Work and Human Rights Media Toolkit

Sex Workers Project (SWP)

<http://sexworkersproject.org/media-toolkit/downloads/SexWork-AndHumanRightsMediaToolkit.pdf>

Information on the definitions of sex work and human trafficking, as well as recommendations and best practices for working with sex workers in an empowering, respectful manner. Also provides contact information for sex worker advocates.

Sex Workers at Risk: Condoms as Evidence of Prostitution in Four US Cities (2012)

Human Rights Watch

<http://www.hrw.org/node/108771/section/1>

Evaluates the usage of condoms as evidence for prostitution in four US cities, including New York, as a human rights violation. Police harassment of sex workers and transgender and gender non-conforming people discourages condom usage among two of

the populations most at risk for contracting HIV/AIDS. Provides statistics on prostitution-related arrests in NYC, interviews with transgender women and sex workers, and offers recommendations on amending the practice.

Transgressive Policing: Police Abuse of LGBTQ Communities of Color in Jackson Heights, Queens (2012)

Make the Road-NY

http://www.maketheroad.org/pix_reports/MRNY_Transgressive_Policing_Full_Report_10.23.12B.pdf

Survey of over 300 residents of Jackson Heights, Queens about their personal experience with police treatment in the neighborhood. LGBTQ residents not only reported being stopped and frisked at a higher rate than straight residents, but also reported higher levels of physical and sexual assault from police officers. Provides recommendations at the city-level and for the local Jackson Heights community.