

**HOMELESS, GAY, & IGNORED: THE NEED FOR FEDERAL AID TO COMBAT THE EPIDEMIC OF
LGBTQ YOUTH HOMELESSNESS IN AMERICA**

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INTRODUCTION

Shortly after his sixteenth birthday, a young man tells his parents that he is gay; they kick him out of the house. The teenager leaves his hometown and heads toward New York as he believes that he will be able to better find support in a major city; he ends up living as a homeless youth. At the same time, a transgender female in Washington D.C. engages in sex work in order to survive, while a queer individual in the foster care system runs away as a result of the intolerable bullying they receive at school and from their foster family. While these vignettes are fictional, each captures the unique difficulties faced by homeless¹ Lesbian, Gay, Bisexual, Transgender, and Queer (“LGBTQ”) youth across the nation. It is estimated that approximately 7% of America’s youth identify as LGBTQ.² However, an estimated 40% of homeless youth identify as LGBTQ.³ Despite this disparity, there are no dedicated federal resources to support LGBTQ homeless youth,⁴ and much of the support for the community comes from private

¹ Various organizations and agencies use different definitions as to who is a “homeless youth.” This Article adopts the definition used by the National Alliance to End Homelessness who defines a homeless youth as

unaccompanied youth ages 12 to 24 years who do not have familial support and who are living in shelters, on the streets, in places not meant for human habitation (e.g. cars, abandoned buildings [, or subways]), or in others’ homes for short periods under circumstances that make the situation highly unstable (also known as “couch surfing”).

INCIDENTS & VULNERABILITIES OF LGBTQ HOMELESS YOUTH, NATL. ALLIANCE TO END HOMELESSNESS 1 (2008).

² *Our Issue*, TRUE COLORS FUND, <https://truecolorsfund.org/our-issue/> (last visited Nov. 9, 2018).

³ *Id.*

⁴ NICO SIFRA QUINTANA, JOSH ROSENTHAL, & JEFF KREHELY, ON THE STREETS 23 (2010), available at <https://www.americanprogress.org/issues/lgbt/reports/2010/06/21/7983/on-the-streets/>.

entities.⁵ While admittedly not addressing the root causes of youth homelessness,⁶ this Article addresses the need for significantly more resources in order to combat the unique problems faced by LGBTQ homeless youth. Part I addresses the scope of LGBTQ youth homelessness and discusses a few of the unique challenges that homeless LGBTQ individual's face.⁷ Part II addresses the current state of federal funding to combat LGBTQ youth homelessness. The Part argues for the Department of Housing and Urban Development ("HUD") or Department of Health and Human Services ("HHS") to create a program that is specifically addressed to combat the scourge of LGBTQ youth homelessness and to include broad non-discrimination language as a provision for the receipt of any federal funding for the reduction of homelessness.⁸

I. SCOPE OF LGBTQ YOUTH HOMELESSNESS

A. *Demographics*

It is estimated that there are approximately one and a half to three million homeless youth in the United States.⁹ This means that there are somewhere between 600,000 and 1.2 million

⁵ See, e.g., *Youth Crisis Stats*, THE ALI FORNEY CENTER, https://www.aliforneycenter.org/_aliforney/assets/File/Youth%20Crisis%20Stats.pdf (last visited Nov. 9, 2018); *About Us*, NEW ALTERNATIVES, https://www.newalternativesnyc.org/about_us (last visited Nov. 9, 2018). See also *Left Behind: LGBT Homeless Youth Struggle to Survive on the Streets*, NBC NEWS (Aug. 3, 2014), <https://www.nbcnews.com/news/us-news/left-behind-lgbt-homeless-youth-struggle-survive-streets-n157506>.

⁶ Without question, seeking to solve the root causes of LGBTQ youth homelessness is a significant societal interest and arguably should be prioritized over post hoc attempts to mitigate the harm to homeless youth. Indeed, I would be ecstatic if this Article were to eventually become obsolete as a result of a sharp decrease in the need for services for LGBTQ homeless youth. However, until such time, society unfortunately must address post hoc relief.

⁷ See *infra*, Part II.

⁸ See *infra*, Part III.

⁹ See, e.g., QUINTANA, ROSENTHAL, & KREHELY, *supra* note 4, at 4; Deborah Lolai, "You're Going To Be Straight or You're Not Going To Live Here": *Child Support for LGBT Homeless Youth*, 24 TUL. J.L. & SEXUALITY 37, 41 (2015); NICHOLAS RAY, *LESBIAN, GAY, BISEXUAL, AND TRANSGENDER YOUTH AN EPIDEMIC OF HOMELESSNESS I* (2006).

homeless LGBTQ youth across the nation.¹⁰ Further compounding the problem is the fact that LGBTQ youth are “10[%] more likely to experience homelessness than their heterosexual and cisgendered peers.”¹¹ Many of these youths are people of color¹² or individuals who were forced on to the street at a young age.¹³ Some LGBTQ youth are persistently homeless however, most are only homeless for short periods of time.¹⁴ Many that are homeless for a short period of time will have numerous bouts of homelessness over their adolescence.¹⁵ While not the majority, some LGBTQ youth are transient and “live” in an area that they did not grow up in.¹⁶ The Transient homeless youth generally act more in an attempt to get to an area where they have greater access to resources.

Numerous researchers have conducted empirical research into America’s homeless LGBTQ youth population in the nation’s major cities. For example, research conducted in the

¹⁰ These numbers are based on the commonly accepted estimate of 40% of the homeless youth population being LGBTQ. *See supra*, note 3 and accompanying text. *See also* Press Release, The Williams Inst. At UCLA Sch. of Law, Am.’s Shame: 40% of Homeless Youth are LGBT Kids (July 13, 2012), <https://williamsinstitute.law.ucla.edu/press/americas-shame-40-of-homeless-youth-are-lgbt-kids/>.

¹¹ Christianna Silva, *LGBT Youth are 120% More Likely to be Homeless than Straight People, Study Shows*, NEWSWEEK (Nov. 30, 2017), <http://www.newsweek.com/lgbt-youth-homeless-study-727595>.

¹² QUINTANA, ROSENTHAL, & KREHELY, *supra* note 4, at 7; *see generally* Michelle Page, *Forgotten Youth: Homeless LGBT Youth of Color and the Runaway and Homeless Youth Act*, 12 NW. J.L. & SOC. POL’Y 17 (2017); Nusrat Ventimiglia, *Homelessness: LGBT Selective Victimization: Unprotected Youth on the Streets*, 13 J.L. SOC’Y 439, 440–41 (2012).

¹³ QUINTANA, ROSENTHAL, & KREHELY, *supra* note 4, at 7.

¹⁴ Richard A. Hooks Wayman, *Symposium Issue: National Conference on Homeless Youth and the Law: Homeless Queer Youth: National Perspectives on Research, Best Practices, and Evidence-based Interventions*, 7 SEATTLE J. SOC. JUST. 587, 598 (2009)

¹⁵ *Id.*

¹⁶ *Id.* at 599; WILDER RESEARCH, HOMELESS YOUTH IN MINNESOTA: 2003 STATEWIDE SURVEY OF PEOPLE WITHOUT PERMANENT SHELTER 30 (2005). The Wilder Research report deals with homeless individuals in general. While it is possible that there is a slightly greater number of transient homeless LGBTQ individuals than homeless straight cisgender individuals it is likely that these groups would illustrate similar living styles.

1990s and early 2000s showed that in many American cities, LGBTQ people were severely over-represented in the youth homeless population.¹⁷ Chicago, New York, Seattle, Los Angeles, San Francisco, Washington, D.C., and other cities all had an over-representation of LGBTQ homeless youth.¹⁸ Many locations had less than the national estimated percentage of LGBT youth (for example Los Angeles (approximately 25% in most studies), San Francisco (21%) Chicago (23%)),¹⁹ while some others had a considerably higher percentage of LGBTQ youth (notably, New York City with approximately 50% of its homeless youth identifying as LGBTQ in 1998).²⁰ Interestingly, of the cities studied in the National Alliance to End Homelessness' report, only Seattle had consistent survey responses that consistently mirrored the national percentage of LGBTQ individuals in the youth homeless population.²¹ More recent data from the Ali Forney Center in New York City has shown that the proportion of homeless LGBTQ youth in New York is more consistent with present national percentages.²² Finally, empirical studies have also been conducted on the LGBTQ population in smaller cities (St. Paul, Minnesota), states (Colorado, Illinois, Minnesota, Missouri, Iowa, Kansas, and Utah), and regions (Central Texas).²³ Thus, empirical data clearly shows that LGBTQ youth are homeless across the nation

¹⁷ INCIDENTS & VULNERABILITIES OF LGBTQ HOMELESS YOUTH, *supra* note 1, at 3–4.

¹⁸ *Id.*; NAT'L COALITION FOR THE HOMELESS, LGBTQ HOMELESSNESS 1 (2017). In D.C., 43% of the homeless youth population identified as LGBTQ. *Id.* The remaining cities were studied multiple times. INCIDENTS & VULNERABILITIES OF LGBTQ HOMELESS YOUTH, *supra* note 1, at 3–4.

¹⁹ *See* NAT'L COALITION FOR THE HOMELESS, LGBTQ HOMELESSNESS at 3.

²⁰ *Id.*

²¹ *Id.*

²² *Youth Crisis Stats*, *supra* note 5.

²³ INCIDENTS & VULNERABILITIES OF LGBTQ HOMELESS YOUTH, *supra* note 1, at 3.

and not centralized in major metropolitan areas. However, the data also clearly shows that the breadth of the problem varies from place to place, and not always in expected ways.²⁴

B. Specific & Unique Challenges Faced by LGBTQ Homeless Youth Compared to Straight & Cisgender Homeless Youth

In addition to making up a disproportionate amount of the nation's homeless youth population, LGBTQ homeless individuals also face unique challenges over their straight and cisgender counterparts. For example, LGBTQ homeless youth are more likely to engage in survival sex or to contract HIV,²⁵ more likely to have trouble accessing a shelter or resources for homeless youth,²⁶ and are more likely to become homeless upon leaving the foster care system than their straight and cisgender peers.²⁷ In order to fully appreciate the scope of problems impacting LGBTQ homeless youth, an examination of these issues is important.

1. Survival Sex & HIV/AIDS

While HIV and AIDS are less of an issue now than in the height of the HIV epidemic,²⁸ HIV remains a significant issue.²⁹ As a preliminary matter, LGBTQ individuals are more likely

²⁴ For example, cities like Los Angeles, Chicago, and San Francisco would reasonably be expected to have higher proportions of LGBTQ people in their youth homeless population than what was identified in the studies.

²⁵ *See infra*, Part II(B)(1).

²⁶ *See infra*, Part II(B)(3).

²⁷ *See infra*, Part II(B)(2).

²⁸ The AIDS epidemic began in 1981 in Los Angeles. *See A Timeline of HIV and AIDS*, HIV.GOV, www.hiv.gov/hiv-basics/overview/history/hiv-and-aids-timeline (last visited Nov. 7, 2018). While the epidemic has persisted since that time, annual new infections peaked in the early 1990s. *HIV and AIDS—United States, 1981—2000*, CDC, www.cdc.gov/mmwr/preview/mmwrhtml/mm5021a2.htm (last visited Nov. 7, 2018). For a general overview of the AIDS epidemic, *see generally* RANDY SHILTS, AND THE BAND PLAYED ON: POLITICS, PEOPLE AND THE AIDS EPIDEMIC (1987).

²⁹ *U.S. Statistics*, HIV.GOV, www.hiv.gov/hiv-basics/overview/data-and-trends/statistics (last visited Nov. 7, 2018). The significance of the issue is also apparent based on the continued work of HIV advocacy organizations like Act UP, GMHC, and The Names Project foundation and HIV advocacy from LGBTQ rights organizations such as the Human Rights Campaign and Lambda Legal. Additionally, the United States government, Center for Disease

than straight cisgender individuals to be exposed to HIV.³⁰ Thus, it logically makes sense that the issue would be more pronounced in the LGBTQ homeless youth population than in the straight cisgender homeless youth population. However, even with the increased rate of HIV among LGBTQ individuals, LGBTQ homeless youth are still disproportionately impacted.³¹

The Center for Disease Control estimates that in 2016 there was an estimated 39,700 new HIV diagnosis.³² Of these new diagnosis, 67% (or 26,570) were in gay and bisexual men.³³ Additionally, the majority of those diagnoses are in LGBTQ men of color,³⁴ who are also over represented in the homeless population.³⁵ Further, individuals who inject drugs³⁶ and transgender individuals are also at an increased risk for HIV infection.³⁷ As LGBTQ homeless youth are more likely to engage in substance abuse than their straight and cisgender peers,³⁸ all of these statistics are therefore applicable to homeless LGBTQ youth.

Control, World Health Organization, and other governmental organizations all continue to monitor the AIDS epidemic.

³⁰ *Id.*

³¹ Page *supra* note 12, at 33; *see generally* Rashami Gangamma et al., *Comparison of HIV Risk Among Gay, Lesbian, Bisexual and Heterosexual Homeless Youth*, 37 J. YOUTH ADOLESC. 456 (2008), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2443720/> (discussing the increased rate of HIV transmission among LGBT homeless youth).

³² *HIV In the United States: At A Glance*, CTR. FOR DISEASE CONTROL & PREVENTION (Nov. 29, 2017), <https://www.cdc.gov/hiv/statistics/overview/ataglance.html>.

³³ *Id.*

³⁴ *Id.*

³⁵ *See supra* note 12 and related text.

³⁶ *HIV In the United States, supra* note 32. In 2016, the CDC reported an estimated 3,425 new HIV infections resulted from injected drugs. *Id.* This accounted for 9% of all infections. *Id.* Interestingly, over a third of those diagnosis were in gay and bisexual men who use injectable drugs. *Id.*

³⁷ *See generally HIV Among Transgender People*, CTR. FOR DISEASE CONTROL & PREVENTION (Aug. 3, 2017), <https://www.cdc.gov/hiv/group/gender/transgender/index.html>.

³⁸ Wayman, *supra* note 14, at 603; Ventimiglia, *supra* note 12, at 447; RAY, *supra* note 9, at 2.

Relatedly, LGBTQ youth are more likely to engage in survival sex and sex work as a means of surviving while homeless than their straight and cisgender counterparts.³⁹ Survival Sex is defined as “exchanging sex for anything needed, including money, food, clothes, a place to stay[,] or drugs.”⁴⁰ The increased likelihood of participation is more pronounced for cisgender males⁴¹ and for transgender individuals.⁴² As a result of this increased reliance on sex work, one study found that half of homeless youth “considered it likely or very likely that they will someday test positive for HIV.”⁴³

Notwithstanding the impacts that HIV infection have on an individual’s healthcare and the well documented history of discrimination that people living with HIV and AIDS experience,⁴⁴ the increased risk of exposure to HIV and survival sex presents numerous challenges for homeless LGBTQ youth. For example, engaging in sex work can (and indeed often does) result in custodial arrests.⁴⁵ Additionally, in most jurisdictions, having HIV could expose an individual to criminal penalties, enhanced sentencing for some arrests, or possibly inclusion on a sex offender registry.⁴⁶ Some of these laws also directly targeted sex workers,

³⁹ Ventimiglia, *supra* note 12 at 447.; RAY, *supra* note 9 at 3.

⁴⁰ RAY, *supra* note 9, at 3.

⁴¹ Gangamma, *supra* note 31.

⁴² MEREDITH DANK ET AL., SURVIVING THE STREETS OF NEW YORK: EXPERIENCES OF LGBTQ YOUTH, YMSM, AND YWSW ENGAGED IN SURVIVAL SEX 6–7 (2015).

⁴³ RAY, *supra* note 9, at 3.

⁴⁴ See, e.g., LAMBDA LEGAL HIV PROJECT, HIV STIGMA AND DISCRIMINATION IN THE U.S.: AN EVIDENCE-BASED REPORT (2010); *Fact Sheet: HIV/AIDS-Related Stigma and Discrimination*, THE WHITEHOUSE (July 21, 2012), <https://obamawhitehouse.archives.gov/the-press-office/2012/07/21/fact-sheet-hivaids-related-stigma-and-discrimination>.

⁴⁵ DANK, *supra* note 42, at 32.

⁴⁶ See generally, THE CENTER FOR HIV LAW & POLICY, HIV CRIMINALIZATION IN THE U.S.: A SOURCEBOOK ON STATE AND FEDERAL HIV CRIMINAL LAW AND PRACTICE (3d Ed. 2017) (discussing the HIV laws in each jurisdiction in the U.S.); see also The Center for HIV Law and Policy, HIV Criminalization in the United States: A

including youth who engage in sex works as a means of survival.⁴⁷ For instance, prior to the passage of SB-239 in 2017,⁴⁸ California’s HIV related arrests were disproportionately made up of individuals engaging in sex work.⁴⁹ Thus, it is clear that the added risk of HIV infection is a significant, and potentially life-changing, issue for homeless LGBTQ youth.

2. *Foster Care Impacts*

While not technically part of the homeless “system” there is significant interplay between the foster care system and youth homelessness. Specifically, LGBTQ youth are more likely than their straight cisgender peers to be homeless after leaving foster care.⁵⁰ Additionally, LGBTQ youth in foster care are more likely than their straight and cisgender counterparts to be bounced from location-to-location, to be bullied in homes and schools, and to run away from the system.⁵¹ Additionally, LGBTQ youth in foster care are less likely to be adopted out of the foster care

Sourcebook on State and Federal HIV Criminal Law & Practice, HIVLAWANDPOLICY.ORG, (2017), <http://www.hivlawandpolicy.org/sites/default/files/HIV%20Criminalization%20in%20the%20U.S.%20A%20Source%20book%20on%20State%20Fed%20HIV%20Criminal%20Law%20and%20Practice%209.5.18.pdf>.

⁴⁷ Sienna Baskin, Aziza Ahmed, & Anna Forbes, *Criminal Laws on Sex Work and HIV transmission: Mapping the Laws, Considering the Consequences*, 93 DENV. L. REV. 355, 357–58 (2016).

⁴⁸ Scott Wiener, *We Modernized California’s HIV Criminal Laws & The Right Wing Attacked*, MEDIUM, (Oct. 9, 2017), https://medium.com/@Scott_Wiener/we-modernized-californias-hiv-criminal-laws-the-right-wing-attacked-3d30c9169dae.

⁴⁹ THE 2017 MODERNIZATION OF CALIFORNIA’S HIV CRIMINAL EXPOSURE LAWS: WHAT DID IT DO, WHO WILL IT AFFECT? 3–4 (2017).

⁵⁰ *LGBTQ Youth in the Child Welfare System*, MOVEMENT ADVANCEMENT PROJECT, http://www.lgbtmap.org/file/LGBTQYouth_ChildWelfare.pdf (last visited Nov. 8, 2018).

⁵¹ *Id.*; *Gay and Transgender Youth Homelessness by the Numbers*, CTR. FOR AM. PROGRESS (June 21, 2010), <https://www.americanprogress.org/issues/lgbt/news/2010/06/21/7980/gay-and-transgender-youth-homelessness-by-the-numbers/>; QUINTANA, ROSENTHAL, & KREHELY, *supra* note 4, at 12–14.

system.⁵² Thus, the impacts of the foster care system are briefly discussed in this Article because of the system's impact on the homeless LGBTQ population.

Like the homeless population, LGBTQ youth are overrepresented in the child welfare system.⁵³ A report from the Williams Institute at UCLA School of Law estimates there are “between 1.5 to 2 times as many LGBTQ youth living in foster care as LGBTQ youth estimated to living outside of foster care.”⁵⁴ Another study estimates that “[m]ore than 500,00 children and youth are in state custody on any given day, living in foster care placement or juvenile justice facilities.”⁵⁵ LGBTQ youth in the foster care system are also more likely than their straight and cisgender counterparts to be living in a group home or to have been homeless at some point in their past.⁵⁶ Further, on average, LGBTQ youth experience a higher number of foster care placements than straight and cisgender youth in foster care.⁵⁷

While admittedly not homeless, LGBTQ youth in foster care still suffer from a myriad of issues that their straight and cisgender counterparts do not necessarily face. More than half of all LGBTQ youth in foster care experience “discrimination, harassment, and violence [including] attempts to “change” their sexual orientation through the [use] of conversion therapy or [a] refus[al] to acknowledge their gender identity.”⁵⁸ In a study of LGBTQ youth in New

⁵² BIANCA D.M. WILSON, KHUSH COOPER, ANGELIKI KATANIS, & SHELIA NEZHAD, SEXUAL AND GENDER MINORITY YOUTH IN FOSTER CARE: ASSESSING DISPROPORTIONALITY AND DISPARITIES IN LOS ANGELES 12 (2014).

⁵³ *Id.* at 6.

⁵⁴ *Id.*

⁵⁵ QUINTANA, ROSENTHAL, & KREHELY, *supra* note 4, at 13.

⁵⁶ WILSON, COOPER, KATANIS, & NEZHAD, *supra* note 52, at 6.

⁵⁷ *Id.*

⁵⁸ *LGBTQ Youth in the Child Welfare System*, *supra* note 50.

York’s child welfare system, it was reported that nearly 80% of respondents either ran away, or were removed, from their placement as a result of conflict or discrimination on the basis of their sexual orientation or gender identity.⁵⁹ A large proportion of those respondents also reported that they were victims of violence.⁶⁰ Significantly, nearly half of the respondents in that study noted that they felt safer living on the street than they did living in the foster care system.⁶¹ Finally, upon either emancipation or “aging out” of the system, anywhere between 12 and 36% of youth in foster care experience some degree of homelessness; it is likely that these percentages are higher for LGBTQ youth.⁶² Thus, while they may have some degree of shelter, LGBTQ youth in the foster care system are little better off than their homeless counterparts and are likely to join those homeless youth at some point in their lives.

3. *Access to Shelters & Resources*

If LGBTQ youth end up homeless, they face a significant barrier that many straight and cisgender homeless youth do not face, access to safe and supportive shelters and support networks.⁶³ In a 2015 report from the True Colors Fund and William’s Institute, nearly all shelters and organizations surveyed indicated that they worked with LGBTQ homeless youth.⁶⁴

⁵⁹ QUINTANA, ROSENTHAL, & KREHELY, *supra* note 4, at 14.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ RAY, *supra* note 9 at 83–85; QUINTANA, ROSENTHAL, & KREHELY, *supra* note 4, at 16–17.

⁶⁴ SOON KYU CHOI, BIANCA D.M. WILSON, JAMA SHELTON, GARY GATES, *SERVING OUR YOUTH 2015: THE NEEDS AND EXPERIENCES OF LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND QUESTIONING YOUTH EXPERIENCE HOMELESSNESS* 9 (2015).

However, despite the large number of shelters that work with the LGBTQ community, homeless LGBTQ youth still suffer considerable difficulties in these establishments.

Over the past years, an increased proportion of federal aid has been awarded to faith-based shelters and homeless service providers.⁶⁵ While many of these faith-based shelters do superb work and service all youth, that is not always the case.⁶⁶ For example, while not exclusively a *youth* homeless service, the Salvation Army has a lengthy history with LGBTQ discrimination; including closing all of its homeless services in San Francisco, California as a result of a pro-LGBTQ city ordinance.⁶⁷ Given that one of the nation’s most prominent religious charities and social service providers has such a well-documented history of anti-LGBTQ positions, it is reasonable to assume that any LGBTQ identifying person, and specifically a recently out or questioning person, would feel a degree of trepidation before entering a faith based shelter. After all, entering these shelters could, and sadly does, subject LGBTQ individuals to discrimination by staff and residents, harassment, refusals of service, or attempts at “conversion therapy.”⁶⁸

Homeless LGBTQ youth in the shelter system have provided first-hand accounts of truly harrowing experiences. For example, in a move that is evocative of Nazi Germany’s pink triangles,⁶⁹ LGBTQ youth were forced to wear orange jumpsuits so that staff knew that those

⁶⁵ RAY, *supra* note 9 at, 38–39.

⁶⁶ *Id.* at 83–85.

⁶⁷ Zinnia Jones, *The Salvation Army’s History of Anti-LGBT Discrimination*, HUFFINGTON POST (Dec. 11, 2013), https://www.huffingtonpost.com/zinnia-jones/the-salvation-armys-histo_b_4422938.html.

⁶⁸ RAY, *supra* note 9 at 83–85; QUINTANA, ROSENTHAL, & KREHELY, *supra* note 4, at 16–17.

⁶⁹ In Nazi Germany, homosexual men were among the groups that were persecuted by the German state. Gay men who were arrested and sent to concentration camps were required to wear pink triangles on their uniforms. *See*

residents were LGBTQ.⁷⁰ At another shelter, the door to the bedroom of a gay male was removed and residents were assigned to the other bed in the room as a “punishment.”⁷¹ At other shelters, transgender youth have been called by their birth name and forced to dress as their birth assigned gender or be turned away.⁷² Many LGBTQ youth often decide to go back into the closet (at least temporarily) so that they can get services from homeless shelters.⁷³ Sadly, others have opted to avoid shelters altogether or to consider deliberately attempting to contract HIV in order to be eligible for funds earmarked for housing for HIV-positive homeless people.⁷⁴

Despite the grim outlook, some exclusive LGBTQ shelters exist.⁷⁵ The founder of New York’s Ali Forney Center notes that he “doubt[s] that there are even 200 [homeless shelter] beds in the country for LGBT[Q] youth”⁷⁶ However, these shelters, like many homeless prevention services, are severely underfunded. Ali Forney’s Executive Director noted that despite the fact that it is estimated that 20 to 40% of New York City’s homeless youth are LGBTQ, the Ali Forney Center receives less than 1% of New York City’s funding for homeless youth.⁷⁷ Given that formerly homeless LGBTQ youth have indicated that shelters where they feel

Stav Ziv, *Pink Triangles and Prison Sentences: Nazi Persecution of Homosexuals*, NEWSWEEK (May 5, 2015), <http://www.newsweek.com/pink-triangles-prison-sentences-nazi-persecution-homosexuals-337840>.

⁷⁰ RAY, *supra* note 9, at 84.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ QUINTANA, ROSENTHAL, & KREHELY, *supra* note 4, at 17.

⁷⁶ *Id.* (second alteration in original).

⁷⁷ RAY, *supra* note 9, at 87.

physical and emotionally safe and secure to be important,⁷⁸ increased funding to organizations like the Ali Forney Center would help to improve the situation for homeless LGBTQ youth.

II. FEDERAL RESPONSE

Presently, the Federal government provides support for homeless individuals through HUD and HHS.⁷⁹ On average the government provides around 50 billion dollars on housing.⁸⁰ However, the lion's share of this funding goes to public housing and rental assistance programs.⁸¹ Part A of this section lays out in greater detail the current federal regime "supporting" homeless LGBTQ youth. Next, Part B of this section articulates two reasonable proposals that would greatly benefit not only LGBTQ homeless youth, but homeless youth at large. First, the federal government should promulgate statues or regulations affirmatively requiring social service organizations with homeless-related programing that receive federal aid to adopt and enforce non-discrimination language that covers sexual orientation and gender identity. Second, HUD or HHS should implement a federal program that is specifically targeted to addressing the problems faced by, and the unique needs of, unaccompanied homeless LGBTQ youth.

⁷⁸ *Safe and Affirming Care*, AT THE INTERSECTIONS, <http://attheintersections.org/safe-and-affirming-care/> (last visited Nov. 8, 2018).

⁷⁹ *Homelessness Assistance*, U.S. DEP'T OF HOUSING & URBAN DEVELOPMENT, https://www.hud.gov/program_offices/comm_planning/homeless (last visited Nov. 8, 2018); QUINTANA, ROSENTHAL, & KREHELY, *supra* note 4, at 24; RAY, *supra* note 9, at 28.

⁸⁰ QUINTANA, ROSENTHAL, & KREHELY, *supra* note 4, at 24.

⁸¹ *Id.*

A. Current Federal Response

Currently, nearly all federal aid for homeless-related initiatives is disbursed by either HUD or DHHS. Nearly all of the aid that is directly allocated to homeless youth comes from the Runaway and Homeless Youth Act⁸² and the McKinney-Vento Homeless Assistance Act.⁸³ There are a number of programs that the federal government operates under each of these respective statutes.

Despite HUD's recent removal of online resources for protection of LGBTQ people by housing providers and transphobic statements by HUD's Secretary,⁸⁴ HUD and HHS provide a great deal of support to homeless youth.

Primarily administered via HHS, The Runaway and Homeless Youth Act is specifically designed to provide support for runaway and homeless youth.⁸⁵ The primary ways the Act accomplishes this is through HHS's Basic Center Program, Street Outreach Program, Transitional Living Program, and National Runaway Safeline.⁸⁶ The Basic Center Program primarily works to provide funding for emergency shelters, food, crisis intervention, and other emergency services for homeless youth up to age 18.⁸⁷ The program also seeks to reunite

⁸² The act is codified at 42 U.S.C. §§ 5711–52.

⁸³ The Act is codified at 42 U.S.C. §§ 11301–481. Unlike the Runaway and Homeless Youth Act, the McKinney-Vento Homeless Assistance Act's primary purpose is not to benefit homeless youth, however many of the Act's programs do assist youth. RAY, *supra* note 9, at 32.

⁸⁴ Kashimira Gander, *Ben Carson: Trans People in Homeless Shelters Make Others Uncomfortable*, NEWSWEEK (March 21, 2018), <http://www.newsweek.com/ben-carson-trans-people-homeless-shelters-make-others-uncomfortable-854412>.

⁸⁵ RAY, *supra* note 9, at 27–28.

⁸⁶ *Id.* at 28–31.

⁸⁷ *Basic Center Program*, FAMILY & YOUTH SERVICES BUREAU, <https://www.acf.hhs.gov/fysb/programs/runaway-homeless-youth/programs/basic-center-program> (last visited Nov. 8, 2018).

runaway youth with their families.⁸⁸ The Street Outreach Program provides funding to organizations providing aid to individuals living on the street with the ultimate goal of “prevent[ing] . . . sexual exploitation and abuse of youth on the streets.”⁸⁹ The program provides services such as education, emergency shelters, and “survival aid.”⁹⁰ The Transitional Living Program is for youth ages 16 to 22 and provides long term residential services and support to homeless youth.⁹¹ HHS also operates the National Runaway Safeline, a 24/7 hotline for homeless and runaway youth and their families.⁹² The Safeline is primarily designed to assist runaway youth with reconciling with their family, and ultimately return home; however it also provides crisis intervention and referrals to service providers.⁹³ Finally, support exists for homeless individuals who are living with HIV or AIDS via the Ryan White HIV/AIDS Program.⁹⁴ Some of this funding is specifically tailored to providing housing for homeless individuals with HIV or AIDS.⁹⁵ HUD also provides some grants to homeless individuals and service providers.⁹⁶ The

⁸⁸ *Id.*

⁸⁹ *Street Outreach Program*, FAMILY & YOUTH SERVICES BUREAU, <https://www.acf.hhs.gov/fysb/programs/runaway-homeless-youth/programs/street-outreach> (last visited Nov. 9, 2018).

⁹⁰ *Id.*

⁹¹ *Transitional Living Program*, FAMILY & YOUTH SERVICES BUREAU, <https://www.acf.hhs.gov/fysb/programs/runaway-homeless-youth/programs/transitional-living> (last visited Nov. 8, 2018).

⁹² *National Runaway Safeline*, FAMILY & YOUTH SERVICES BUREAU, <https://www.acf.hhs.gov/fysb/programs/runaway-homeless-youth/programs/nrs> (last visited Nov. 9, 2018).

⁹³ *Id.*

⁹⁴ *See* Letter from Laura W. Cheever, Associated Administrator, HIV/AIDS Bureau to Ryan White HIV/AIDS Program Colleagues, Aug. 18, 2016, available at <https://hab.hrsa.gov/sites/default/files/hab/Global/housingpolicyupdate0816.pdf>.

⁹⁵ *Id.*

⁹⁶ RAY, *supra* note 9 at 31–32.

majority of this funding goes to shelters through either “Continuum of Care” or “Emergency Shelter grants.”⁹⁷

While valuable services, all of these programs are underfunded with many otherwise qualified youths being denied services.⁹⁸ Additionally, none of these programs are designed to specifically address the unique issues that LGBTQ homeless youth face.⁹⁹ Furthermore, as previously noted, much of this funding is allocated to faith-based organizations.¹⁰⁰

B. Proposals

Without question, the federal government certainly provides valuable assistance to homeless youth. However, they can, and should, do more to support the disproportionately large LGBTQ youth homeless population. Two reasonable proposals to do this are 1) to require federal grantees to adopt and enforce non-discrimination policies that affirmatively preclude discrimination on the basis of sexual orientation and gender identity and 2) to create a federal program that is specifically targeted to address the problems faced by LGBTQ youth.

1. Inclusion of Non-Discrimination Language in all Federal Homeless Aid

Under existing law, federal grantees are not required to adopt or enforce anti-discrimination procedures that preclude discrimination on the basis of sexual orientation and gender identity.¹⁰¹ This glaring oversight results in LGBTQ youth being subject to unsafe and dangerous conditions. Additionally, because of the absence of anti-discrimination language,

⁹⁷ *Id.* at 32.

⁹⁸ *Id.* at 31.

⁹⁹ *See* QUINTANA, ROSENTHAL, & KREHELY, *supra* note 4, at 26.

¹⁰⁰ *See supra* notes 65–68 and related text; *see also* QUINTANA, ROSENTHAL, & KREHELY, *supra* note 4, at 26.

¹⁰¹ QUINTANA, ROSENTHAL, & KREHELY, *supra* note 4, at 26.

LGBTQ youth can be, and often are denied services by providers. Thus, there is a considerable need for anti-discrimination language to be included.

HHS and HUD can easily craft anti-discrimination provisions for the receipt of federal funds via regulatory action. In crafting such a regulation, the non-discrimination provision need not infringe on a service provider's sincerely held religious beliefs.¹⁰² All that an anti-discrimination provision would require a provider to do is to provide services to all homeless youth (regardless of sexual orientation or gender identity) equally and to not discriminate against LGBTQ youth. If a faith-based organization is unwilling to comply with this provision in the observance of their sincerely held religious beliefs, such a proposal would not subject the provider to any fines or civil or criminal penalties. Instead, the organization would merely be unable to receive subsequent federal grant funding.

2. Creation of a Federal Program Specifically Targeted to address the Problems Faced by LGBTQ Youth

As illustrated throughout this Article, LGBTQ homeless youth face unique challenges that are often not fully met by organizations that primarily serve straight and cisgender individuals. Despite making up approximately 40% of the nation's homeless youth, there is not a single federal program designed to address the needs of homeless LGBTQ youth. As a result, LGBTQ specific organizations are forced to compete with general homeless providers for the same funding and are often unable to fully meet the needs of LGBTQ youth. By creating a program, the federal government would allow LGBTQ youth homeless shelters and organizations to better serve their community while also reducing the demand on the programs that presently exist under the Runaway and Homeless Youth Act. In so doing, all homeless youth

¹⁰² Given that a considerable amount of federal homeless related grants are directed toward faith-based organizations, a brief examination of First Amendment implications is appropriate.

would be better served by the increased funding and ability for organizations to better specialize to the communities they serve.

The new federal program focusing on LGBTQ homeless youth should also benefit general youth homeless organizations by providing additional sources of training and guidance on how to deal with LGBTQ youth. A federal program would enable the government to provide additional resources for, and training on, how to serve LGBTQ youth. Thus, the creating of such a federal program would provide additional resources to LGBTQ youth service organizations while assisting general youth homeless shelters and organizations greater information as to how to appropriately protect and serve LGBTQ homeless youth.

CONCLUSION

In America today, lesbian, gay, bisexual, transgender, and queer youth make up less than 10% of the population while comprising as much as 40% of the nation's homeless youth. In a 2012 report, the Williams Institute correctly referred to this statistic as "America's Shame."¹⁰³ In addition to making up a disproportionately large segment of the nation's homeless youth, there is considerable evidence showing that LGBTQ homeless youth experience different challenges than their straight and cisgender peers. As a result of the stark differences between straight cisgender and LGBTQ homeless youth, the current paradigm of federal support is woefully inadequate to address America's epidemic of LGBTQ youth homelessness. It is time for the Federal government to take simple steps to guarantee that no child is denied access to services because of their sexual orientation or gender identity. It is also time for the Federal government to develop a program that is specifically tailored to meeting the needs of America's queer

¹⁰³ *America's Shame: 40% of Homeless Youth are LGBT Kids*, THE WILLIAMS INST. UCLA SCH. OF LAW (July 13, 2012), <https://williamsinstitute.law.ucla.edu/press/americas-shame-40-of-homeless-youth-are-lgbt-kids/>.

homeless youth. It is time for the government to make meaningful progress toward ensuring that no more children become homeless because of who they love or how they identify.