



**Supreme Court of Nevada
DISTANCE EDUCATION**

***SUPREME COURT OF NEVADA
TRANSGENDER AND GENDER NONBINARY PEOPLE IN
THE NEVADA COURTS:
PRACTICAL TOOLS AND BEST PRACTICES
FOR NEVADA JUDGES***

Course Materials

Recorded on July 21, 2023

Faculty:

Todd Brower, LLM, J.D.

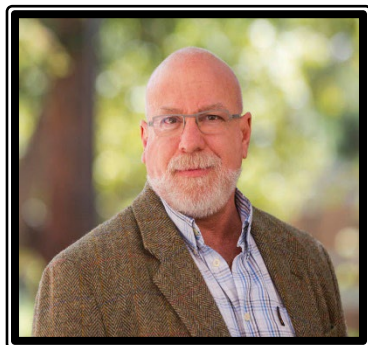
SUPREME COURT OF NEVADA

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FACULTY BIOGRAPHIES



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Todd Brower, LL.M., J.D., is the Judicial Education Director for the Williams Institute on Sexual Orientation Law and Public Policy at UCLA School of Law. He is a professor of Constitutional Law at Western State College of Law in California. He has an LL.M from Yale Law School, a J.D. from Stanford Law School, an A.B. from Princeton University, and was a Fulbright scholar in France. Professor Brower served on the California Judicial Council - Access and Fairness Advisory Committee and is the author of various law review articles, research studies and publications on the treatment of lesbian, gay, bisexual, and transgender persons in the courts of the United Kingdom, California and New Jersey. He has worked with the courts of several nations in Europe, Africa, and North and South America, with many US states and federal agencies on judicial education programs, and with international and national judicial organizations.

Professor Brower was the 2021-2022 President of the National Association of State Judicial Educators, the professional organization for judicial and court employee education personnel.

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PRESENTATION

Transgender and Gender Nonbinary People in Nevada

Todd Brower

Judicial Education Director



Practical Tools and Best Practices for Creating Access in the Courts

What the data show about LGBTQ people in Nevada and the US



What fraction of the U.S. population identifies as gay, lesbian, or bisexual?

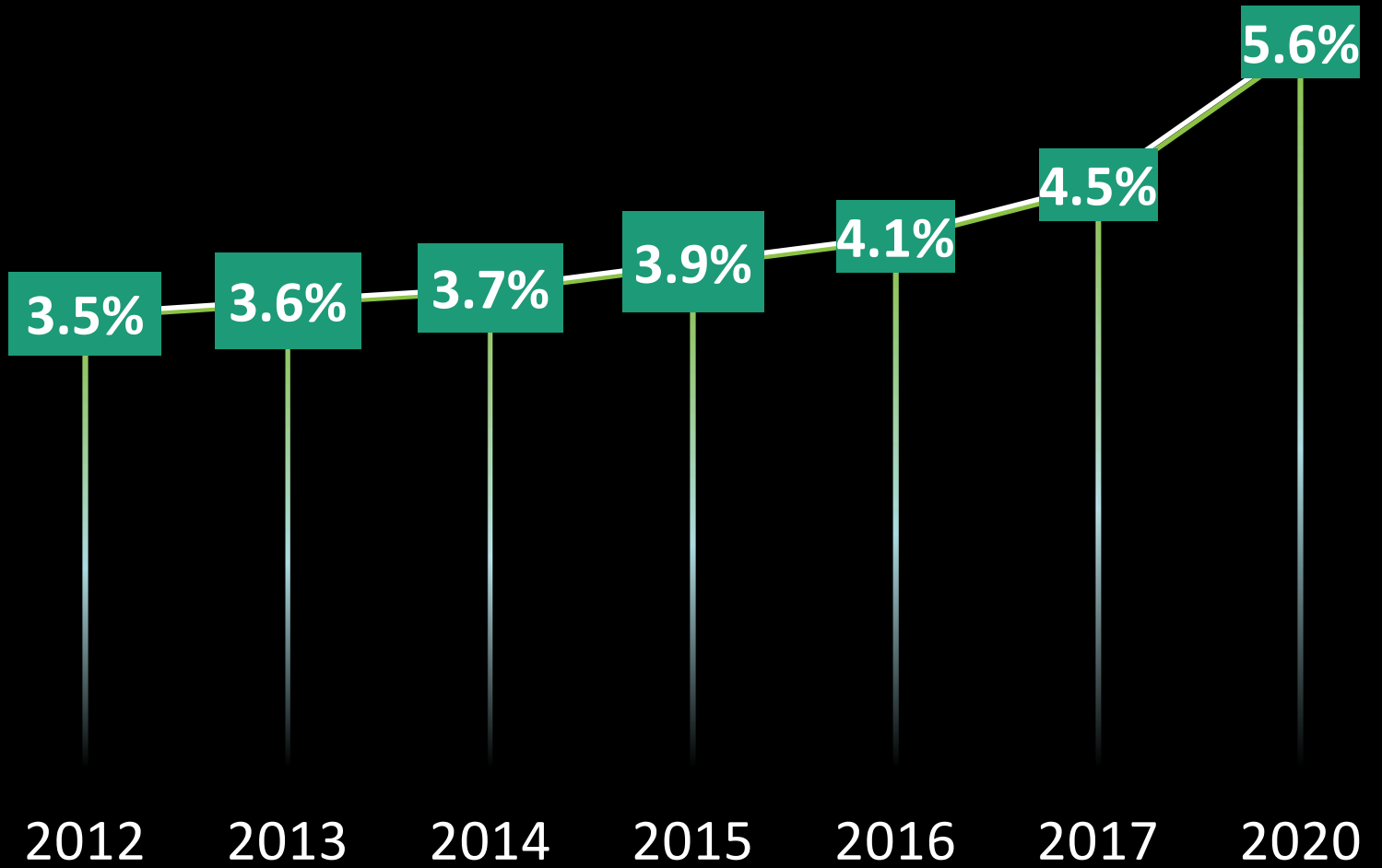
- a. 3.5 percent
- b. 5.6 percent**
- c. 10 percent
- d. 24.2 percent

% LGB per adult General Social Survey, 2008-2018

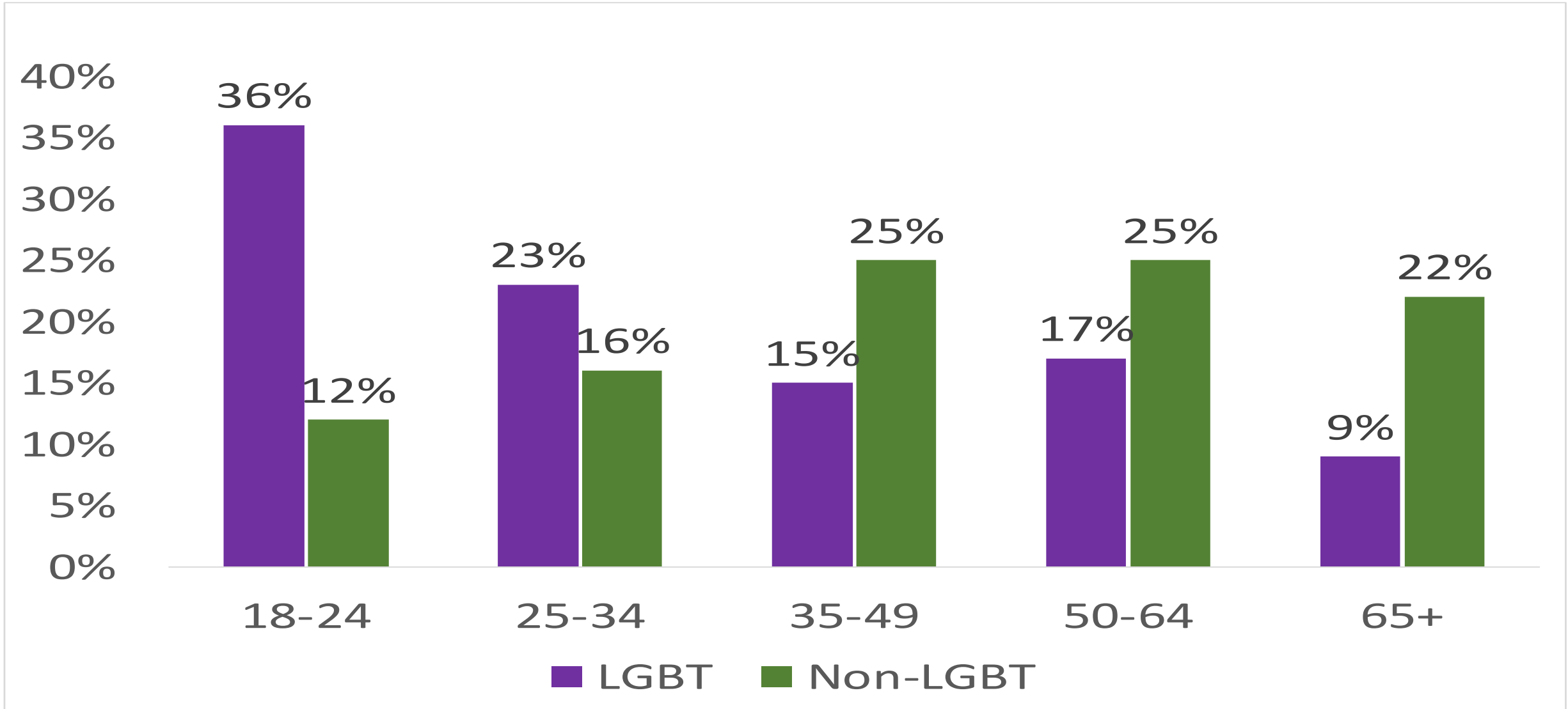


■ Lesbian/Gay
■ Bisexual

% LGBT ADULTS GALLUP, 2020



Nevada: age distribution of sexual orientation populations

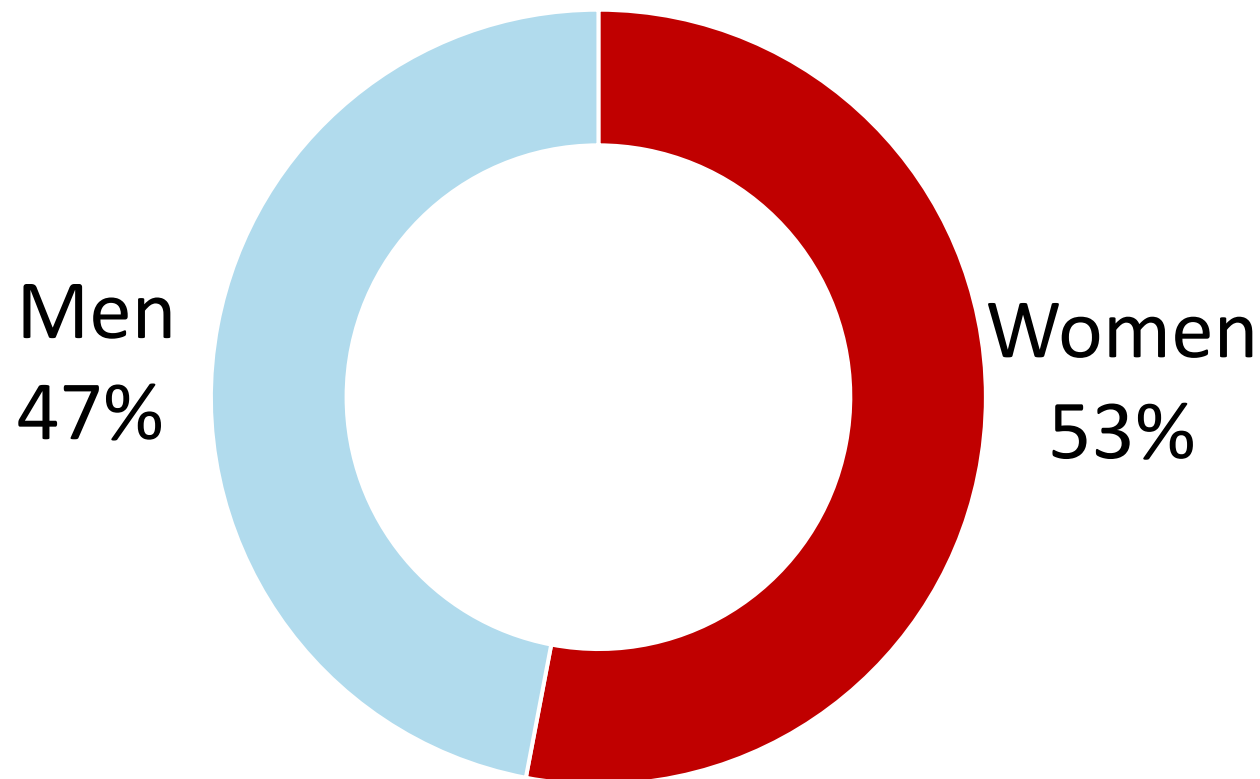


Nevada couples by sexual orientation and gender

Non-LGBTQ



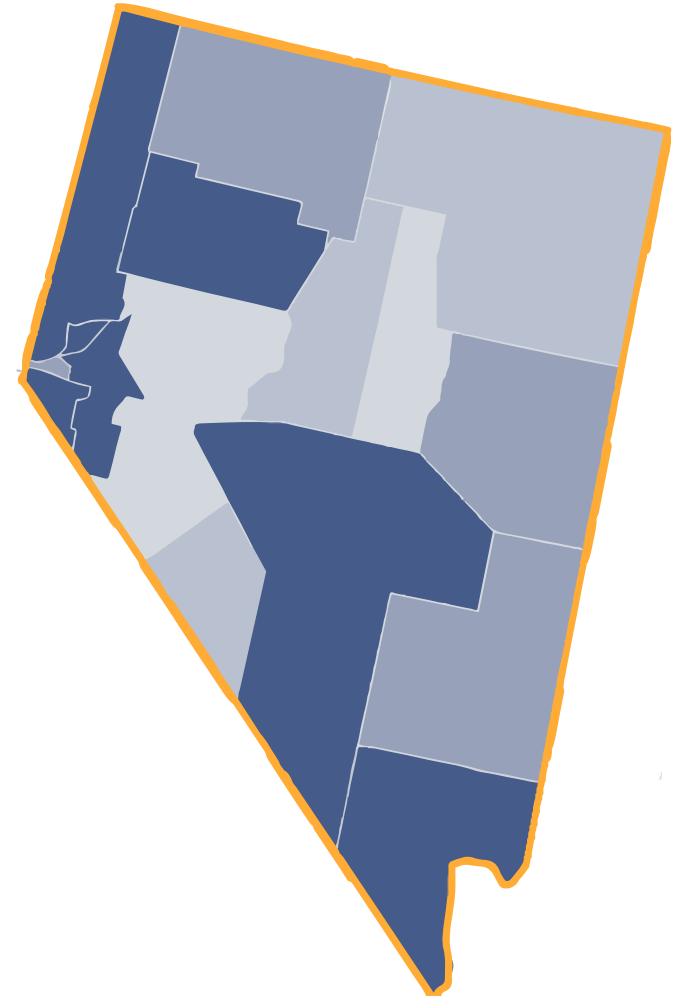
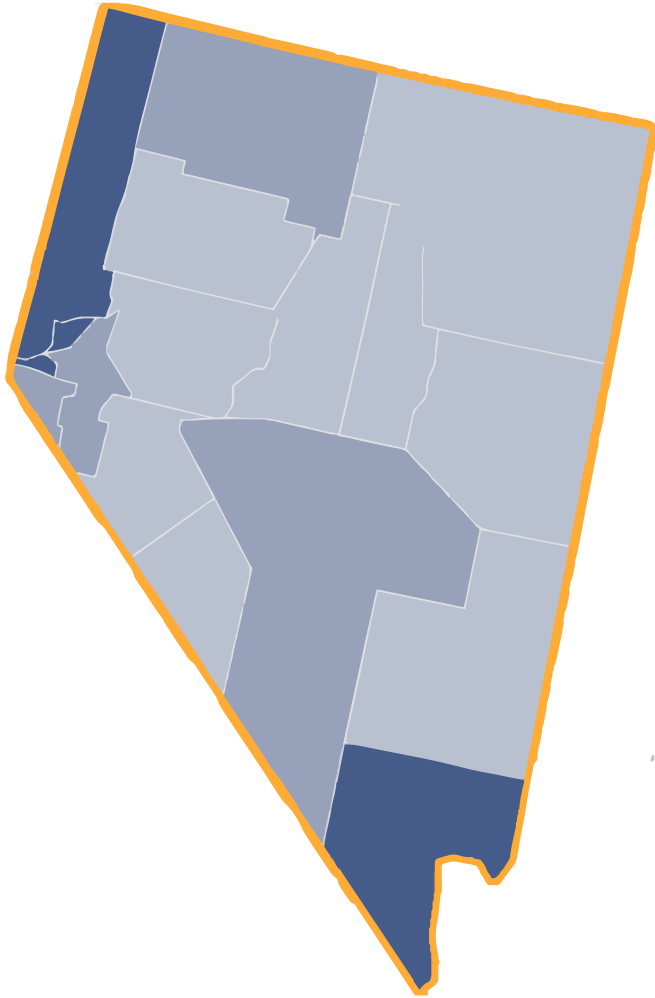
LGBT



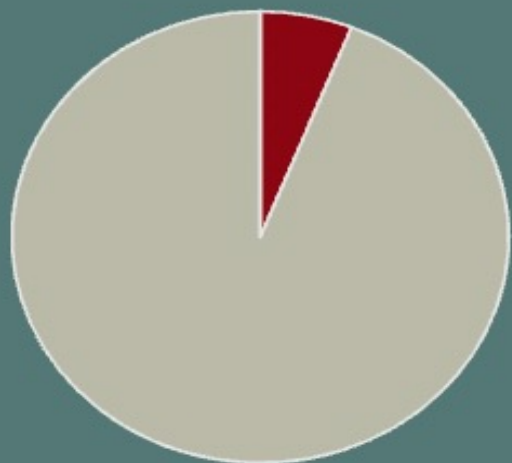
Male couples

Female couples

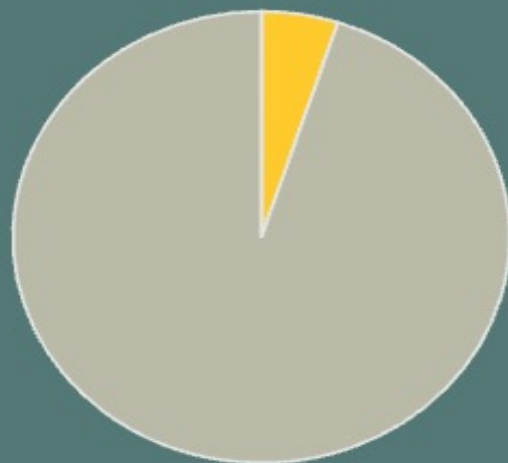
- Below 1.4 per 1K households
- 1.4 – 2.3
- 2.3 – 3.0
- Above 3.0



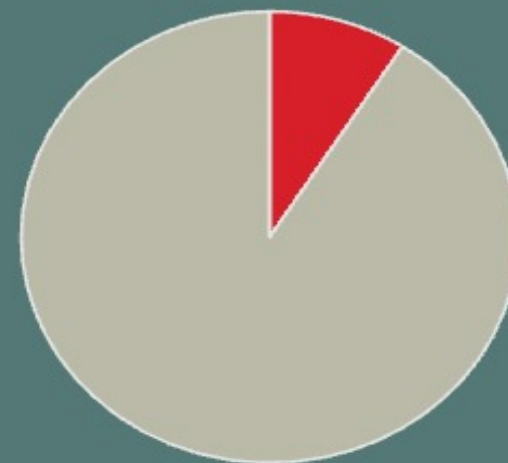
What % of each race/ethnicity identify as LGBT?



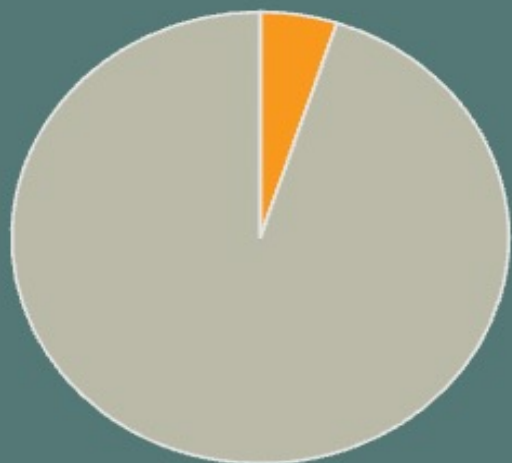
Am Ind/AK Nat 6%



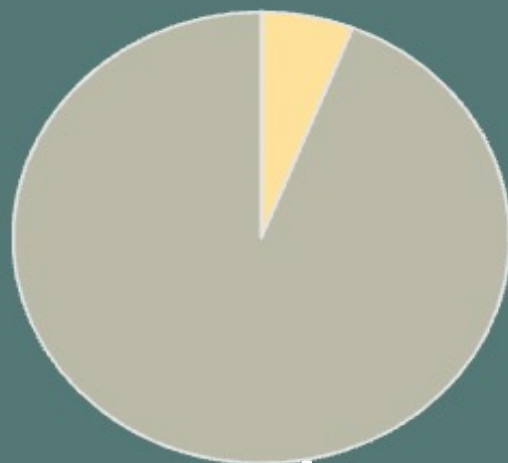
Asian 5%



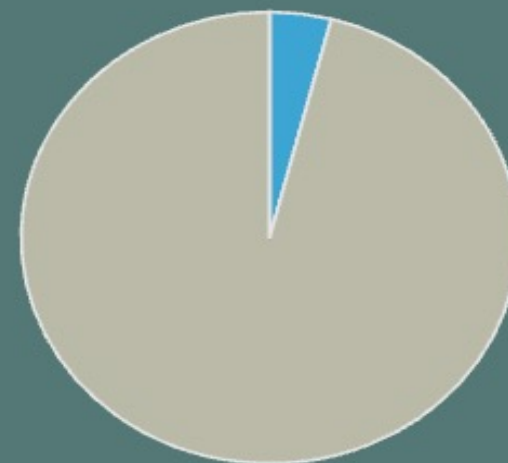
Nat Haw/Pac Isl 9%



Black 5%

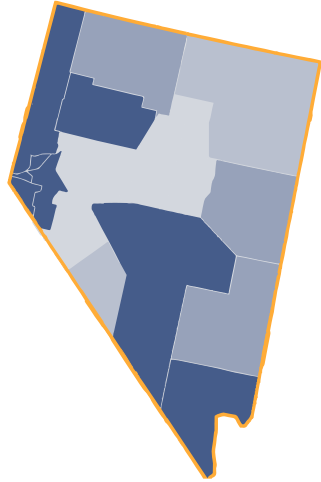


Latino/a 6%

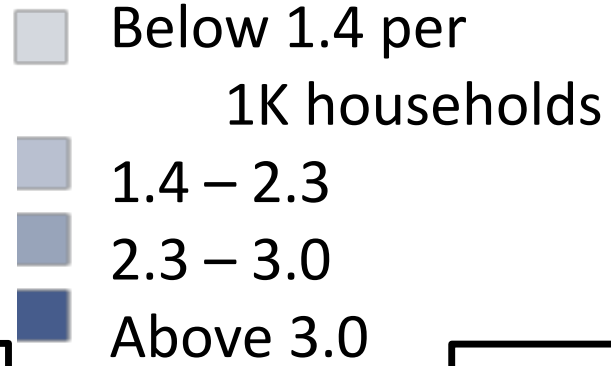
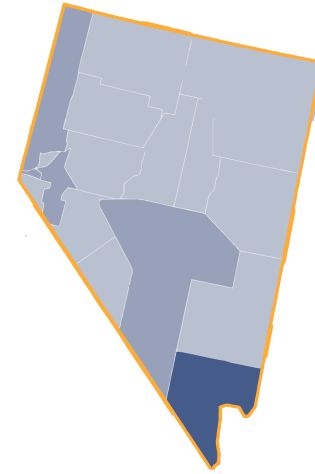


White 4%

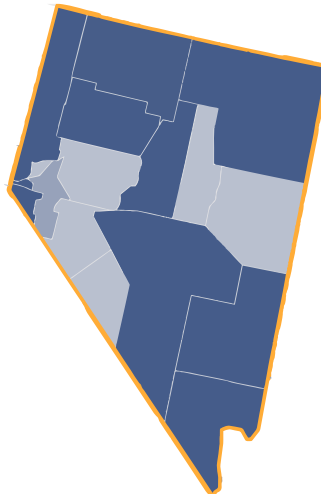
White



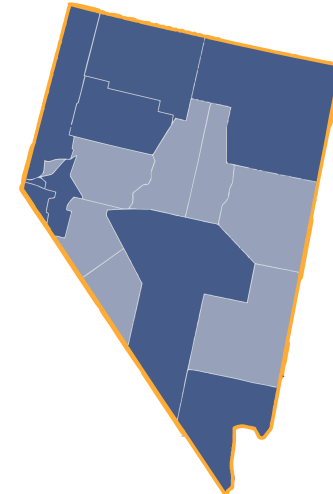
Black



Latino



Native American



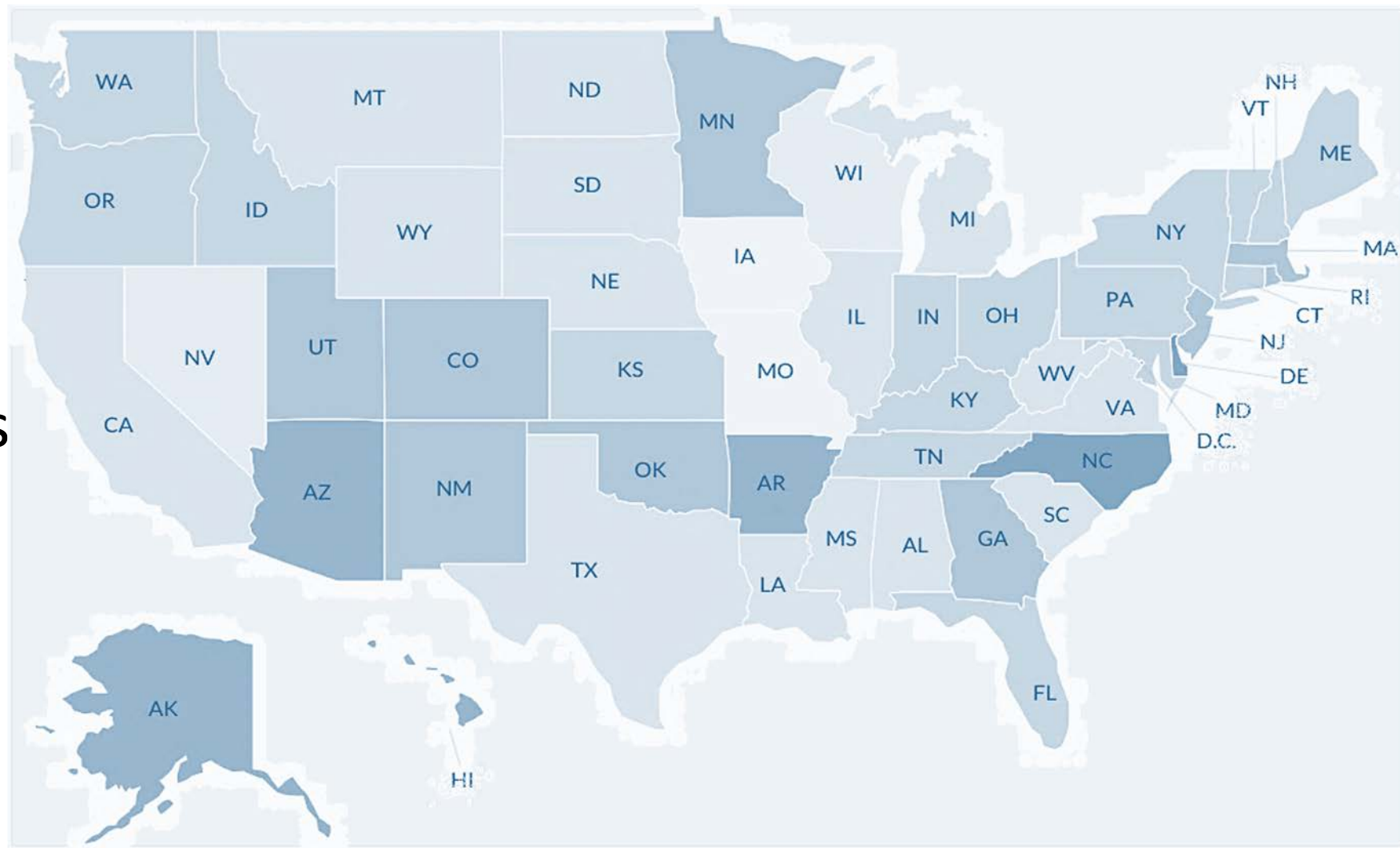
How many transgender people are there?

1.4 million adult U.S.
Population (0.6%)

Nevada ranks 33rd
in percentage of trans
adults (0.34%)

8,100

< Winnemucca



Trans youth (13-17): 1.67% = 3,300. Ranks 8th in percentage of youth

Tools for Creating Access for Trans and Gender Nonconforming People

Terminology and info

Biological Sex/Sex Assigned at Birth



Gender Identity



Gender Expression



Sexual Orientation



- Lesbian
- Gay
- Bisexual
- Transgender/Trans
- Cisgender
- Gender Nonbinary/Diverse
- Gender Nonconforming
- Queer
- Questioning

SOME SINGULAR PRONOUNS

Common

- he/him/his
- she/her/her
- they/them/their

Less common

- | | |
|---|---|
| <ul style="list-style-type: none">• ze/zir/zirs• ey/em/eir | <ul style="list-style-type: none">• she/they• they/she• he/they• they/he |
|---|---|

Suggestions and tools

What's the most common reason that transgender and gender nonbinary people go to the courthouse?

- a. For a discrimination claim
- b. For a name change
- c. For jury duty
- d. For a criminal case

Starting points

- Trans/gender nonbinary court users not fundamentally different from others
- Same need for respect, effective interactions, and prompt and efficient court services
- Often, their challenges come from others' discomfort with them
- Previous experience with mistreatment leads some to fear being visible in court
- You may need to overcome these barriers to provide effective access to justice.

Discussion Scenario 1

You have a case in your courtroom with Lawrence Thompson listed as a party. A self-represented litigant with a feminine hairstyle and wearing a dress, high heels, and lipstick appears before you and says that this is their case.

- a. What, if anything, do you do?
- b. What if that person says their name is Laura Thompson?
- c. What do you call that person when speaking to them?
- d. Do you make a notation in the file?

In re Change of Name: Salazar, 138 Nev. Adv. Op. 69,
(Oct. 22, 2022) Docket No. 82667

“Appellant Monica Denise Salazar, an inmate whose current legal name is Anthony Roy Salazar,¹ filed a petition with the Eighth Judicial District Court's Family Division to change her name.”

1. “While no legal name change has occurred in this case, we note that under common law, a person can go by any name they choose; this right predates the United States. While no law requires it, we choose to follow other courts that acknowledge a party’s chosen name on a voluntary basis.” [citations omitted]

Question: How do you address people?

- Consider asking them or their attorney:
 - “What would you like me to call you?”
 - “How should I address you?”
- Consider not referring to people by gender-specific titles like “Sir” or “Ma’am”
- Consider identifying people by role (“the minor” “the witness” “the defendant” “juror 5”) or by articles of clothing instead of using gendered language. *e.g.*, the “person in the blue shirt” instead of the “lady in front”

Getting ahead of the issue

Alternative ways of handling identity/pronoun issues

- Consider asking on court sign-in sheet/courtroom rules
- Consider placing your pronouns at your bench, in chambers, or on your email signature.
- In your introduction at the start of the day, consider stating your pronouns there:
“Good morning. I am Judge ____; my pronouns are ‘she/her.’”

Increasing access – Names and Pronouns

Respect how people identify

- If you are having a hard time switching to correct names/pronouns, or
- If you make a mistake – apologize, move on and keep working on it

Follow up to Scenario 1

Assume you have decided and informed everyone that the person should be called Laura Thompson and referred to using female pronouns during the proceedings. However, opposing counsel calls this individual Lawrence and uses male pronouns.

Q: What, if anything, do you do?

Increasing access: **Transparency**

- Sometimes you need to use a court user's unchanged, legal name to transact court business
- If possible, be transparent as to why you need information and what it will be used for

E.g., "I need to match your name with the case records in order to...."

E.g., "Your ID lists a different name/gender than the one I have in the case file, can you help me understand this?"

Transparency: recordkeeping and writing

- Clarity is important
- Consider dropping a footnote or other brief explanation of the names/pronouns used in written records, where necessary

Identity Documents

- After transition, **only 19%** (US: 11%) of transgender people in Nevada reported that *all* IDs had their correct name and gender
- **64%** (US:68%) reported that *none* of their IDs had the correct name and gender.

Cost of changing IDs was a main barrier

Many trans people prioritize social transitions over “legal” transitions. A significant amount of time may pass before they harmonize their ID documents – if ever

Discussion scenario 3

You have a case in your courtroom involving a loan taken out on December 1, 2019 and signed by “Denise Smith,” the defendant in the matter. The individual appearing before you today is dressed as a man and has told you his name is Daniel Smith. You are trying to resolve this inconsistency.

How do you do this? Do you ask:

- a. “Were you Denise Smith when you took out this loan?”
- b. “Is this your signature on this loan document?”
- c. “What was your name on December 1, 2019?”
- d. “Did you sign this loan document?”

Consider why/what information you actually need

- Do you really need to know the name?
- Or do you need to know if this person signed the loan document?

If the name is important, can you be transparent about why it is important?

Consider why/what information you actually need
Court forms

Is stating gender important for this form? Is this information necessary?

If knowing gender is important, can you offer the ability to self-identify?

Male Female Other _____

Consider being a bridge

Bridge the gap between Trans, GNB (and LGBTQ) court users and the court environment

For more information
please contact:

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Access to Juvenile Justice Irrespective of Sexual Orientation, Gender Identity, and Gender Expression (SOGIE)

Supporting Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, and Gender Non-Conforming (LGBTQ-GNC) Youth

A judge, and all those subject to the judge's direction and control, shall perform their duties of office, both judicial and administrative, free from personal and extracurricular biases. Judges, members of their staff, and lawyers in proceedings before the court are ethically obligated to promote access to justice for all impartially, competently, and diligently regardless of race, ethnicity, religion, sexual orientation, gender identity, and gender expression.¹ Judges shall not "by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so."²

LGBTQ-GNC Youth are Disproportionately Represented in the Juvenile Justice System

- LGBTQ-GNC youth represent 5-7% of the nation's youth population³ but 20% of those in juvenile detention facilities.⁴ Eighty-five percent of these youth are youth of color.⁵ Forty percent of girls in detention facilities identify as LGB-GNC.⁶
- From the time of an LGBTQ-GNC youth's first contact with the system, the youth may be marginalized based on conscious or unconscious perceptions and biases made about their sexual orientation, gender identity, and gender expression. This is compounded for LGBTQ-GNC youth of color who may experience discrimination at the intersection of these aspects of their identity. LGBTQ-GNC youth of color often face discrimination by judges and other justice system actors at all stages of their case.⁷
- LGBTQ-GNC youth are more frequently detained for status offenses, such as running away and truancy, for charges of prostitution, and for probation violations.⁸ State statutes and professional standards provide that pretrial detention should be imposed only when a child poses a risk of flight or is a palpable threat to public safety.⁹ LGBTQ-GNC youth, however, are often detained in situations in which these legal standards are not met.
- At disposition, LGBTQ-GNC youth are confined for nonviolent offenses at twice the rate of their gender-conforming peers.¹⁰ LGBTQ-GNC youth who crossover from the child welfare to the juvenile justice system or are dually involved in both systems, also face increased confinement.¹¹ In facilities, these youth are at greater risk of abuse, injury, and suicide.¹² Additionally, incarcerated youth are much more likely than incarcerated adults to be sexually abused.¹³ For LGBTQ-GNC youth, this is even more prevalent.

Unique Considerations at Every Stage of the Case

- Do not make assumptions regarding sexual orientation or gender identity.
- Examine any attitudes, beliefs, or biases that you may consciously or unconsciously hold.¹⁴
- Use developmentally appropriate language and ensure knowledge and use of current and appropriate terminology relevant to working with LGBTQ-GNC individuals.¹⁵
- Support an individual's expression of gender identity by using their preferred name and pronouns of choice.¹⁶
- Keep gender expression and identity confidential when it is not relevant to the court proceeding.
- Be mindful of the unintended consequences of "outing" a child.¹⁷
- Respect the privacy rights of all LGBTQ-GNC youth and never disclose a youth's sexual orientation or gender identity unless the youth has given you permission to do so, either through counsel or through direct communication.
- Allow transgender and gender non-conforming people to wear clothing that matches their gender identity or expression.
- Demand professionalism and prohibit use of derogatory pronouns, including "he-she" and "it" in reference to LGBTQ-GNC individuals. Instead, ensure that everyone in court uses an individual's chosen pronouns, such as he, she, they, or ze.
- Proactively address any homophobic or transphobic comments or actions made by anyone in the courtroom.
- Ensure that all juvenile justice professionals treat LGBTQ-GNC individuals with fairness, dignity, and respect, including prohibiting any attempts to ridicule or change a youth's sexual orientation or gender identity.
- When an LGBTQ-GNC youth is involved in both the juvenile justice and child welfare systems, determine whether the services identified for the youth are appropriate for the identified needs.¹⁸
- When the source of a delinquency charge against an LGBTQ-GNC youth originates from an existing child welfare placement, or where safety issues exist in the current child welfare placement, require alternative placements be evaluated and presented to the court.
- Become familiar with laws and policies that protect SOGIE and have resources available in the courtroom to share with LGBTQ-GNC youth and their families, as well as juvenile court actors and treatment providers.

Unique Considerations at Specific Stages of the Case

DETENTION AND PROBABLE CAUSE HEARINGS

- In making a probable cause determination, ensure bias related to the youth's sexual orientation, gender identity, or gender expression was not the underlying or direct basis for arrest and court referral.
- Pretrial detention should only be employed if it is the least restrictive option to ensure court appearance or if it is necessary to address substantial public safety concerns. These considerations are particularly important for LGBTQ-GNC youth due to increased and well-documented risk of harm to this population of youth in placement facilities.¹⁹
- If detention must be utilized, ensure that at a minimum the placement facility complies with PREA,²⁰ and other best practices related to housing of LGBTQ-GNC youth.

PRETRIAL MOTIONS

- Where issues relating to the youth's SOGIE are raised in pretrial motions, carefully consider any existing law, research, best practices, and standards of care before issuing a decision. Request information to supplement the motion if necessary.

DISPOSITION

- Where probation or the prosecution recommends services as part of the disposition, be cognizant of ordering services that are harmful or inappropriate for LGBTQ-GNC youth. Examples of harmful services include, but are not limited to, reparative therapy, unnecessary sex offender assessment or treatment, and requirements to conform with the sex the child was assigned at birth.
- When out-of-home placement is recommended, ensure it is competent to serve LGBTQ-GNC youth; review any available information and data about the placement to determine if appropriate services are available for LGBTQ-GNC youth; ensure youth will have access to the same programs as their straight and cisgender peers; make sure that LGBTQ-GNC youth are not placed into more restrictive placements than are necessary merely because other placements will not accept them on the basis of their SOGIE.
- Consider alternate LGBTQ-GNC friendly/appropriate resources or plans identified by the youth's defender when they are different than what probation or the prosecution is requesting.
- Be familiar with resources in the community that provide better and more competent alternative placements than a commitment facility.
- Given the high rates of family rejection that LGBTQ-GNC youth experience, support the youth's family of choice when out-of-home placement is unnecessary but the youth's family will not allow the child to return home.
- Where the youth's SOGIE is a barrier to family reunification, when possible order parents and family members to participate in counseling and parent support groups to assist in helping them become more accepting and supportive of their LGBTQ-GNC child.

Unique Considerations at Specific Stages of the Case (cont.)

POST-DISPOSITION REVIEW HEARINGS/PROBATION REVOCATION

- When a post-disposition review hearing is scheduled or requested, or when a motion for modification of disposition is filed, inquire as to conditions of confinement and address any concerns if there is possible discrimination based on SOGIE. Make specific inquiry about any reported instances of isolation, administrative segregation, disparate application of sanctions, allegations of abuse, prohibition or punishment of gender expression, health and safety issues, and fair and respectful treatment.
- Where necessary, issue orders to prevent institutions from treating LGBTQ-GNC youth differently than their straight and cisgender peers; require the use of qualified mental health practitioners who are knowledgeable about LGBTQ-GNC youth for court-ordered evaluations and treatments; ensure that transgender youth receive necessary medical services from qualified healthcare practitioners knowledgeable about Gender Dysphoria and medical care for transgender youth.
- Recognizing that isolation of LGBTQ-GNC youth is often a contributing factor to acting out in placements, make inquiry into available opportunities for LGBTQ-GNC youth to read appropriate magazines, books, and watch movies with LGBTQ-GNC themes, to socialize with other LGBTQ-GNC youth, and to engage in recreational activities together.

VIOLATIONS OF PROBATION/PROBATION REVOCATION

- Inquire whether the probation officer has instituted appropriate services and opportunities for support for the LGBTQ-GNC youth on probation.
- Determine whether the reason for revocation is related to bias or other factors specific to the youth's SOGIE.

Understanding LGBTQ-GNC Terminology

LGBTQ-GNC is an acronym that stands for Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, and Gender Non-Conforming. This bench card uses the acronym "LGBTQ-GNC" in the broadest sense possible. While there are many other acronyms that may reflect a more nuanced understanding of the breadth of identities that exist within the SOGIE (Sexual Orientation, Gender Identity, and Gender Expression) spectrum (e.g. LGBTQQIAA2-S: Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, Intersex, Asexual, Ally, and Two-Spirit), the judges involved in drafting this bench card chose LGBTQ-GNC for the sake of brevity and uniformity. Terminology is constantly evolving and because certain groups may gravitate to certain terms and abbreviations over others, it is therefore difficult to come to a commonly agreed upon acronym that reflects all perspectives. This model's use of LGBTQ-GNC is intended to be as inclusive of all identities as possible. For a comprehensive glossary of key LGBTQ-GNC terms, please visit the links provided under Additional Resources.

Training

This bench card provides judges with introductory principles and best practices to ensure that LGBTQ-GNC people in the courtroom are treated with respect by all justice system actors. Comprehensive, supplementary training by professionals with specific competence in SOGIE issues and expertise in the fields of juvenile justice and LGBTQ-GNC rights is strongly recommended in conjunction with use of this card. To be connected with leading experts, please contact The Equity Project by emailing info@equityproject.org.

Additional Resources

The Equity Project: An initiative to ensure that LGBTQ-GNC youth in juvenile delinquency courts are treated with dignity, respect, and fairness.

- See generally: <http://www.equityprojects.org/>
- Short definitions list: <http://www.equityprojects.org/wp-content/uploads/2015/03/ShortDefinitionListHandout.pdf>
- Hidden Injustice: Lesbian, Gay, and Transgender Youth in Juvenile Courts: http://www.equityprojects.org/wp-content/uploads/2014/08/hidden_injustice.pdf (includes a Glossary of Terms on page 145-Appendix A)
- Toward Equity: Understanding Sexual Orientation, Gender Identity, and Gender Expression and Developing Competency to Serve Lesbian, Gay, Bisexual, and Transgender Youth in the Juvenile Justice System <http://www.equityprojects.org/training/toward-equity-full-curriculum-download/>

Lambda Legal: An organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and those with HIV through impact litigation, education and public policy work.

- See generally: www.lambdalegal.org

National Center for Lesbian Rights – Youth Project: Advancing the rights of LGBT youth through education, public policy, and precedent-setting casework to ensure that all LGBT young people are safe and can live openly with the support they need to reach their full potential.

- See generally: www.nclrights.org

Center for American Progress - Movement Advancement Project: An independent nonpartisan policy institution that is dedicated to improving the lives of LGBT Americans.

- See generally: <https://www.americanprogress.org/issues/lgbt/view/>

GLSEN: An organization dedicated to improving the education system for LGBTQ students.

- See generally: <https://www.glsen.org/>

Family Acceptance Project: An initiative that works to prevent health and mental health risks for lesbian, gay, bisexual and transgender (LGBT) children and youth, including suicide, homelessness and HIV – in the context of their families, cultures and faith communities.

- See generally: <https://familyproject.sfsu.edu/>

Parents, Families & Friends of Lesbians and Gays (PFLAG): Promoting the health and well-being of lesbian, gay, bisexual and transgender persons and their families and friends through: support, to cope with an adverse society; education, to enlighten an ill-informed public; and advocacy, to end discrimination and to secure equal civil rights.

- See generally: www.pflag.org

Improving Courtroom Culture

Encourage justice system actors, such as defense lawyers, court workers, probations staff, service providers, and others advocating for LGBTQ-GNC youth to follow the guidelines outlined in this bench card.

ENDNOTES

1. See generally MODEL CODE OF JUD. CONDUCT r. 2.3 (AM. BAR ASS'N 2007); MODEL RULES OF PROF'L CONDUCT r. 8.4 (AM. BAR ASS'N 2016). See also CONN. PROB. CT. CODE JUD. CONDUCT r. 2.3; ME. CODE JUD. CONDUCT 2.3; MASS JUD. CODE OF CONDUCT r. 2.3(2) (2016); MO CODE OF JUD. CONDUCT r. 2.3 (2013); OR CODE OF JUD. CONDUCT. R. 3.3(B) (2013); 42 P.C.S.A. § 102 (2016).
2. MODEL CODE OF JUDICIAL CONDUCT r. 2.3(B) (AM. BAR ASS'N 2007).
3. Angela Irvine, "We've Had Three of Them": Addressing the Invisibility of Lesbian, Gay, Bisexual and Gender Non-Conforming Youths in the Juvenile Justice System, 19 COLUM. J. GENDER & L. 675 (2010); DEP'T OF JUSTICE, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, MODEL PROGRAMS GUIDE LITERATURE REVIEW: LGBTQ YOUTHS IN THE JUVENILE JUSTICE SYSTEM (2014), <https://www.ojjdp.gov/mpg/litreviews/LGBTQYouthsInTheJuvenileJusticeSystem.pdf>.
4. Angela Irvine & Aisha Canfield, *The Overrepresentation of Lesbian, Gay, Bisexual, Questioning, Gender Nonconforming and Transgender Youth Within the Child Welfare to Juvenile Justice Crossover Population*, 24 J. GENDER SOC. POL'Y & L. 243, 248 (2016). See also Bianca D. M. Wilson et al., *Disproportionality and Disparities among Sexual Minority Youth in Custody*, 46 J. YOUTH ADOLESCENCE 1547 (2017) (LGBTQ and particularly LGBTQ youth of color are overrepresented in the juvenile justice system).
5. See Irvine & Canfield, *supra* note 4, at 248. See also CENTER FOR AMERICAN PROGRESS & MOVEMENT ADVANCEMENT PROJECT, *Unjust: How the Broken Criminal Justice System Fails LGBTQ+ People of Color*, 2016 [hereinafter *Unjust*]; Wilson et al., *supra* note 4, at 1.
6. Irvine & Canfield, *supra* note 4, at 257-58; see also Wilson et al., *supra* note 4, at 2.
7. Irvine & Canfield, *supra* note 4, at 248; see *Unjust*, *supra* note 5; Wilson et al., *supra* note 4, at 2.
8. Irvine, *supra* note 3, at 675; Wilson et al., *supra* note 4, at 3.
9. Some state statutes allow for a juvenile to be detained if they are deemed to be a danger to themselves. Prior to the detention of an LGBTQ-GNC youth who is purportedly a danger to themselves, judges should ensure that there is an actual danger, rather than a perceived danger based on the youth's SOGIE. It is often this errant rationale that leads to the unnecessary detention of status offenders, runaways, and LGBTQ-GNC youth. See *Unjust*, *supra* note 5; Wilson et al., *supra* note 4, at 3.
10. FRANCINE H. JACOBS & FRANCINE T. SHERMAN, JUVENILE JUSTICE: ADVANCING RESEARCH, POLICY, AND PRACTICE 164 (2011).
11. REFORMING JUVENILE JUSTICE: A DEVELOPMENTAL APPROACH 6 (Richard J. Bonnie et al., eds. 2013).
12. See Eileen Poe-Yamagata & Michael A. Jones, *Building Blocks for Youth, And Justice for Some: Differential Treatment of Minority Youth in the Justice System* (2000), http://www.nccdglobal.org/sites/default/files/publication_pdf/justice-for-some.pdf. See also Wilson et al., *supra* note 4, at 4.
13. U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE STATISTICS, SEXUAL VICTIMIZATION IN JUVENILE FACILITIES REPORTED BY YOUTH (2012), <https://www.bjs.gov/content/pub/pdf/svjfry12.pdf>.
14. Implicit biases are held by all people, even those with commitments to impartiality such as judges. Implicit associations do not necessarily align with consciously held or declared beliefs. See Video: Hidden Injustice: Bias on the Bench (Am. Bar Ass'n), <http://www.americanbar.org/diversity-portal/diversity-inclusion-360-commission/implicit-bias.html> (last visited March 27, 2017). See also EQUITY PROJECT, TOWARD EQUITY: UNDERSTANDING SEXUAL ORIENTATION, GENDER IDENTITY, AND GENDER EXPRESSION AND DEVELOPING COMPETENCY TO SERVE LESBIAN, GAY, BISEXUAL, AND TRANSGENDER YOUTH IN THE JUVENILE JUSTICE SYSTEM, http://www.equityprojects.org/wp-content/uploads/2015/01/Equity_Curriculum_Complete.pdf [Hereinafter *Toward Equity*].
15. For key terms and relevant terminology glossaries, see source cited *supra* Additional Resources.
16. Walter Meyer III et al., *The Harry Benjamin International Gender Dysphoria Association's Standards of Care for Gender Identity Disorders* 9 (6th ed. 2001), <http://www.cpath.ca/wp-content/uploads/2009/12/WPATHsocv6.pdf>. See also TERESA DECRESCENZO & GERALD P. MALLON, SERVING TRANSGENDER YOUTH: THE ROLE OF THE CHILD WELFARE SYSTEM 19 (Child Welfare League of America 2000).
17. Common feelings associated with coming out include loss of relationships and friendships, rejection, being kicked out of the house, and not having financial support for food, clothing, or school. *Toward Equity*, *supra* note 14, at 16, 22-23.
18. See *Toward Equity*, *supra* note 14; *Unjust*, *supra* note 5.
19. LAMBDA LEGAL, KEEPING LGBTQ YOUTH SAFE IN JUVENILE JUSTICE & DELINQUENCY PLACEMENTS (2012), http://www.lambdalegal.org/sites/default/files/gdtb_2013_10_juvenile_justice.pdf.
20. Prison Rape Elimination Act of 2003, Pub. L. No. 108-79, 117 Stat. 972. See also *Prison Rape Elimination Act*, NATIONAL PREA RESOURCE CENTER, <https://www.prearesourcecenter.org/about/prison-rape-elimination-act-prea> (last visited Mar. 29, 2017).



The 2015 U.S. Transgender Survey (USTS) is the largest survey examining the experiences of transgender people in the United States, with 27,715 respondents nationwide. The USTS was conducted by the National Center for Transgender Equality in the summer of 2015. Of respondents in the USTS, 206 were Nevada residents.¹ This report discusses the experiences of respondents living in Nevada.

Income and Employment Status

- 36% of respondents in Nevada were unemployed.²
- 44% were living in poverty.³

Employment and the Workplace

- 22% of respondents who have ever been employed reported losing a job in their lifetime because of their gender identity or expression.
- In the past year, 32% of those who held or applied for a job during that year reported being fired, being denied a promotion, or not being hired for a job they applied for because of their gender identity or expression.
- Respondents who had a job in the past year reported being verbally harassed (20%) and sexually assaulted (1%) at work because of their gender identity or expression.
- 32% of those who had a job in the past year reported other forms of mistreatment based on their gender identity or expression during that year, such as being forced to use a restroom that did not match their gender identity, being told to present in the wrong gender in order to keep their job, or having a boss or coworker share private information about their transgender status with others without their permission.

Education

- 80% of those who were out or perceived as transgender at some point between Kindergarten and Grade 12 (K–12) experienced some form of mistreatment, such as being verbally harassed, prohibited from dressing according to their gender identity, disciplined more harshly, or physically or sexually assaulted because people thought they were transgender.
 - 45% of those who were out or perceived as transgender in K–12 were verbally harassed, 30% were physically attacked, and 13% were sexually assaulted in K–12 because of being transgender.
 - 9% faced such severe mistreatment as a transgender person that they left a K–12 school.
- 18% of respondents who were out or perceived as transgender in college or vocational school were verbally, physically, or sexually harassed because of being transgender.

Housing and Homelessness

- 26% of respondents experienced some form of housing discrimination in the past year, such as being evicted from their home or denied a home or apartment because of being transgender.
- 37% have experienced homelessness at some point in their lives.
- 13% experienced homelessness in the past year because of being transgender.

Public Accommodations

- Respondents reported being denied equal treatment or service, verbally harassed, or physically attacked at many places of public accommodation—places that provide services to the public, like retail stores, hotels, and government offices.
- Of respondents who visited a place of public accommodation where staff or employees thought or knew they were transgender, 27% experienced at least one type of mistreatment in the past year. This included 5% who were denied equal treatment or service and 24% who were verbally harassed because of being transgender.

Restrooms

- 7% of respondents reported that someone denied them access to a restroom in the past year.
- In the past year, 8% of respondents reported being verbally harassed when accessing a restroom.
- 43% of respondents avoided using a public restroom in the past year because they were afraid of confrontations or other problems they might experience.
- 25% of respondents limited the amount that they ate or drank to avoid using the restroom in the past year.

Police Interactions

- Respondents experienced high levels of mistreatment and harassment by police. In the past year, of respondents who interacted with police or other law enforcement officers who thought or knew they were transgender, 59% experienced some form of mistreatment. This included being verbally harassed, repeatedly referred to as the wrong gender, physically assaulted, or sexually assaulted, including being forced by officers to engage in sexual activity to avoid arrest.
- 45% of respondents said they would feel uncomfortable asking the police for help if they needed it.

Health

- 23% of respondents experienced a problem in the past year with their insurance related to being transgender, such as being denied coverage for care related to gender transition or being denied coverage for routine care because they were transgender.

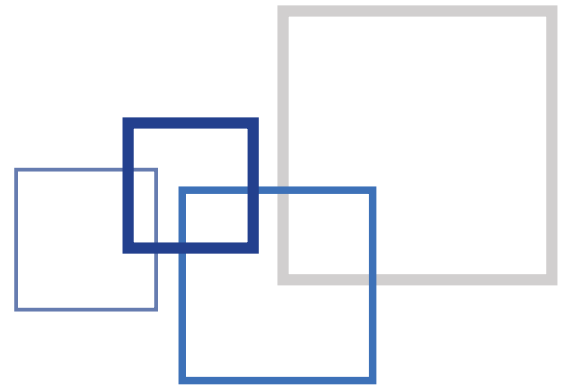
- 41% of those who saw a health care provider in the past year reported having at least one negative experience related to being transgender. This included being refused treatment, verbally harassed, or physically or sexually assaulted, or having to teach the provider about transgender people in order to get appropriate care.
- In the past year, 33% of respondents did not see a doctor when they needed to because of fear of being mistreated as a transgender person, and 41% did not see a doctor when needed because they could not afford it.
- 41% of respondents experienced serious psychological distress in the month before completing the survey (based on the Kessler 6 Psychological Distress Scale).⁴
- 16% of respondents reported that a professional, such as a psychologist, counselor, or religious advisor, tried to stop them from being transgender.

Identity Documents

- Only 19% of respondents reported that *all* of their IDs had the name and gender they preferred, while 64% reported that *none* of their IDs had the name and gender they preferred.
- The cost of changing IDs was one of the main barriers respondents faced, with 37% of those who have not changed their legal name and 46% of those who have not updated the gender on their IDs reporting that it was because they could not afford it.
- 45% of respondents who have shown an ID with a name or gender that did not match their gender presentation were verbally harassed, denied benefits or service, asked to leave, or assaulted.

ENDNOTES | NEVADA STATE REPORT

1. The number of respondents in Nevada (n=206) is an unweighted value. All reported percentages are weighted. For more information on the weighting procedures used to report 2015 U.S. Transgender Survey data, see the full survey report, available at www.USTransSurvey.org.
2. For reference, the U.S. unemployment rate was 5% at the time of the survey, as reported by the Bureau of Labor Statistics. See the full report for more information about this calculation.
3. For reference, the U.S. poverty rate was 12% at the time of the survey. The research team calculated the USTS poverty measure using the official poverty measure, as defined by the U.S. Census Bureau. USTS respondents were designated as living in poverty if their total family income fell under 125% of the official U.S. poverty line. See the full report for more information about this calculation.
4. For reference, 5% of the U.S. population reported experiencing serious psychological distress during the prior month as reported in the 2015 National Survey on Drug Use and Health. See the full report for more information about this calculation.



2015 U.S. Transgender Survey

Nevada State Report

October 2017



The full report and Executive Summary of the 2015 U.S. Transgender Survey are available at www.USTransSurvey.org.

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Recommended Citation: *2015 U.S. Transgender Survey: Nevada State Report*. (2017). Washington, DC: National Center for Transgender Equality.

USTransSurvey.org | TransEquality.org

Judges have an obligation to foster a judicial environment free of bias, prejudice, and harassment.¹ It is “misconduct” to discriminate based on sexual orientation, gender identity, or gender expression.² Where a party or attorney has advised the court that their preferred [*chosen*] gender pronoun is “they,” a judge may not require them to instead use “he” or “she.”³

WHAT DOES “LGBTQ+” MEAN?

The term “LGBTQ+” refers to lesbian, gay, bisexual, transgender, and queer or questioning people. LGBTQ+ is a widely used and reasonably inclusive term, including those of non-heterosexual sexual orientations and transgender people. Other shorthand terms used with some frequency include the letters “I” for “intersex,” “A” for “asexual” or “ally,” “2S” for “two-spirit” (in Native American culture) and possibly others.

GENDER VARIANT/NEUTRAL PRONOUNS

Some persons may have a pronoun choice other than he/him/his/himself, she/her/hers/herself, or they/them/their/theirself. The pronoun list that follows is not an exhaustive list:

- **sie** (or ze, or zie)/hir/hirs/hirself
- **e**/em/es/eself
- **hi**/hem/hes/himself
- **na**/nan/nas/naself
- **per**/per/pers/perself
- **ze**/zim/zee’s/zeeself

“TRANSGENDER” AND PRONOUN USE

“Transgender” is a broad term that includes people who do not identify with their assigned birth sex and may not conform to traditional gender expression. The term “trans*”—with or without the asterisk—is commonly used shorthand. There are others who may choose another term such as non-binary, genderqueer, or queer. Judges and court personnel should keep in mind that being transgender, regardless of a person’s gender expression, is entirely unrelated to sexual orientation. Transgender individuals, like others, may be attracted to partners of any gender.

A key point: there is no precise measure of when the process of changing one’s gender or sex is complete. Surgery of any kind is not a prerequisite to being transgender, but for some it is a necessity. A transgender person may have some surgery, many surgeries, or no surgeries.

The process of confirming gender is sometimes referred to as transition, of which **Gender Confirmation Surgery (“GCS”)** may be just a part. GCS, sometimes referred to as bottom surgery, was once called “sex change surgery” a term now disfavored. Transition often includes social and legal components as well.

If unsure of which pronoun to use to refer to a person, **ask the person** – it is not considered rude, indeed, asking is seen by most as a sign of respect. When referring to past events of a transgender person, maintain the individual’s chosen pronouns presently in use for the historical narrative. For example, “Defendant lived with her wife until separation.”

1 22 NYCRR 100.3(B)(3-5)

2 NY RULES OF PROF’L CONDUCT r. 8.4(g) (NYS BAR ASS’N 2021).

3 NY Advisory Committee on Judicial Ethics, Op. 21-09 (2021).

INCLUSIVE LANGUAGE IN COURT

Inclusive language in the courtroom conveys the message that all people, regardless of orientation, gender identity or gender expression, will be treated with dignity and respect. Gender-inclusive language helps in avoiding misgendering people in the courtroom. When judges and lawyers share/volunteer their own pronouns, it reduces the perception that pronouns are only relevant for gender-diverse persons. If a judge becomes aware that a party is or may be transgender, the judge should consider asking questions such as:

- **What name do you usually go by?**
- **Is your birth/legal name different?**
- **Which name do you want me to use with you?**
- **How would you like to be addressed? For example, I use [the judge's pronouns].**

This shows compliance with the recent changes to the ethical and professional rules that govern the conduct of attorneys and judges.⁴ Further,

- **Judges and attorneys can volunteer their chosen pronoun during appearances and jury introductions.**
- **Judge's pronouns can be included on courthouse/room signage.**
- **Use the name of the person or gender-neutral words such as, "folks," "guests," "jurors" and "counsel."**
- **Avoid terms and phrases that are gender-specific such as "ladies and gentlemen of the jury," "sir" and "ma'am."**
- **Realize a person's chosen pronouns may change, and that some people may have pronouns that are fluid or interchangeable (such as "she/they").**
- **Honorifics: in addition to Mr./ Ms./ Miss/ Mrs., there are gender-neutral choices, such as M. or Mx.**

⁴ Hyer, Wallach and Browde *Examining Judicial Civility in New York Courts for Transgender Persons in the Wake of United States v. Varner* (NYSBA Latest News 8.18.2020)

IMPORTANT TERMS TO KNOW

AFAB/AMAB: Assigned female at birth/ Assigned male at birth. Acronyms indicating that the individual's assigned sex at birth was in error.

Gender Confirmation Surgery ("GCS"): sometimes referred to as "bottom surgery," was once called "sex change surgery" a term now disfavored.

Gender expression: the way a person demonstrates their gender through outward manifestations such as clothing, mannerisms, style, etc.; this may not match gender identity.

Gender identity: an individual's perception of their own gender.

Gender non-binary: Identifying as neither male nor female.

Gender nonconforming: Not identifying with a recognized gender.

Intersex: A term used to describe natural differences in sexual development/traits that affect approximately 1.7% of the population.

MBT/WBT: man born trans/ woman born trans

DISFAVORED TERMS

FTM (female to male) and MTF (male to female): acronyms indicating that a person has transitioned from one sex to the other.

Transsexual: A person that has transitioned medically from one sex or gender to another (disfavored due to the "change" implication).

TERMS TO AVOID

hermaphrodite, she-male, he-she, tranny, transvestite.

Within the LGBTQ+ community there has been a reclamation of some words historically used pejoratively against LGBTQ+ persons. Ex. Some folks use "queer" and "dyke" as positive, respectful terms. Although LGBTQ+ people may use these terms, they are often seen as derogatory when used by others. **Exercise extreme caution with respect to such words.**



PRONOUNS AND THE COURTS

Prepared by U.S. Magistrate Judge Mustafa T. Kasubhai: Mustafa_Kasubhai@ord.uscourts.gov

Why do this?

- Respectfully acknowledging an attorney's, litigant's, witness's, or juror's gender identity with the appropriate pronoun and honorific in court affirms everyone's dignity, cultivates fairness and equal treatment, promotes the appearance of the same, and earns the public's trust and confidence. While Court decorum is necessarily formal, it need not exclude people from being seen and heard.
- Yes, it can be hard to find the language, but it gets easier and more natural with practice. Modify these suggestions to make them your own and commit to using these practices consistently.

What to say in Person

1. Introducing yourself in a meeting: My name is Judge _____ and my pronouns are _____.

2. Rule 16 Conferences and Oral Argument:

“Thank you for being available to discuss [subject matter] today. I'd like counsel to please introduce yourselves including giving me your full name and your honorific, such as Ms., Mx., or Mr., so I can address you respectfully throughout our meeting today.”

3. Criminal Docket:

Before calling the first case, give the general instruction: “I'd like counsel to introduce themselves giving me your full name and your honorific, such as Ms., Mx., or Mr., and if your client will be making an appearance, I ask you to please introduce them to the court by giving me their full name and their honorific, such as Ms., Mx., or Mr.”

4. Trial:

When walking attorneys through trial protocols, advise attorneys to “please be sure to introduce clients and witnesses with their honorifics so that I can be sure to address them respectfully throughout the trial.”

5. Jury Selection:

“Good morning members of the public. My name is Judge _____. I'd like each of you to introduce yourselves by giving me your full name. Please be sure to give me your honorific, such as Ms., Mx., or Mr., so that I can respectfully address you throughout our time together.”

What to say when you err, and realize it in the moment. Avoid dwelling on the error. Apologize and return to the topic.

“I have erred and I am sorry for doing so. Can you tell me how I can respectfully address you today when I use your last name?”

When someone does not give an honorific or pronoun after you have asked, then assume the pronoun or honorific.

Compelling anyone to identify their pronouns at a time when they do not feel safe or comfortable for any reason undermines the inclusive purpose of this practice.

Language in Orders and Other Documents

1. **Case Management, Trial Management, Mediation, and other Scheduling Orders:**

“Pronoun Usage. The parties and counsel are encouraged to advise the Court of their pronouns and honorifics (such as Mx., Ms., or Mr.). People appearing before this Court may provide their pronouns and honorifics in writing or orally when appearing for conferences, hearings, or trials. Attorneys are encouraged to identify their pronouns and honorifics in their signature lines when submitting documents for filing. Parties and counsel are instructed to address each other in all written documents and court proceedings by those previously identified pronouns and honorifics.”

2. **Website:** include your pronouns next to your name. For example, see <https://ord.uscourts.gov/index.php/court-info/our-judges/judge-kasubhai>



United States Magistrate Judge Mustafa T. Kasubhai (He/Him) ←

3. **Email Signature:** 1. Look for pronouns and honorifics in email signature lines and use those pronouns and honorifics. 2. **Include** your pronouns and honorific. For example,



4. **Signature byline in all published and unpublished opinions:**

Mustafa T. Kasubhai (he/him)
United States Magistrate Judge



SAMPLE COURTROOM SIGN-IN SHEET

Docket No. _____ Case No. _____ Case Name: _____

Your name: _____
 Plaintiff Defendant Attorney Other

Preferred name: _____

Pronouns: He/Him She/Her They/Them Other _____

Preferred Prefix/Title: Mr. Ms. Mrs. Miss Mx. Other _____

USEFUL LINKS FOR DATA AND REPORTS

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LGBT and Gender Non-Conforming Youth Issues

Sexual and Gender Minority Youth in Foster Care

http://williamsinstitute.law.ucla.edu/wp-content/uploads/LAFYS_report_final-aug-2014.pdf

Sexual Minority Youth and Homelessness

<http://williamsinstitute.law.ucla.edu/wp-content/uploads/Serving-Our-Youth-June-2015.pdf>

<https://aspe.hhs.gov/report/identifying-and-serving-lgbtq-youth-case-studies-runaway-and-homeless-youth-program-grantees>

Working with LGBT Homeless Youth

<http://williamsinstitute.law.ucla.edu/wp-content/uploads/Durso-Gates-LGBT-Homeless-Youth-Survey-July-2012.pdf>

Mental Health and Suicidality in LGBT Youth

<http://www.ncbi.nlm.nih.gov/pubmed/24825217>

<http://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2013.301508>

LGBT Youth and Schools

http://www.glsen.org/sites/default/files/2013%20National%20School%20Climate%20Survey%20Full%20Report_0.pdf

LGBT Youth of Color in Schools

<http://glsen.customer.def6.com/sites/default/files/Shared%20Differences.pdf>

Rural/Small Town LGBT Youth in Schools

<http://www.glsen.org/sites/default/files/Strengths%20%26%20Silences.pdf>

Access Issues in LGBT Youth

<http://williamsinstitute.law.ucla.edu/wp-content/uploads/Access-to-Youth-Mentoring-Programs.pdf>

Gender and Role Models

Bos, H., Goldberg, N., van Gelderen, L., Gartrell, N. (2012). Male role models, gender role traits, and psychological adjustment. *Gender & Society*. doi:10.1177/0891243212445465.

Bullying and Violence

<http://www.usccr.gov/pubs/2011statutory.pdf>

Needs of Gay, Bisexual, Transgender Male Youth of Color

<http://williamsinstitute.law.ucla.edu/wp-content/uploads/ACCESS-final-rev-aug-2013.pdf>

LGBT Youth Online Experiences

<http://glsen.customer.def6.com/sites/default/files/Shared%20Differences.pdf>

Transgender and Gender Non-Conforming Persons

National Transgender Discrimination Survey

http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf

Trans Youth and Schools

<http://www.glsen.org/sites/default/files/Harsh%20Realities.pdf>

Suicide and Mental Health

<http://williamsinstitute.law.ucla.edu/wp-content/uploads/AFSP-Williams-Suicide-Report-Final.pdf>

Gender and Non-Conforming Identification and Identity

<http://escholarship.org/uc/item/2zj46213>

Transgender parenting

<http://williamsinstitute.law.ucla.edu/wp-content/uploads/transgender-parenting-oct-2014.pdf>

Transgender Population Health Survey

<http://www.transpop.org/>

Pronouns and Language Usage

See materials