



RESEARCH REPORT

Locked In

Interactions with the Criminal Justice and Child Welfare Systems for LGBTQ Youth, YMSM, and YSWW Who Engage in Survival Sex

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September 2015



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Acknowledgments

This report was funded by the Urban Institute. The views expressed are those of the authors and should not be attributed to the Urban Institute, its trustees, or its funders.

The data collection for this report was supported by Grant #2011-JF-FX-0001 awarded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, US Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this publication are those of the authors and do not necessarily reflect those of the Department of Justice.

The authors would like to thank the brave and resilient youth who participated in this study, as well as Andrea Ritchie and the staff of Streetwise and Safe, who assisted us in identifying appropriate youth and conducting interviews for this study, especially Bhavana Nancherla, Kimi Lundie, and Jonathan Gonzalez. We also thank Isela Bañuelos and Kuniko Madden and the Urban Institute full-time and temporary staff who assisted throughout various stages of data collection, transcription, and coding: Pam Lachman, Dwight Pope, Doug Gilchrist-Scott, Andrea Matthews, Emily Tiry, and Rachel Goldberg. In addition, we are grateful to those who provided careful reviews of project findings: Janine Zweig of the Urban Institute's Justice Policy Center, Judy Yu of the Correctional Association of New York, Andrea Ritchie of Streetwise and Safe, and Shannan Wilber of the National Center for Lesbian Rights.

Highlights

In 2011, researchers from the Urban Institute launched a three-year study of lesbian, gay, bisexual, transgender, and queer or questioning (LGBTQ) youth; young men who have sex with men (YMSM); and young women who have sex with women (YWSW) engaged in survival sex in New York City. Working in partnership with the New York City-based organization Streetwise and Safe (SAS), researchers trained youth leaders to conduct in-depth interviews with a total of 283 youth who engaged in survival sex in New York City and self-identified as LGBTQ, YMSM, or YWSW.

In February 2015, we released the first report in this series, which focused specifically on the experiences and needs of youth engaging in survival sex. In this report, we focus on the youths' interactions with juvenile and criminal justice systems, in addition to the child welfare system, from the perspectives of both the youths and stakeholders involved in these systems.

Locked In features data collected from youth respondents about their experiences of arrest and court involvement, in combination with in-depth interviews with 68 criminal justice, child welfare, and youth-serving professionals across 28 organizations. We identified key findings using a multimethod analytic approach, as highlighted below and described further throughout this report.

Youth interviews resulted in the following key findings relating to encounters with law enforcement:

- Two-thirds of study respondents reported being stopped, questioned, and frisked at some point in their life. Nineteen percent stated that they had weekly, and sometime daily, run-ins with the police. Youth reported that many police encounters were initiated as a result of profiling on the basis of actual or perceived race, sexuality, and gender nonconformity.
- Fifteen percent of youth reported that condoms found during a stop, question or frisk were used as a justification for sustained questioning and even arrest for prostitution-related offenses.
- Over 70 percent of the young people had been arrested at least once, and many of the youth reported frequent arrest for various “quality-of-life” and misdemeanor crimes other than prostitution offenses, creating further instability and perpetuating the need to engage in survival sex. Youth described being locked in a constant vicious cycle of involvement in the criminal justice system with far-reaching collateral consequences ranging from instability in the

home and school to inability to pay fines and surcharges, active warrants, incarceration, and consequences for future employment.

- Only 9 percent of the youth had been arrested on a prostitution-related charge, which leads to a false perception by the police and the courts that LGBTQ youth are not engaging in survival sex and are also not being trafficked.
- Throughout the process of arrest, booking, and prearrest detention, at least one-third of the youth reported feeling unsafe, which included experiencing a high degree of violence and abuse from police. This abuse consisted of verbal harassment, physical assault such as beating and choking, sexual assault including being propositioned for sex in exchange for release from custody and rape, denial of help when reporting a crime against police, and destruction or theft of personal property. In addition to physical injury, youth identified police violence as leading to psychological injury, including posttraumatic stress disorder.
- Nearly two-thirds of study participants viewed their interactions with the police as occasionally negative, whereas only 18 percent viewed them as occasionally positive. Their perceptions of the police were often a result of how they were treated by the officers; many youth stated that they would respect the police more if they did not feel that they were being judged based on their race, gender identity, and sexual orientation.
- The majority of youth reported trying to avoid the police and employed various tactics to do so, including keeping to themselves, walking the other way, and staying inside or avoiding certain areas.
- Over half the young people stated that they did not have a safety plan if they were arrested; those who did have a plan relied on family members, friends, service providers, and lawyers to assist them.
- When they found themselves in financial, health, or legal trouble, over half the youth reported that they would go to a family member or friend for help. However, one in five young people claimed that they didn't have anyone they could go to, citing mistrust and a lack of support from family and friends as the main reasons.

Our interviews with law enforcement stakeholders, including law enforcement officers of varying levels, probation officers, criminal court judges and prosecutors resulted in the following findings:

- Overall, criminal and juvenile justice stakeholders reported that though the system was not entirely LGBTQ-affirming, law enforcement and court personnel make a good-faith effort to address youths' needs and change policy.
- Stakeholders identified barriers to addressing youths' needs, including facility and personnel challenges such as lack of gender-diverse staffing, lack of affirming services and referrals, and budget constraints. However, law enforcement stakeholders also reported that mistrust of police by LGBTQ communities—specifically “misinformation” spread by LGBTQ service providers and community advocates—prevented officers from meeting the needs of these youth.
- To remedy the current situation, stakeholders reported a need for greater financial resources and training and education on agency policies and procedures. Probation officers in particular noted a need for greater resourcing of affirming shelters and service providers.
- Many of the law enforcement interviewed for this study exhibited bias against LGBTQ youth, YMSM, and YWSW engaged in survival sex. Some acknowledged that survival sex was a behavior related to a lack of financial and other resources, but many officers indicated a common belief that “nonnormative” sexual orientation or gender identity and involvement in survival sex was itself criminogenic—causing or likely to cause criminal behavior. The peer networks youth repeatedly identified as sources of mutual support—gay families, the ball scene—were repeatedly characterized as criminal enterprises.
- Interviews with police also revealed a startling perspective on comparative victimization. Law enforcement officers perceived that youth engaged in survival sex had a greater likelihood of criminality than others engaged in survival sex, including clients, and therefore considered arrests of youth more valuable to crime-control efforts.

Youth also reported experiences with court and child welfare systems, leading to the following key findings:

- Though youth perceptions of the court system, including both criminal court and family court, were somewhat less negative than their perceptions of law enforcement, they also reported that judges, prosecutors, and court officers refused to refer to youth using names and pronouns that reflected their gender identity and made disrespectful remarks about youths' gender identity, gender expression, or sexual orientation.

- Most youth who disclosed child welfare involvement reported negative experiences, and often mentioned these experiences as justifications for running away from placements. Some youth described their foster home or group home placements as unsafe, overcrowded, and highly restrictive. Youth also reported that foster parents or group home staff were often restrictive, cruel, or abusive.
- Youth reported inappropriate placement decisions by the Administration for Children’s Services (ACS), and a lack of accountability and oversight of both congregate-care placements and home-based placements. Youth also described the child welfare system as ineffective at meeting their needs, citing such examples as late payments to foster parents and failure to support youth “aging out” of foster care.
- Some youth specifically identified family court as a site of violence and criminalization. Youth noted that survival behaviors, such as engaging in survival sex, resulted in in-court arrests or secure detention. Judges reportedly referred youth back to abusive home environments, including in cases where youth identified family rejection and abuse based on sexual orientation and gender identity.
- Some youth reported great frustration that when under the age of 16 years, the only option for leaving abusive home environments was either ACS custody or living on the streets. Some reported lying to youth shelters about their age to gain access, and then being returned to the custody of an abusive family upon discovery.

Our study also engaged child welfare stakeholders—including representatives of the Administration for Children’s Services and service providers with experience serving youth in the agency’s care. This effort to assess the system’s response to LGBTQ youth, YMSM, and YWSW engaged in survival sex yielded the following findings:

- Overall, stakeholders reported that ACS policy was affirming but that implementation was lacking. ACS policy requires its placement personnel—including foster parents, group home staff, and personnel in other contracted services working with youth in care—to respect preferred pronouns, provide gender-appropriate placement and clothing, and maintain confidentiality of youths’ gender identity and sexual orientation.
- Most service providers recognized ACS’ efforts at reform, although they also noted its glacial pace and characterized its adoption of these policies as largely reactive, as a result of litigation. These respondents also identified significant areas for further improvement. In particular,

providers described a need for training, education, and discipline for ACS personnel violating the policy.

- Service providers also noted a need to fill structural gaps, including the lack of placements specific to LGBTQ youth and the great reluctance of child protective services to intervene in abuse or neglect of older LGBTQ adolescents.

Literature Review

New York City's Juvenile Justice and Criminal Justice Systems

The New York City juvenile justice system is substantial. In 2014, 6,086 youths between the ages of 7 and 15 were arrested in New York City. Fifty-three percent of these arrests were for felony offenses. In the same year, 2,861 city youths were admitted to detention facilities. Forty-three percent of these youth stayed in detention for three days or less, and 62 percent stayed for two weeks or less; the median length of stay was six days. Of youth admitted to detention, 3 percent were white, 66 percent were black, and 27 percent were Hispanic. In 2014, 2,567 juvenile delinquency petitions were filed in New York City family court (New York State Division of Criminal Justice Services 2015).

Under New York law, the adult criminal court system has jurisdiction over 16- and 17-year-olds alleged to have committed any crime, regardless of severity. Offenders between the ages of 7 and 15 are categorized as *juvenile delinquents*, and their cases are usually processed in family court. A youth adjudicated as a juvenile delinquent faces a maximum of 12 months in placement for a misdemeanor, 18 months for a felony, or 5 years for a designated felony. Such youth are placed in facilities administered by the New York State Office of Children and Family Services (OCFS). If the youth requires further services, the court may extend the term of placement up to age 18 without the youth's consent or up to age 21 with the youth's consent.

In certain cases, when a youth between the ages of 13 and 15 commits a serious felony offense, he or she will automatically be categorized as a *juvenile offender*, and the criminal court system will have jurisdiction over the case. However, the case may be transferred to family court to be handled as a juvenile delinquency–designated felony case if the court finds there is not reasonable cause to believe that the defendant is criminally responsible (CCC 2010).

Youth under age 18 can also be processed in the justice system as *persons in need of supervision* (PINS), a term that encompasses youth who run away, are truant from school, or are beyond the lawful control of their parents. New York law generally requires that diversion services be offered to youth before a PINS petition is filed. PINS cases cannot result in placement in secure detention, but youth involved in these cases can be placed in limited secure or nonsecure facilities (Creelan et al. 2015).

In September 2008, the New York State Safe Harbor for Exploited Children Act was signed into law with the goal of providing specialized services to youth ages 7 to 15 who were charged with prostitution, and treating them as victims of a crime rather than as perpetrators (Polaris Project 2008). This legislation was amended in 2014 to allow criminal court judges adjudicating prostitution offenses committed by 16- and 17-year-olds to convert and retain the case as PINS proceedings upon a youth's consent after consultation with counsel.¹ Still, the law as amended does nothing to prevent the arrest of young people for prostitution-related offenses, as PINS substitution is only available once a youth has been taken into custody and brought before a court. Moreover, an arrest-based petition alleging a prostitution offense is not subject to the general requirement that diversion services be offered to youth before a PINS petition is filed.

Though the majority of individuals arrested for prostitution in New York City are 23 or older, 109 youths between ages 16 and 18 were arrested for prostitution and related charges in 2013. Youth under the age of 16 are sometimes arrested for prostitution in New York City, but a study encompassing the years 1997–2006 found that only 9 percent of prostitution arrests were of youth under the age of 16; the average age of youth arrested was 17.2. This same study found that among the subgroup of youth ages 15 and under brought before family court for prostitution-related offenses from 2004 to 2006, 90 percent of cases resulted in an admission or finding that the acts were committed, 10 percent were dismissed or withdrawn, and only one case resulted in an adjournment in contemplation of dismissal. Among cases reaching a final disposition, 62 percent resulted in institutional placement (Muslim, Labriola, and Rempel 2008).

In contrast, among PINS cases in general, one study found that only 12 percent resulted in a final disposition of foster care placement, likely in foster homes (Vera Institute 2002). Of youth ages 16 to 18 charged with prostitution in adult criminal court, 77 percent were female, 15 percent were male, and 8 percent were transgender. Most defendants (70 percent) were black; 16 percent were Hispanic and 12 percent were white (Muslim, Labriola, and Rempel 2008).

Vulnerability to Justice System Involvement among LGBTQ Youth

LGBTQ youth are particularly vulnerable to risk factors for justice system involvement, such as homelessness, family instability, and violence. Studies of homeless youth in different geographic areas have estimated that between 9 and 50 percent of the homeless youth population identifies as LGBTQ,

and research suggests that LGBTQ students are significantly more likely than heterosexual students to be homeless (Corliss et al. 2011; Cray, Miller, and Durso 2013). In a study of homeless youth in New York City, Freeman and Hamilton (2013) estimated that 34 percent were lesbian, gay, or bisexual, and that 6 percent were transgender. Homeless youth often end up in the juvenile justice system for arrests related to survival crimes, such as theft, prostitution, or participating in the informal economy; given the disproportionate representation of LGBTQ youth among homeless youth more generally, this is one way in which LGBTQ youth are at particular risk for justice system involvement (Feinstein et al. 2001; Majd, Marksamer, and Reyes 2009; Rosenthal and Moore 1994; Sullivan 2006).

In addition to homelessness, LGBTQ youth have been found to experience disproportionately high rates of verbal and physical abuse, parental abuse, sexual abuse, assault at school, and related issues such as missing school because of fear (Friedman et al. 2011; Kosciw et al. 2014). One study found that LGBTQ youth in detention were twice as likely as their straight peers to have been removed from their homes because someone was hurting them (Irvine 2010).

Another study found that LGBTQ youth were more likely to be punished at school for public displays of affection and violating gender norms. These youth reported experiencing a hostile school environment, having to fight to protect themselves, and being blamed for their own victimization (Snapp et al. 2014). Threats of verbal abuse and physical harm based on sexual orientation and gender identity are harmful to the mental health of youth, and often correlate with negative school outcomes and behavior that is criminalized (Savin-Williams 1994). LGBTQ youth also engage in high levels of drug use (Heck et al. 2014; Marshal et al. 2008; Ryan et al. 2009), which has been found to be fueled by victimization (McLaughlin et al. 2012).

LGBTQ Youth Experiences of Being Policed

Research has shown that LGBTQ people generally face a high incidence of profiling, false arrest, and abusive police encounters. One survey of LGBTQ people and people living with HIV who had encounters with police courts, prison, and security found that 25 percent of respondents with any recent police contact reported at least one type of misconduct or harassment, such as being accused of an offense they did not commit, verbal or sexual harassment, and physical or sexual assault (Lambda Legal 2014). The National Transgender Discrimination Survey found that 22 percent of transgender people who interacted with police reported harassment, 6 percent reported physical assault, and 2 percent reported sexual assault by police officers (NCTE and NGLT 2011). The body of research

documenting violence that LGBTQ individuals experience in the criminal justice system—whether as suspects, defendants, victims, or prisoners—has demonstrated that law enforcement officers, court personnel, and corrections officers view “nonnormative” sexual orientation or gender identity as inherently criminal, and that the policing of sex and gender reinforces racial and gender inequalities (Mogul, Ritchie, and Whitlock 2011).

LGBTQ youth, YMSM, and YSWW are particularly vulnerable to abusive police encounters. Drawing from a national population-based sample, Himmelstein and Brückner (2011) found that LGBTQ youth are more likely to be stopped by the police and have a 1.25 to 3 times greater probability of experiencing sanctions than their heterosexual counterparts, even when controlling for engagement in transgressive behavior. LGBTQ youth consistently report that police targeting is a serious problem, citing harmful police behaviors such as profiling LGBTQ youth; prosecuting youth for consensual sexual activity; confiscating condoms as evidence of prostitution; and verbally, physically, and sexually assaulting youth (Amnesty International 2005; Lambda Legal 2014; Majd, Marksamer, and Reyes 2009; NCTE and NGLTF 2011; NYCAHSIYO 2010). Transgender youth especially report that police profile them as being engaged in prostitution, mock them, and conduct unlawful strip searches to “assign” gender based on anatomical features (Grant et al. 2011; Majd, Marksamer, and Reyes 2009; Mogul, Ritchie, and Whitlock 2011; MTRNY 2012; NCAVP 2011; NYCAHSIYO 2010; Rees 2009; YWEP 2012).

Researching the effect of stop-and-frisk policies in New York City, Stoudt, Fine, and Fox (2011) found that lesbian, gay and bisexual youth are more likely to experience negative verbal, physical, and legal contact with the police. They are also more than twice as likely to experience negative sexual contact and to report not feeling as comfortable seeking a police officer for help. One study found that LGBTQ youth, especially those of color, experience more police abuse than LGBTQ adults (Amnesty International 2005). Gay and transgender youth are also at risk of being labeled sex offenders for consensual sexual activity with other youth, and of being treated as sex offenders though entering the justice system on unrelated charges (Feinstein et al. 2001; Hunt and Moodie-Mills 2012). In addition to physical and psychological harm, research indicates that having or hearing about negative experiences with police is associated with less trust in the police and more negative attitudes toward law enforcement in general (Hurst 2007; Hurst and Frank 2000; Griffiths and Winfree 1982; Taylor et al. 2001).

LGBTQ Youth Experiences in the Justice System

Research demonstrates that LGBTQ youth make up a sizeable share of the juvenile justice system; recent estimates of the percentage of youth in detention that are LGBTQ range from 12 percent (Irvine 2010) to 15 percent (Majd, Marksamer, and Reyes 2009). Feinstein and colleagues (2001) estimated that between 4 and 10 percent of the juvenile justice population in New York identifies as LGBTQ.

Research suggests that LGBTQ youth face unique challenges and discrimination at several stages in the justice system. LGBTQ youth are more likely than their non-LGBTQ peers to be held in pretrial detention for truancy, warrants, probation violation, running away, and prostitution (Irvine 2010; YWEP 2012). In one study, justice system personnel reported that LGBTQ youth often experience pretrial detention on the biased assumption that they are predatory or cannot be kept safe in the community; the same study found that detention was relied on in cases where parents refused to assume custody of youth (Majd, Marksamer, and Reyes 2009).

In detention, LGBTQ youth report higher rates of sexual victimization by other youth (Beck et al. 2013). They also report that justice personnel or contractors subject them to interventions designed to “change” their sexual orientation or gender identity (Majd, Marksamer, and Reyes 2009). Lack of appropriate medical care for transgender youth in detention has been well-documented (Majd, Marksamer, and Reyes 2009; Marksamer 2008). LGBTQ youth are also at risk of inappropriate classification and housing in detention. For example, transgender youth can be housed based on their birth sex, which can be psychologically traumatic and potentially dangerous (Hunt and Moodie-Mills 2012; Office of the Juvenile Defender 2011). Facilities sometimes segregate LGBTQ youth “for their protection,” placing them in isolated areas or even solitary confinement, which can create distress and deprive youth of educational and recreational opportunities (Hunt and Moodie-Mills 2012; Office of the Juvenile Defender 2011).

Even for cases that do not result in detention, court proceedings can create harmful outcomes for LGBTQ youth, such as mandating “therapy” or counseling to attempt to change their sexual orientation (Majd, Marksamer, and Reyes 2009). Additionally, trauma and posttraumatic stress disorder (PTSD) are prevalent among juvenile detainees (Abram et al. 2004), and justice system involvement has been shown to be associated with lower high school graduation rates, a higher risk of unemployment, and increased future delinquency (Bernburg, Krohn, and Rivera 2006; Hjalmarsson 2008; Kirk and Sampson 2013; Petrosino, Turpin-Petrosino, and Guckenburg 2010).

LGBTQ Youth in the Child Welfare System

There is evidence that there are large proportions of LGBTQ youth in the child welfare system. For example, the Los Angeles Foster Youth Survey found that 13.4 percent of youth in foster care were lesbian, gay, bisexual, or questioning; 5.6 percent were transgender (Wilson et al. 2014). The Midwest Evaluation of the Adult Functioning of Former Foster Youth found that 11 percent of foster care youth were lesbian, gay, or bisexual (Dworsky 2013). Among youth in detention, Irvine (2010) found that LGBTQ youth were almost twice as likely as heterosexual youth to have lived in a foster or group home.

Researchers have found that LGBTQ youth in group care, shelters, and foster homes experience harassment, discomfort, insensitivity, rejection, and feelings of isolation (Mallon 2001; NYCAHSIYO 2010; Woronoff et al. 2006). In fact, some homeless LGBTQ youth report engaging in survival sex to avoid the experience of violence and abuse in homeless shelters and child welfare placements (NYCAHSIYO 2010). A review of the current literature by the Office of Planning, Research and Evaluation (2015) found that much more research is needed to understand the service needs of this population in the context of the child welfare system.

Services and Resources Available to LGBTQ Youth

Services specifically tailored to the LGBTQ youth population to divert justice involvement are limited (Majd, Marksamer, and Reyes 2009; Robert and Willis 2013; YWEP 2012). Robert and Willis (2013) found that young men involved in the sex trade may not be referred to agencies that offer relevant services because they are seen as sexually aggressive. Justice system actors receive limited training specifically tailored to this population (Amnesty International 2005; Majd, Marksamer, and Reyes 2009; Robert and Willis 2013). Research has found that juvenile justice professionals are often unprepared to address the needs of LGBTQ youth, particularly transgender youth, and are sometimes openly hostile (Marksamer 2008). Observers have identified elements of programs that are misguided. For example, informing young people of the risks of engaging in the sex trade has limited utility when homeless youth are “acutely aware of the potential risks they face in the course of the street economy” and are not offered meaningful alternatives to ensure that their basic material needs are met (Gwadz et al. 2009, 371).

In New York City, the Administration for Children’s Services (ACS) is responsible for the child welfare and juvenile justice systems. The ACS has indicated that improving services for LGBTQ children, youth, and families is a priority, as stated in its 2006 strategic plan (New York City

Administration for Children's Services 2006). Recently, the ACS issued an official guide of policies and best practices for serving transgender and gender-nonconforming children and youth in the child welfare, detention, and juvenile justice systems, and has multiple official policies in place to address the needs of this population (Perry and Green 2014; New York City Administration for Children's Services 2012).

Current Study Goals and Methodology

With funding from the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the Urban Institute, Urban Institute researchers set out to accomplish two goals with this report: (1) to describe and quantify the criminal justice and child welfare experiences of the LGBTQ youth, YMSM, and YWSW populations engaged in survival sex in New York City, and (2) to assess their interactions with juvenile and criminal justice (e.g., law enforcement, prosecutors, judges) personnel, child welfare personnel, and foster parents and families. This study was based on the premise that in-depth peer-to-peer interviews were needed to fully explore and understand these experiences for LGBTQ youth, YMSM, and YWSW who exchange sex for money and/or material goods. We used a multimethod (quantitative and qualitative) approach to address the study's goals.

The data collected in this report come from two sources: (1) in-depth interviews with approximately 300 youths recruited using a respondent-driven sampling strategy, which were later qualitatively analyzed and quantified, and (2) in-depth interviews with various stakeholders in the fields of criminal and juvenile justice, child welfare, and service provision to runaway and homeless youth and LGBTQ youth. For more information regarding how the Urban Institute, in partnership with Streetwise and Safe, conducted in-depth interviews with approximately 300 youth, please refer to the first report of this series: *Surviving the Streets of New York: Experiences of LGBTQ Youth, YMSM, and YWSW Engaged in Survival Sex*.

The purpose of the in-depth stakeholder interviews was to provide a first-hand understanding of how the many institutions and systems that the youth encountered function, what their stakeholders understood to be the challenges in serving this population, and how they could improve. Through our interviews with the youth, we asked them to describe any experiences with the juvenile and criminal justice systems. We specifically asked them to describe any run-ins with the police and what their arrest experiences were like. These included stop, question, and frisk interactions as well as police responses to altercations, domestic violence, and youths' reporting of acts committed against them.

Some youth chose to disclose experiences with the child welfare system though we did not deliberately ask youth to speak about such experiences because (1) this was a data collection effort funded by the Office of Juvenile Justice and Delinquency prevention, which focuses on juvenile justice and not child welfare policy and practice, and (2) being asked to talk about their time in the child welfare

system could be triggering. We also interviewed many service providers because of their contact with not only the youth themselves, but also with the criminal justice and child welfare systems. They provided a third account of how these systems struggle to meet the needs of LGBTQ youth, YMSM, and YWSW who trade sex for survival.

We interviewed a total of 68 criminal justice, child welfare, and service provider practitioners across 28 organizations. Criminal justice stakeholders encompassed law enforcement officers of varying levels, probation officers, judges in criminal and family court, and prosecutors. Child welfare stakeholders included ACS representatives. Service providers included directors of community-based organizations, direct service providers, social workers, and legal services providers. Interviews ranged from one-on-one conversations to focus groups with a maximum of 12 individuals. In the interviews, we asked stakeholders how their respective systems addressed the needs of LGBTQ youth, particularly those who traded sex for survival; what challenges they faced in addressing the needs of the youth; what they needed in order to better address the youths' needs; and their opinions on a variety of issues related to the criminalization of LGBTQ youth for survival sex and other crimes and LGBTQ youth experiences in the child welfare system.²

LGBTQ Youth Interactions with and Perspectives of Law Enforcement

This report is the second in a series to present findings from our study on the experiences of LGBTQ youth, YMSM, and YWSW engaged in survival sex in New York City. It focuses on the criminal justice and child welfare experiences of these young people, in addition to the experiences and challenges that law enforcement, court system personnel, and probation and child welfare stakeholders face in serving this population. The first report, *Surviving the Streets of New York* (Dank et al. 2015), described how and why youth first engaged in survival sex, the characteristics of their peer networks, and their self-reported risks and benefits. Future findings will present a more in-depth look at these youths' health-related issues, service needs, and experiences with service providers.

Youth Demographics

The first report, *Surviving the Streets of New York*, provided in-depth findings on the characteristics of the young people we interviewed for this study. Below is a recap of information on respondents' gender, race, and sexual orientation.

Gender

Most youth in our sample identified as male (47 percent) or female (36 percent). In addition, more than 1 in 10 identified as a transgender woman (11 percent), transgender man (3 percent), simply transgender without specifying an additional gender identity (2 percent), or of another gender identity (3 percent), including androgynous, femme, gender nonconforming, and genderless. Individuals also reported being queer and questioning (0.4 percent).

Race

Virtually all the youth in our study were of people of color, with 37 percent identifying as African American or black, 22 percent as Latino or Latina, and 30 percent as more than one race or ethnicity.

Other respondents identified as white (5 percent), Native American (1 percent), or another race (4 percent).

Sexual Orientation

Over a third of the youth identified as bisexual, almost a quarter identified as gay, and nearly one in six identified as lesbian. Thirteen percent characterized themselves as heterosexual, while 3 percent described themselves as queer and questioning and 9 percent identified another sexual orientation (including open, pansexual, no preference, and no label).

What Types of Interactions Have LGBTQ Youth, YMSM, and YWSW Engaged in Survival Sex in New York City Had with Law Enforcement?

In this section, we describe the youth respondents' experiences and interactions with NYC law enforcement, including how frequently youth were searched, arrested, and processed, as well as how law enforcement officers responded to those interactions and addressed (or failed to address) the needs of the youth. Given the importance of gender, sexual orientation, and race to youths' overall self-identities and life experiences, throughout the brief we sought to identify significant ($\alpha < .05$) differences in key findings by youths' gender, sexual orientation, and race. Overall, there were no differences by sexual orientation, YMSM/YWSW status, or race (keeping in mind that 95 percent of the sample identified as young people of color), and only a few differences by gender.

Run-Ins with Police

Over two-thirds (71 percent) of the sample reported having had a run-in with police—which usually consisted of being stopped, questioned and/or frisked—at some point in their lives. The share of men who had experienced a run-in (81 percent) was significantly greater than that among women, transgender women, and transgender men (which averaged about 63 percent). Of the 198 youth who had run-ins, about half (51 percent) reported that they happened rarely (e.g., a couple times a year), over a quarter (26 percent) said that they happened occasionally (e.g., a couple times a month), and 19 percent said that they happened frequently (e.g., a couple times a week). Even this high frequency of

run-ins with police may be underreported, as some youth initially sought to clarify whether the question concerned encounters that did not end with an arrest.

Although 19 percent of youth reported having frequent run-ins with the police, those who experienced constant interactions with law enforcement stated that those interactions tended to occur several times a week, starting from when they were a young teenager.

Interviewer: How often have you had run-ins with the police?

Interviewee: Oh God almost every day. I'll try to sleep on the train, I wake up to police, I try to sleep in abandoned buildings, wake up to police, walk down the street—the police walk up to me.

Interviewer: And how long would you say you have been having interactions with the police like that every day?

Interviewee: Since I was young . . . [since] I was 14, I don't know, they'll always find something. (Respondent 497, 20 years old, Latino, bisexual, male)

Another young Latino man stated that he was stopped and searched several times a week based on what he perceived to be his appearance.

Interviewer: How often would you say you are stopped?

Interviewee: Very often like just because of the way I look like you know?

Interviewer: What do you mean the way you look?

Interviewee: Just the way I look like, you know I look like a young minority like dark skin . . . [I] walk in the streets with a hoodie on.

Interviewer: You are stopped how many times in a week?

Interviewee: In a week basically four, five [times].

Interviewer: So like four or five days a week?

Interviewee: Yeah.

Interviewer: And are you given a reason when you are stopped?

Interviewee: They just say 'hey what have you got on you', search me, ask do I have ID, that's pretty much it.

Interviewer: At what age were you starting to get stopped by the police

Interviewee: I'm not going to lie like I would say like 15. Ever since, like not to be funny, when I grew my moustache, they assume I'm older . . . so they will just stop me.

Interviewer: Can you give me an estimate of how many times you think you've been stopped in your life by the police?

Interviewee: More than 100. (Respondent 477, 19 years old, Latino, bisexual, male)

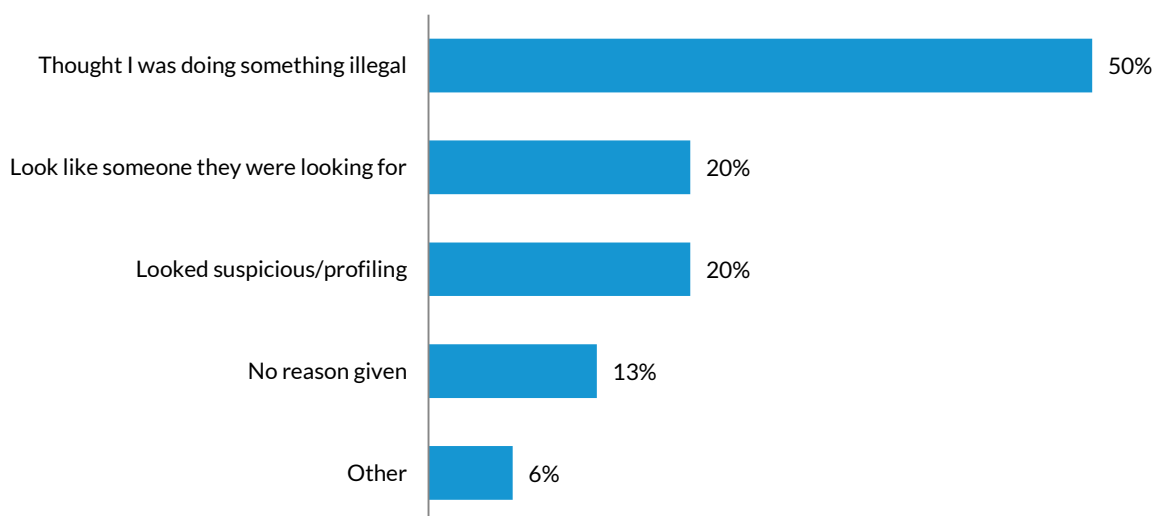
Frequent run-ins with the police can have a profound effect on how young people view and trust the police. One young man, who described being stopped hundreds of times, starting when he was 13 years old, felt that he was constantly targeted for the way he looked.

Well when walking through a neighborhood that I haven't been in before—let's say it will happen like twice every month or so. I first started getting stopped [when I] was 13 and it's just been happening ever since . . . bout 300 times 300–400 times [in total]. (Respondent 5178, 20 years old, multiracial, bisexual, male)

As shown in figure 1, for the youth who reported run-ins, police most commonly told the young person that the reason for stopping them was illegal activity (50 percent); other reasons included the youth looking like someone they were seeking (i.e., fit a description) (20 percent), looking suspicious (i.e., profiling) (20 percent), no reason at all (13 percent), and several additional reasons (6 percent) such as having a large bag on the subway.

FIGURE 1

Reasons Police Gave for Stopping Youth



Notes: “Other” includes having a large bag on the subway, being with someone suspicious, and keeping the community safe; $n = 143$ of the 198 youths who reported run-ins with police.

Many of the young people who said that the police stopped them because they “fit a description” were young men of color who happened to be in the area at the time a crime was allegedly committed. Youth felt that they could be targeted at any time—even when walking down a block alone—as these young men explained:

Interviewer: How often have you been stopped and frisked?

Interviewee: A lot lately. I go walk down the block, by myself, I have my headphones on and I’d be thrown [against] the wall. [I’m like,] “What the hell?!” [They say,] “You look suspicious. You look like you fit a description for a robbery.” I am like, “I didn’t rob nobody in about seven years so what are you talking about?” (Respondent 379, 21 years old, multiracial, straight, male)

I’ve been stopped by the police for fitting a description, or looking like I had drugs on me, or wearing a jacket that was too big, and then stopped by the gun squad. (Respondent 285, 19 years old, bisexual Latino male)

One respondent described being stopped by the police for fitting the description of someone who had assaulted a woman in the area. Even though he was found to not have committed the assault, he was arrested for possession of a small amount of marijuana.

Interviewee: The last time I fit the description of whoever, somebody called the police and told them that a black male was walking across who had a grey hoodie, a black bandana, and he was armed and dangerous, and assaulted a woman. I left the house five minutes [before I was stopped]. I'm the only person on the street and I happen to be black, I am wearing a grey hoodie, a grey hat, grey pants and grey sneakers, so I over-matched the description even though I didn't have a handgun or assault no woman. I had marijuana on me.

Interviewer: What ended up happening as a result of them stopping you?

Interviewee: I went to jail. Got possession charges. I just think somebody was looking out the window and had nothing else to do with their day and decided to make my life a living hell more than it already is today. Because I have never been a criminal. I'm not a drug dealer. I just smoke marijuana for my personal consumption because otherwise I'm anxious, I'm on edge, real antsy. (Respondent 334, 20 years old, multiracial, gay, male)

In addition to fitting a description, 20 percent of the young people stated that police told them that they had been stopped because they "looked suspicious." Similar to the reasons associated with fitting a description, looking suspicious often had to do with the young people's race, how they dressed, the neighborhood in which they were stopped, and even how they walked down the street.

They said because I'm big, and most every time they find a big person they are doing robberies. (Respondent 463, 18 years old, bisexual black male)

Interviewer: Have you been given reasons for being stopped?

Interviewee: Yeah. Because they just feel like I was suspicious. Like I have my hand in a certain way they're like, "Oh! Why are your hands are in your pockets?" (Respondent 312, 19 years old, multiracial, gay, male)

One young woman who stated that she was stopped, on average, four times a week by police had a particularly violent run-in with law enforcement on her way home one day. She had been explicitly told by police that her attire was "targetable," which is why she was often stopped by officers.

Interviewee: I have my hoodie on, I was walking home. And I had weed in my hand, and I'm ringing my bell to get in my building. And I turn around and [there is] the whole police squad with their guns out, tell[ing] me to get on the wall.

Interviewer: Just you?

Interviewee: Yeah, just me outside and then like they threw me against the wall and then they are going through my bag and they are like what's in in the bag, so he told me to drop [my book bag]. He couldn't do anything about it because [the weed] wasn't in the bag. Then I'm asking him what are you searching me for? He is like, "Do you have any problems with anybody?" I said no and they brought me all the way up the stairs to my apartment.

Interviewer: They let you go after that? After they roughed you up?

Interviewee: Well it's just that, like I'm a gay girl. I'm black and I guess I dress targetable, but I don't think I do.

Interviewer: Is that what you think, that you dress targetable? Or did someone tell you that?

Interviewee: That's what the [police] tell me. (Respondent 115, 18 years old, Caribbean, female)

Another young woman stated that she was often stopped by police because, as a light skinned woman, they assumed that the only reason she would be hanging out in the projects was to buy drugs, even though she lived there with her mom.

It's what it is like and I have dealt with that my whole life just because of my skin color and where I grew up. It's like when people see a light skin person coming from the ghetto they [are like] "oh they are just there to buy drugs." Little do they know that's my fucking house that I grew up in you know. (Respondent 5030, 18 years old, Middle Eastern and Caucasian, bisexual, female)

Many of the youth felt that when they socialized outside with other youth of color, police assumed they were involved in some sort of illegal activity and would often stop, question, and frisk them for no reason.

Me and my friends, we were just chilling and they just come and [say], "Oh we were told there was, there was some illegal marijuana thing over here, like it smells like marijuana." Mind you, none of us are high, none of us are doing anything we're just there talking and things. They stopped and frisked us ... for nothing. (Respondent 335, 19 years old, Hispanic, bisexual, male)

By contrast, as figure 2 illustrates, most youth who experienced run-ins believed the real reason they were stopped was profiling (49 percent), though 40 percent cited illegal activity and 17 percent cited other reasons including bag checks and even "checking in" to make sure a youth was safe. Young men and transgender men were significantly more likely to cite profiling as a reason than young women and transgender women (i.e., almost twice as many men as young women cited profiling as the reason they believed police had stopped them). On August 22, 2013, several months after data collection for this study ended, the New York City Council overrode Mayor Michael Bloomberg's veto to approve the End Discriminatory Profiling Act (Intro. 1080). The law establishes a ban on profiling and discrimination by the New York City Police Department (NYPD), and creates the first enforceable prohibition on profiling based on age, gender, gender identity or expression, sexual orientation, immigration status, disability, and housing status. The law also creates a private right of action.

Nonetheless, a large majority of youth felt that profiling based on race was the underlying reason they were stopped, questioned, and frisked. They did not see their white peers being treated the same way by the police, which was a source of frustration for many of the young people.

Interviewer: And why do you think the police stop you?

Interviewee: Because I'm black and underage.

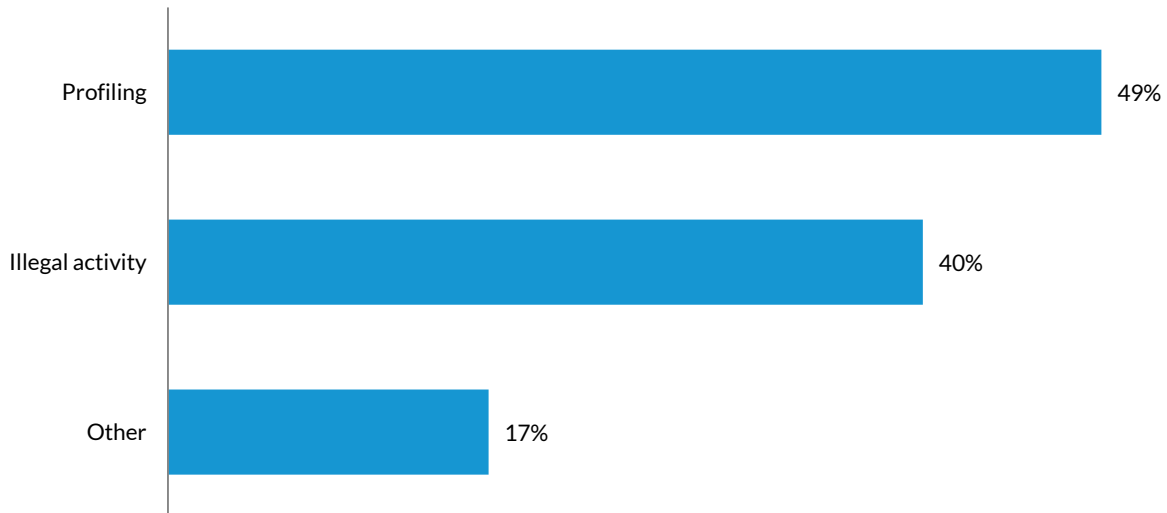
Interviewer: And what makes you think that?

Interviewee: Well because you never really, if I see someone my age who, not to pull a race card, is Caucasian, they won't get stopped as often or they would get well passed in the street, and at

one time I've actually been told they stopped me because I was black. (Respondent 491, 19 years old, West Indian, bisexual, male)

FIGURE 2

Why Youth Thought Police Stopped Them



Notes: "Other" includes looking young, checking big bags, making sure a youth was safe, and mistaken identity; $n = 118$ of the 198 youths who reported run-ins with police.

In addition to being profiled based on race, some youth felt that their sexual orientation or gender identity and/or expression led law enforcement to stop, question and frisk them.

Interviewee: That [being stopped and questioned] actually happened last week for the first time. I was dressed like a stud and . . . I was just with my friends and we were just walking and then the cops were just like "oh what are you doing?" [My friend] was like, "well, we're just telling our friend bye." And I'm the one who had never been locked up or [been in] handcuffs, so [it was] just kind of nerve wracking. And I just had to say to him [the officer] like well we didn't do anything, we're just telling our friend bye and they just started questioning us like "where did he go" and a bunch of other stuff. And I just walked away and I left.

Interviewer: And when you say you were dressed more like a stud, why did you feel like it was important to say that?

Interviewee: Because a lot of African American males get stopped and he [the police officer] thought I was one of them and another statistic; and also they stop a lot of how can you say, visibly gay people.

Interviewer: Like masculine ones?

Interviewee: Yeah, masculine or feminine males or whatever the case may be. (Respondent 5044, 18 years old, multiracial, queer, female)

Not only were youth stopped, questioned, and frisked because of their gender expression, gender identity and/or sexual orientation, they also mentioned being verbally harassed and publicly shamed by

police because of their gender presentation. On June 12, 2012, about a year into the data collection effort, the NYPD Patrol Guide was revised to provide guidance for police encounters with transgender and gender nonconforming people. The reforms prohibit the use of discourteous or disrespectful remarks regarding a person's sexual orientation or gender identity or expression and require police officers refer to transgender people by the names and pronouns that reflect their gender identity. The guidelines also prohibit police officers, including school safety officers, from conducting any search for the purpose of determining a person's gender. Where there are alternative grounds for a search, people are to be searched by an officer of the gender they request.

In regard to conditions of confinement, individuals in NYPD custody will be held in sex-segregated police facilities according to their gender identity, even if it differs from their sex assigned at birth, unless there is concern for their safety, in which case they will be considered "special-category prisoners" and placed accordingly. Special-category prisoners, including transgender people, are also not to be cuffed to rails, bars, or chairs for unreasonable periods of time.

Interviewee: Like they [the police] will harass me, they really will harass me especially like the other night, last week, Friday I had a fishnet dress on with some boy shorts and no bra on just some pasties and they were really harassing me.

Interviewer: What are some of other things that they'll say to you?

Interviewee: The first one he was real nice but his partner he was all like, "what is this world coming to? If that was my son I would have beaten him up and I would beat the feminine out of him." They were really harsh. (Respondent 186, 20 years old, West Indian, heterosexual, transgender female)

I had one, I had one incident when the cops ended up coming into the bathroom, the customer just left and the cops wound up coming into the bathroom asking me what the fuck I was doing in there, but I told them that I had to use the restroom, because here is the issue, the issue is I don't use the women's room, so it kind of boils down to that, and makes everything more difficult. (Respondent 5189, 20 years old, Caucasian, pansexual, transgender male)

Even when some young people tried to cooperate with police during a search, they still had to endure discriminatory comments based on their gender identity and expression, as this young transgender woman explains:

Interviewer: Have you ever been stopped and frisked or anything like that?

Interviewee: Just "let me check your bag" ... I think he was trying to be funny ... [telling] me [to] go out of the line and saying "mister" and things like that. (Respondent 758, 19 years old, black, heterosexual, transgender female)

Youth also reported being verbally harassed and, in the case of this young woman, ticketed, for no reason other than being gay.

Interviewee: We just had a run-in with the fucking police two days ago. We came out of the bathroom and she had her arm around me and they said they were going to give us a ticket.

Interviewer: For?

Interviewee: Coming out of the bathroom with her arm around me. Their exact words were “coming out of the bathroom—how you guys just came out,” and I said, “what, a lesbian couple?” He was like, “I’m not saying it like that,” but you are saying it like that, like you have no need to stop us. All we did was literally, she washed her hands, I fixed my face and she just draped her arm over my shoulders as we walked out of the bathroom. (Respondent 284, 21 years old, multiracial, pansexual, female)

Derogatory and discriminatory language used by law enforcement and directed toward the youth was often a source of frustration and pain. Youth felt that this language was used by police as a form of power and control, and it resulted in even more distrust toward law enforcement.

Interviewee: Well Valentine’s Day this year, I was coming home from the shelter and a cop stopped me and said a few things to me, but they asked me for ID and I told them I didn’t have any. He started getting loud and stuff like that and basically harassed me and I cried because it kind of hurt.

Interviewer: What was he saying?

Interviewee: Like calling me a dyke, an AG, a butch. (Respondent 5328, 20 years old, gay black female)

Interviewee: Especially being a lesbian and just being open about wearing guy’s clothes, plus women are supposed to be feminine and, and what if I’m just comfortable this way?

Interviewer: Has anything ever been said to you that’s derogatory?

Interviewee: I mean they [the police] are always saying shit like “oh you dyke.” Dyke is a disrespectful word for a stud or AG you know what I’m saying, like I’m not a dyke. I mean other people consider themselves dykes but that’s like saying bitch like to me. (Respondent 273, 20 years old, other, lesbian, female)

Youth also expressed that because of their race, gender identity, and/or sexual orientation, they did not feel like they could rely on law enforcement in times when they needed their assistance. As a result, some stated that they would not seek help from law enforcement when they themselves were victims of crime, or that they resorted to other tactics to get a faster response from police, as this young transgender woman explains:

Interviewee: It’s like if you are gay, bisexual, or transgender, and especially if you are people of color they [the police] treat you like shit. And if you are a Caucasian and even if you Caucasian, gay, bisexual, or transgender they still treat you like shit. But if you are straight then God they get the job done. Because I never forget when my friend’s apartment got broken into he and he was gay. Mind you they didn’t do shit, they didn’t even write a report so I’m looking like that’s kind of fucked up. So what I did knowingly . . . I did a WWD. A white woman distress call. You had to do a white woman distress call, especially if you’re living in Bronx and the police come in, in less than five minutes and they open [the door] and they see you’re black they are like shit. So they have take down a police report and that’s when things get done.

Interviewer: So when you say a white woman distress call like what is that, what does that look like?

Interviewee: Oh you got to sound like a white girl, like, “oh my God my house has been broken

into,” like you got to say, “oh my God.” You really have to go in. (Respondent 272, 21 years old, black, bisexual, transgender female)

Some youth reported being sexually harassed by law enforcement, which included overly aggressive pat downs, particularly in the groin and chest areas, that left them feeling upset and violated.

One stop that I had when I first started, when these officers was walking up and down, came and saw a bunch of girls hanging out, trans girls or TSs or whatever they call it. You know [they] searched us, our bags, you know found condoms, this that and the third, patted us down, rubbed between our legs, titties, you know and some of them got numbers . . . they’ll pat you down and want a story. [There] is a difference between a pat and a rub. They just rub you down. And it is just filthy. (Respondent 5260, 20 years old, black, transgender female)

It happened too often actually. Sometimes when I’m just out there smoking a cigarette or I’m walking down the street the way [they will put me] up against the wall and they be like feeling me . . . like not frisking me it will be feeling me up like you know what I’m saying, like pushing my back arch, whatever, make my ass poke out and they maybe like playing around. [I am] like, “yo if you want something it’s going to cost you like you know what I’m saying.” So the cops, they be like, “are you offering me something.” I was like, “this here you are touching is property right now,” you know what I’m saying, “I can get you for sexual harassment. I don’t have any drugs on me, why are you patting me down?” (Respondent 196, 20 years old, Puerto Rican and black, open, male)

Many of the youth who had been stopped, questioned, and frisked felt embarrassed by and ashamed of their experiences. Whether it happened in front of a crowd or alone, youth often felt violated by the interaction, and in some cases viewed it as a form of public shaming.

Interviewee: They won’t have any probable cause in checking me even though I would have drugs or weapon on me. And some of the times I would have something on me, they would still let me go for some weird reason. Like they’ll dig in the pocket where the weed is at, the knife is at, feel it and continue on with their day—like they won’t even take me down for it. But it’s the principle of stopping in front of everybody, everybody is looking at you, you’re humiliated, you feel embarrassed, you think people are judging you now because they think the cops are after you. So it’s really embarrassing and you feel really bad and that’s pretty much not a good feeling.

Interviewer: And them sticking their hands in your pocket, is that something that happens often?

Interviewee: Yeah, they would stick their hands in my pocket or like feel on my crotch area. They would like pretty much throw everything on the floor. Everybody can see what’s in my pockets now. It’s a really embarrassing situation. (Respondent 654, 22 years old, multiracial, bisexual, male)

Interviewer: Were you ever stopped and frisked?

Interviewee: About three times like in front of my old school. I would stand across the street and the car would just come by and they’d be like, “freeze,” and we weren’t doing anything, we were just standing across the street from the school. And they would like throw my [skate] board to the side to make sure I didn’t like hit them or anything. And then they would just pat me down all types of stuff. One time it was like really crazy. A guy like grabbed my penis and it was just like I don’t know. I feel like it got worse, you’re stopped and frisked . . . it just got worse. (Respondent 687, 19 years old, Latino, bisexual, male)

In many cases, the memories of their experiences with law enforcement remained with the youth for years and, in some instances, were a source of trauma and mistrust of adults. One young male described a particularly traumatic stop-and-frisk encounter with the police that had occurred several years before being interviewed.

Interviewee: They literally did a strip search on me, they didn't find anything on me, but it was like because I was high [on weed], and they were like "oh you got crack on you," and they literally like, strip searched me and was looking up my ass. Then they told me to cough to see if anything fucking drops.

Interviewer: In the hallway of the building?

Interviewee: Yes.

Interviewer: How many officers were there?

Interviewee: Probably like four or five.

Interviewer: And what kind of things were they saying to you?

Interviewee: They was like, "don't move, just calm down, relax if you have nothing, you shouldn't be worried about it." And I'm like, "I don't have nothing. You just searched my pockets and why are you still searching me?" They were like, "oh you got to pull your pants down da da da da, because they were really looking for crack . . . like."

Interviewer: And how old were you when that happened?

Interviewee: Like probably like 16.

Interviewer: And so they did not find anything on you?

Interviewee: They knew I was high, they just knew I was high on weed. I was just walking normally like, and they just literally just grabbed me, these two big white dudes, and they literally dragged me. They first started searching my pockets and it's like, they're not supposed to do that. They just was like, "why are you so nervous, why are you acting so nervous." That's why they proceeded to go to strip me.

Interviewer: And they did that in the hallway of a building?

Interviewee: Yes.

Interviewer: And so was there anyone else around?

Interviewee: No.

(Respondent 5194, 20 years old, black and Asian, heterosexual, male)

Even for youth who have not had direct experience being stopped, questioned, and frisked, witnessing other individuals' negative interactions with law enforcement, whether they were an acquaintance or a stranger, had a profound impact on how they viewed the police.

I've just been in a group where we weren't doing anything and we been harassed and like profiled and the guys have got like frisked and stuff. (Respondent 470, 20 years old, multiracial, pansexual, female)

Interviewee: I was actually at a ball and I've seen cops come in. I think this one [young man] was smoking weed outside, they came into our ball and because he ran in, I guess, after he saw them and the boy is like nothing but probably 18, 19 a young kid. And they were beating the shit out of him in the back like and we had to stop and you know like have you guys been to the balls before?

Interviewer: Yeah.

Interviewee: You see how many people are there?

Interviewer: Yeah a lot.

Interviewee: So imagine a crowd of people stopped, like the whole ball stops and turns around

and rushes to the back to see what's going on, because it's so much noise. And they're ripping his jacket, like just ripping his jacket for no reason and kicking him and for a boy to be that small compared to a huge cop and another female cop that's there, it shouldn't take that much for them to get that young man down. It shouldn't have taken them to do all of that. They were like just abusing him and cursing, using all type of profanity. (Respondent 528, 21 years old, multiracial, gay, male)

Law Enforcement Interactions Related to Engagement or Suspected Engagement in Trading Sex

Even though all the youth interviewed for this study had engaged in survival sex at some point in their lives, few of them stated that their interactions with law enforcement were related to engaging in survival sex or the perception that they were trading sex. That said, for the youth who did have such interactions, experiences ranged from receiving warnings to being propositioned to being raped. One young transgender woman remembered being approached by the police while hanging out at the Christopher Street Pier shortly after arriving in New York. She wasn't sure if she was being profiled because of the area she hanging out in, because she was a trans woman, or a combination of reasons:

I remember when I first moved here I was at the pier and I was like walking around and the cops must have like been watching me, because like when I came back around they was like, "hey, what are you looking for?" And I'm like, "I'm just walking around." And he's like, "you better not be out here like on a stroll." And when I first moved here I didn't understand what that word meant and I'm like, "no, I'm not on a stroll," and he was like, "I got my eye on you." I was like—what the hell? Like I can't just walk around a block and you just say . . . even though I was on a stroll but like you can not just make assumptions. (Respondent 759, 20 years old, Dominican and black, heterosexual, transgender female)

Another young man felt that he was being profiled by the police for prostitution and was stopped and frisked as a result:

Interviewee: I only got stopped and frisked twice.

Interviewer: For what?

Interviewee: Prostitution. They thought I was going to get into a car but I really didn't because I already knew they [the police] were coming through the blocks.

Interviewer: So you said it happened twice, why do you think they stopped you?

Interviewee: Because they were being judgmental. (Respondent 5246, 20 years old, Afro-Caribbean, bisexual, male)

Some youth were verbally and sexually harassed by police, and in the case of this young man, released after being searched despite disclosing that he was just coming from the stroll at the age of 15:

Interviewee: Because like they saw me like coming off the stroll, and like they stopped me because they thought I had drugs on me, but I didn't and so they just started asking me questions like, "oh where did this come from." I mean I felt like I shouldn't have to tell them anything

because it's none of their business. But what are you going to do, they have authority [over] you, so I told them the truth and then . . .

Interviewer: That you are just coming off the stroll?

Interviewee: Yeah like that was when like I was stupid, I didn't know shit.

Interviewer: How old were you?

Interviewee: Around 15 . . . and they were like, "oh do you have anything on you now?" And I didn't know what to say, so before I can answer anything they came up, they came up and they searched me. They didn't find anything so they let me go.

Interviewer: Did you feel that it was invasive? I'm assuming you were working as a woman that night or . . . ?

Interviewee: I was working as a woman.

Interviewee: I felt kind of violated, I felt because they were saying like very like derogatory things towards me . . . like calling street whore, faggot. . . .

Interviewer: And how many police officers were there?

Interviewee: Two . . . one was searching, and the other one was talking shit and laughing like you know how they are—they're stupid. (Respondent 225, 18 years old, multiracial, bisexual, male)

Young people also described interactions with law enforcement that went beyond verbal harassment and a routine stop and frisk. These included being propositioned for sex by police officers and actually engaging in sex with officers, in some cases to avoid arrest. As the following young woman explains, an officer had approached her and essentially offered her money for sex but, thinking it was a trap, she declined the offer. Luckily, he let her go:

There was one time I was out looking and this guy was talking to me and then one of the cops came to me and he told the guy that he had to leave, you know what I thinking they are going to take me in because they really know what I'm up to. But he started talking to me and he said, "Do you normally do this?" And I said, "yes, you know I have to feed my kids and all stuff like that?" So, he's like, "If you come with me now, I can give you way more money than they would give you." And I'm thinking it's a trap. I'm not going to do it, so I said so, then he said, "okay if that's the case then you have get on the train and go home now." (Respondent 313, 21 years old, Puerto Rican, lesbian, female)

Some youth stated that their customer base included law enforcement, which sometimes protected them from arrest and other types of harassment. But others had negative sexual encounters with officers, which involved sexual assault and rape:

I've had sex with too many cops for them to get disrespectful. Most of them know me so it's like yeah . . . and I mean they wanted the sex, turn around to find out that they're cops in the car with handcuffs. I got raped by one cop, I don't know what his name was, just showed me a badge and I was like not even paying attention to it. I got so shocked. I was like fuck, but fuck it I got my money anyway. And he just wanted, I guess he just didn't want to like, pay that much. (Respondent 524, 18 years old, Dominican and Puerto Rican, heterosexual, transgender female)

Positive Encounters with the Police

Despite many of the youth describing negative interactions with law enforcement, some youth did state that they had positive experiences with police. One young woman was assisted multiple times by officers she encountered on the street:

Interviewee: I have a couple of cops that I run into [and have been] helpful because they would drive me home. They will buy me food or give me money and they'll be like, "young lady, just stay off the streets, it's not safe for you."

Interviewer: How often does that happen?

Interviewee: It happened to me only three times.

Interviewer: How old were you when that happened?

Interviewee: The first time I was 16 and then twice last year. (Respondent 236, 20 years old, Latina, bi-curious, female)

One young man avoided an arrest for prostitution when he encountered an officer who understood the possible negative life consequences for the youth if he were to arrest him for prostitution and, as a result, let him go:

Interviewer: You've never been arrested for prostitution?

Interviewee: Yeah, that one time but they didn't book me, they didn't finger print me. I was so young and the guy kind of saw it and he's like, "you got a whole life ahead of you. If I put you in for prostitution right now, that's it." I'm like, "please I promise. You won't see me inside." [He said,] "I hear this shit all the fucking time and I still see people as soon as I let them go. They are right back on that corner." And I was like, "listen, you can walk me to the train if you want to." He was like, "you know what, that's what I'm going to do." And he walked me to the train and that was the last time.

Interviewer: So it was just one time [you were almost arrested for prostitution]?

Interviewee: That was that one time.

Interviewer: So you didn't get arrested for it?

Interviewee: Nothing, nothing.

Interviewer: Good, that was nice.

Interviewee: It was more than nice, I was kind of thinking awesome too, but I'm not going to go there. (Respondent 780, 21 years old, Latino, gay, male)

The young people's experiences interacting with law enforcement ranged from little to no interaction to weekly exposure, in addition to positive interactions. Although police told youth that they were stopping them for such reasons as fitting a description or looking suspicious, youth felt that they were often stopped because of their race, sexual orientation, and/or gender presentation.

Seized Property

Regardless of whether they reported having had run-ins with police, all youth were asked about property seized from them by police, and 33 percent said police had taken their property and not returned it. Fifteen percent of youth said the police had taken condoms from them. Significantly more men than women and transgender women reported having property taken by police and not returned.

Property that was seized by the police included a range of items, such as money, cell phones, book bags, identification forms, benefits cards, and clothing. Sometimes the items were seized during a stop, question, and frisk encounter, and in other instances the property was seized during an arrest and then not returned once the young person was released. This young woman had become accustomed to having her property seized by police, including money she made dancing in subway stations.

Interviewee: It was the first time I ever hopped the train. They took my phone and they didn't even give me a pink slip. They didn't give me an explanation.

Interviewer: And did you say anything?

Interviewee: I didn't know what to do. I wasn't used to it, cause upstate, like you don't see the cops unless [someone] called them. So, it's like I was sort of scared, I was like what the heck? [...] I had money taken before too, because when we dancing and training and then you have stack in your pocket, if they count it over \$100 then they're gonna take it but it wasn't over \$100, it was like \$75 and I only got like \$60 back. (Respondent 115, 18 years old, Caribbean, female)

Another young woman had all her worldly possessions hauled away by the police after leaving them under the care of acquaintances in the area, and was not informed where the items were being taken.

About a few weeks ago actually. See I'm married actually, like my husband's in jail right now he doesn't get out until August. But we have a shopping cart, like full of our clothes—it's really embarrassing, it's like a luggage cart thing. And I know people that work at a certain area in Lower Manhattan. And I can't haul it around with me all freaking day. So I left it over there and I told them, "listen I'll be back at this time." They are like, "yeah we won't bother it, just leave it there." And I left it there and I've been living there for like a month. And one day I leave for like an hour and I find out a police van just pulls up, tags everything I have and just takes it away. (Respondent 145, 19 years old, Caucasian, bisexual, female)

One young woman had her backpack confiscated by police despite having nothing illegal in her possession; she was not fined or arrested despite having been told she was trespassing.

I was staying at the pier, not like at the pier, you know and I had a backpack, and the police came and they said that I was trespassing, but mind you the pier is a fucking public place. And I wasn't there when it was closed so I'm like, "how the fuck am I trespassing?" and they took my bag and they were like, "this is evidence," and I'm like, "evidence of being homeless?" like evidence of what? No drugs or nothing he was like, "well, you can come and get it from the police station." I had everything in it, my IDs, birth certificate; I'm like what the fuck is wrong with the police? (Respondent 284, 21 years old, multiracial, pansexual, female)

When law enforcement seize property from someone for “safekeeping,” meaning that the property is not deemed evidence of a crime or contraband (e.g., switchblade knives, illegal drugs), they are required to provide a property voucher to the person so that they can claim their belongings at the station. However, as this young man experienced, even when all personal items have been documented by the police, items can still go missing and there is no accountability on behalf of law enforcement to track them down.

My state ID, my Social Security card, and my benefit card, and my unemployment card. I was arrested and I was in the correction system. I gave corrections my property, and they lost it, they just lost it. I came back for my property when I got out, and I look in the bag and all I see is my jacket and sneakers, and a McDonald’s card. And I asked the lady, “where is my ID?” I was like, “miss, where is my stuff?” She looks on the paper, she sees all three of them like you know, you know, my ID, social whatever, she sees all those that’s marked, and she looks in the bag and it’s not there, she’s like, “I don’t know what to tell you, call 311.” (Respondent 5194, 20 years old, black and Asian, heterosexual, male)

Condom Confiscation

In addition to having personal belongings such as identification cards, cell phones, and money seized, youth stated that law enforcement would also confiscate condoms. Until recently, submitting condoms as evidence in prostitution-related cases was not prohibited by the New York Police Department. In 2014, the NYPD issued an operations order limiting the practice with respect to charges of loitering for the purposes of prostitution, prostitution, and prostitution in a school zone, while still allowing condoms to be confiscated at the discretion of the officer in undefined circumstances, as well as in cases involving patronizing, promoting, compelling, and permitting prostitution, as well as sex trafficking. In June 2015 New York State followed suit, amending the Criminal Procedure Law to prohibit the introduction of condoms as evidence of prostitution and loitering for the purposes of prostitution. Subsequent to this development, legislation has been introduced to extend this protection to any prostitution-related offense.³ Although the interviews with youth for this study occurred from 2012 to 2013, it is important document how this practice affected these young peoples’ lives, and the lasting impact it has had on their decision to carry condoms.

For the 15 percent of youth who had condoms seized by the police, the experiences often left them confused and angry. As one young trans woman explains, she was using the condoms for a completely different purpose.

Interviewee: Condoms yes, they [the police] took condoms from me. They acted so crazy like, they thought since I had condoms I was prostituting, what the fuck?

Interviewer: Did they take any other property from you?

Interviewee: Just condoms, basically that was it. And you know what the fucked up part about it is, what if I wasn't even using the condoms for that purpose? I was just using the condoms for my titties. (Respondent 5286, 20 years old, black, gay, transgender female)

Another young woman had her condoms confiscated because the police officer felt she didn't need them since she "was gay."

Interviewee: It was a one time, and I got caught dancing on the train. I had condoms in my bag, and he was like, 'What's this for? You're gay.'

Interviewer: Okay and so they then just took the condoms?

Interviewee: Yeah. (Respondent 115, 18 years old, Caribbean, female)

One young man received a ticket for littering after trying to explain to the officer his rights to carry condoms, specifically for his own safety.

I had hopped on [name of street] in Brooklyn and that's the station where they never ask all the stuff, but he was there. He was like, "can I search you?" I was like yes, because I knew I didn't have nothing with me but the condoms. So he searched me and he found condoms. He's like, "why do you have so many on you? You know you can get locked up for this, this is prostitution." So I'm like, "no it's not. I'm just trying to be safe." He's like, "but who [are you] having sex with?" I said, "how do you know that I that I don't want to be safe, and then on top of that how do you know how long I have had these condoms? I could have had them for a very long time. You always have to be safe." He was like, "oh, I could get you locked up right now for this." So he gave me some bullshit ticket for saying that I had, not a hopping ticket, it was like a \$40 ticket for like littering. He said I threw some [condoms]. It bothered me though; because it wasn't the ticket that bothered me. It was the way that he talked to me. (Respondent 472, 19 years old, black, gay, male)

Youth expressed that they were apprehensive to accept condoms distributed on the street by outreach workers, since they were afraid the condoms might be seized by the police or they might be arrested for possessing them. The following young man wasn't aware of the practice, and was confused when the condoms were taken from him only moments after receiving them from a mobile health van.

That actually happened in the Village, like they be having those trucks like for HIV testing and giving condoms, and so I took like a couple. Then I was walking and this cop came, and like he was driving, I guess he was like undercover or something, but he came and he was like, "oh what were you doing with those condoms?" I was like, "nothing just, I happen to just have them." He was like, "well give them to me." And I was like, "why?" and then he was like, "Oh because you don't need them out here. What are you going to do with them out here?" So, I gave it to him, you know. (Respondent 225, 18 years old, multiracial, bisexual, male)

Police asked some youth why they were carrying a certain number of condoms or any condoms at all, or whether they knew of others who had condoms confiscated. These questions left the youth confused since they had always been told to carry them to be safe and responsible. Most youth felt it

was not and should not be the business of police to inquire about why there were condoms in their possession.

I have gotten pulled over before and the cops said, “what’s up with these condoms?” It was weird because like I thought people were supposed to walk around with condoms and they [the police] just think you’re a prostitute if you have one condom on you. (Respondent 29, 16 years old, Latino, gay, male)

It’s none of your business how many condoms or anything. It’s just condoms; otherwise you know I’m protected and it’s nobody’s business, like condoms is condoms. You want us to use them, but yet you want to take them away from us because you feel like, oh we are gay we are doing stuff with them, but if I was straight, you would be like okay. (Respondent 312, 19 years old, multiracial, gay, male)

One young transgender woman, who was homeless at the time, felt particularly stigmatized after a police officer told her to leave her condoms at home.

Yeah, [police] saying that I have too many condoms. I said, ‘what is too many condoms? It’s always good to be protected.’ They said, ‘if you want to protect yourself, why you don’t you do it at your house.’ I said, ‘okay, if I had a house to live in.’ (Respondent 5264, 20 years old, multiracial, no label, transgender female)

One young woman remembers the cops taking condoms from the hotel room after she reported being raped by a client. She was confused as to why they took the sealed condoms in addition to the used one, which she understood was going to be used as part of the rape kit. Nothing ended up happening with her case, and she felt that this was because the police viewed her as a prostitute.

Interviewer: Have you they ever taken condoms from you?

Interviewee: Actually you know what, when I filed my police report when I got raped they did take some condoms. I didn’t understand why, but yeah.

Interviewer: Did they give you a reason?

Interviewee: They said it had something to do with my rape kit. And I was like alright, I just went off in it. But the cops already knew I was a prostitute.

Interviewer: They took the condoms that were used?

Interviewee: There was a condom that was used on the floor, but they saw the sealed ones around and they took [those] also. I had like \$575 from this guy, so they knew I was a prostitute. They didn’t give a shit.

Interviewer: Can I ask you, did anything end up happening [with the case]?

Interviewee: Absolutely not. Nothing. I didn’t even try.

Interviewer: You called them, they came and . . . ?

Interviewee: They got an ambulance immediately obviously because I was bleeding like crazy. And I went to [name] Hospital and they treated me, everything was cool. They had to call my father up, and tell my dad what I was doing, what they thought I was doing in that hotel. So it was just very uncomfortable.

Interviewer: So they said that to your father that your daughter is [a prostitute]?

Interviewee: Yeah. My dad’s a CEO so it just got really intense, and when they filed my report they took all my comments, and they just didn’t seem to care. I have my lawyer’s name and

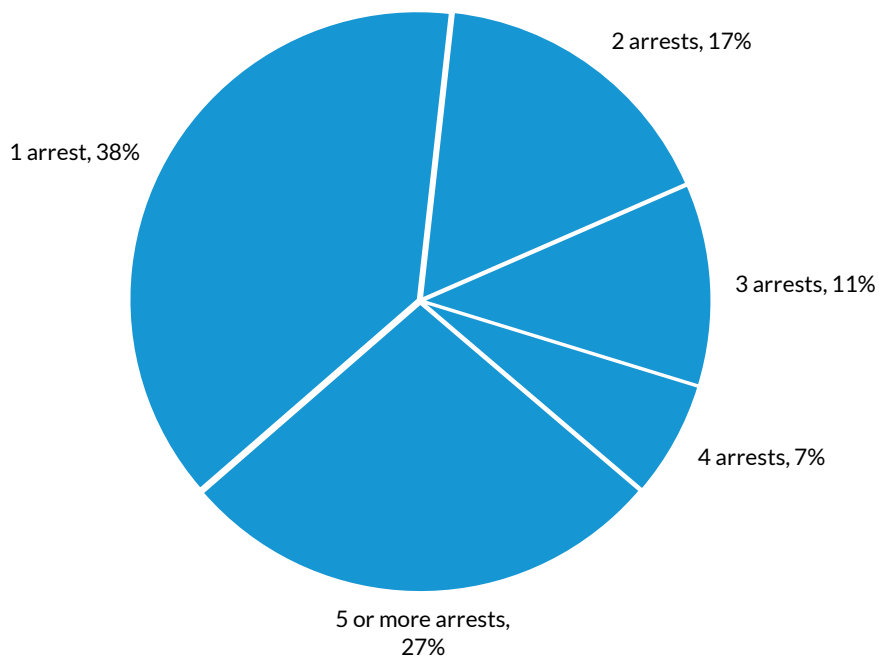
number still, just last time I called him, I didn't get a response, so . . . I'll never forget what he looks like though, that man. (Respondent 145, 19 years old, Caucasian, bisexual, female)

One-third of the study respondents had property seized by the police, and many of them were unable to reclaim their belongings, which were often hard to replace, such as birth certificates and identification cards. Property was seized during stop, question, and frisk interactions and when young people were arrested.

Arrests

Seven out of ten youth respondents (70 percent) said that they had been previously arrested, with most of those 197 youths (80 percent) reporting five or fewer arrests (see figure 3).⁴

FIGURE 3
Number of Arrests



Note: $n = 197$ youths who had been arrested.

Many of the youth who reported multiple arrests had first been arrested when they were much younger. Some of them discussed how the first arrest led to instability in the home, in school, and, in

some cases, with their friends. In some cases, this instability caused future involvement with the criminal justice system. The following young woman, who was arrested around 75 times, was first arrested when she was 12.

Interviewer: How many times have you been arrested?

Interviewee: As an adult or in my life?

Interviewer: In your life.

Interviewee: More than all your fingers and toes and my fingers and toes and probably all my friends.

Interviewer: And so you're saying you've been arrested what 20, 40 times?

Interviewee: Like 75.

Interviewer: Legit?

Interviewee: Legit, I went to juvenile prison.

Interviewer: Okay, so when did you start getting arrested?

Interviewee: When I was 12. (Respondent 284, 21 years old, multiracial, pansexual, female)

Another young woman discussed being arrested more than 20 times, mainly for quality-of-life crimes and other misdemeanors.

Interviewer: How many times have you been arrested?

Interviewee: 22 times.

Interviewer: And for what?

Interviewee: For nonsense— for hopping a train, for fighting, for drinking, for smoking, for selling weed, for just being— loitering, trespassing.

Interviewer: And when was the first time that you got arrested?

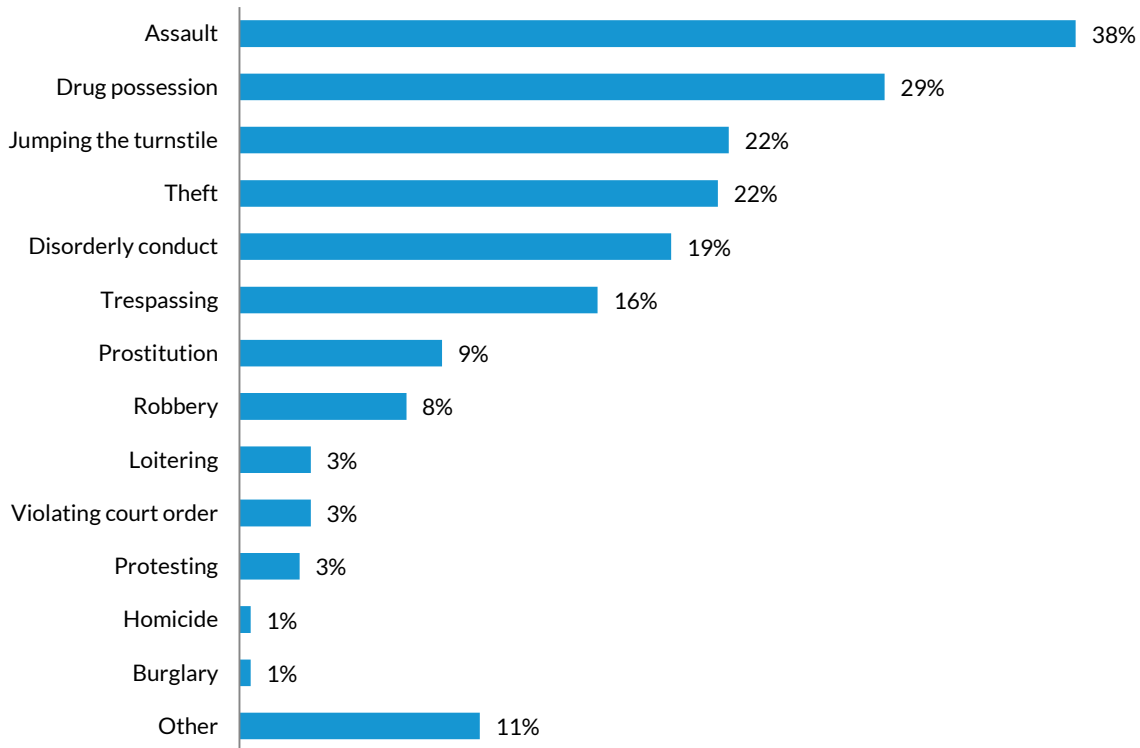
Interviewee: Hopping a train, I was 15. I lied and told them I was 18 and they put me in bookings. I didn't know that if I was younger I wouldn't go to jail. I thought if I was legal they would let me go but it turns out. . . . (Respondent 283, 21 years old, Jamaican, lesbian, female)

The offenses for which youth reported being arrested ranged from assault (38 percent of those arrested) to disorderly conduct (19 percent of those arrested), as shown in figure 4. The vast majority of offenses for which the youth were arrested and charged were similar to those reported by the young woman quoted above: quality of life crimes (e.g., jumping the turnstile, carrying open containers, and trespassing) and other misdemeanors (e.g., marijuana possession, shoplifting, and violating a court order). More often than not, these crimes were associated with the young person being homeless or impoverished and not having the resources to, for example, pay for subway fare or access stable and safe housing.

Despite the fact that all the youth interviewed for this study had engaged or were engaging in survival sex, only 9 percent had been arrested on a prostitution-related charge (discussed further in the next section). As this young transgender woman explains, prostitution is one of the worst charges in terms of affecting one's chances of obtaining lawful employment.

I've been arrested for everything in the book but prostitution. Hopping the turnstile, fighting, you know, having drugs. But never for prostitution because I'm so cautious with that. I don't want that on my record. I'll be looked like—oh she had drugs she had an anger problem, but for prostitution . . . that's going to scar you from getting a job. They will look into that. (Respondent 212, 19 years old, Latina transgender female)

FIGURE 4
Arrest Offenses



Notes: "Other" includes status offenses (running away, curfew), weapons charges, and providing false information; *n* = 197 youths who had been arrested.

Inability to pay fines associated with quality-of-life crimes, such as hopping the turnstile or trespassing, created a constant vicious cycle of involvement in the criminal justice system for many of the youth.

I had, like, six tickets I can't pay and I can do nothing about it, because I had to go to court in Far Rockaway for the train ticket, which was about taking up two seats—the trespassing I told you about, they gave me a desk appearance ticket for that in Manhattan. So, the train in Far Rockaway, I got two more here in Manhattan and one in the Bronx. (Respondent 497 20 years old, Latino, bisexual, male)

For some youth, the inability to pay fines led to a bench warrant being issued for their arrest, which in some cases led to jail time, especially if bail could not be posted. As the following transgender woman explains, she did not have the \$1 needed to post bail, and therefore spent two weeks at Rikers Island. That said, even if she had a dollar to post bail, judges generally set a \$1 bail or bond when the person charged would otherwise be released on the case but has a hold from another jurisdiction. Yet this young transgender woman believed that she was sent to Rikers Island for two weeks for not having \$1 for bail, and was not given any explanation as to the true basis for her detention.

Interviewer: You stayed in Rikers for two weeks for jumping the turnstile?

Interviewee: For two weeks because I had a warrant. I had two cases in Brooklyn and Queens. I went to the Brooklyn precinct at nighttime. I was like alright, and I wait until 10:00 p.m. From there they put me in handcuffs and the buckles on my foot and at 10:00 p.m. we're at the bookings. I could not go anywhere because the last judge was at 12:00 a.m. and it was like whole bunch of guys and it was just me and the Spanish lady they was going to deport her back to Mexico. It was so messed up. And I stayed in bookings for two days. When we're done with the papers, the judge gave me a \$1 bail. I didn't even have \$1 bail or anything. And she said that I'm going to Rikers. (Respondent 5143, 24 years old, multiracial, heterosexual, transgender female)

Another young person described the circumstances that led to their arrest, but found their arrest and court experience to be generally positive given their situation at the time.

I got arrested for sitting in a car one time. It was winter. I had just come from Atlanta. I was brought from Atlanta to Syracuse and it was a whole climax . . . like I came in shorts and stuff because I'm not thinking, I was so high. So I'm like okay, it's hot up here so I didn't put on a coat or anything. So I came I had a skirt on some heels and a corset on and it was just freezing. So I went and bought a little jacket and stuff, but being that I still had a skirt on and I was just freezing and then I was just walking by a store and there was car there and I stole it. And I felt bad, don't get me wrong because I feel that that is wrong. You know people work hard for their things. Because I feel like I work very hard for what I have. And I would really, really get upset if someone takes something from me. So you know, I apologized I wrote the lady a letter in court and everything, you know I read it to her and I explained to her my situation and she forgave me. And she actually helped me out, she gave me her number and stuff. They asked her if she wanted an order protection, and she said no and stuff like that. (Respondent 186, 20 years old, West Indian, heterosexual, femme queen)

When asked to describe what their arrest experiences were like, some youth stated that they were very calm and orderly, whereas others described much more violent encounters. Many of the youth who were arrested when they were in their early teens stated that their interactions with police tended to be more chaotic and violent. Some youth speculated that this resulted from inexperience, as when they were younger they felt that they needed to object to the stop or arrest. However, as they got older, they learned that noncompliance in any form often caused escalation and even additional charges, and that their interactions with the police improved if they acted calmer and more controlled. That said, some youth reported that police encounters would escalate or result in arrest regardless of their

behavior. One young person detailed being choked by a police officer when he started screaming for help during his arrest:

Interviewee: He started choking me before we got in the patrol car, so I was upset about that. But I went about it the wrong way I was just screaming and acting a fool and flailing, had I been quiet and just you know remembered his number . . . his supervisor was even a little worried because I kept screaming, 'I'm going to do something, I remember all your badge numbers, I will write a report on you guys.'

Interviewer: How did he come to be choking you?

Interviewee: He was telling me to shut up, he was telling me to shut up because I was screaming for help. There were people watching and I said, 'somebody get help, get help, they are arresting us for no reason, get help get help.' And then he started choking me, telling me to shut up.

Interviewer: So he held you against the car?

Interviewee: No, it wasn't the car, we were in [name of park]. He had me up against one of the walls. And it was so real that he told . . . there was a guy feeding squirrels nuts. He told him not to look at us, he said, 'turn around, stay where you are, right there.' The guy was petrified shaking with his bag of nuts. (Respondent 5287 20 years old, black and Latino, gay, male)

One young woman had an especially negative arrest experience, which led to her being hospitalized.

Interviewee: One thing, domestic violence against my ex. She was abusive, I spit on her. She was trying to hit me outside and embarrass me . . . they [the police] took both of us in. We were in bookings from Friday to Monday. We saw the judge, like Sunday night, and Monday morning, we went. That was it and I closed the case.

Interviewer: And how were you treated by the police?

Interviewee: I was treated horrible. They had the handcuffs so tight on me that my arms was bleeding. . . . They just didn't care. Told them I had to pee, they didn't care. They treated me like a piece of shit, I hated it. I cried the whole time I was in there. When I went in there it was around November, December, it was around Christmas time, and when I got arrested I didn't have my coat, I had my spandex, skippies, and a hoodie, and the hoodie had blood all over it, I was freezing. Everybody had a hat, gloves, coat, I had nothing, I was in there three days, freezing my ass off, couldn't take a shower, couldn't do nothing, and they even had shackles on my feet. I had to go to the hospital because I fainted while I was in there, they handcuffed my hands together, handcuffed me to the bed, like I was going to go somewhere out the bed. And I had two police sitting down in there and one police at the doorway in the hospital. (Respondent 523, 20 years old, multiracial, lesbian, female)

One young woman whose gender presentation reflected that of a young boy was often treated as or, in some cases, mistaken for a boy by the police, and as a result received particularly brutal verbal and physical mistreatment from officers.

Interviewee: Well first of all my cuffs were so tight that I couldn't feel my hands and I was crying and they kept telling me shut up and they were like, "You are a man right? You act like a man, so be a man." Every time I get arrested, the police always have refer to, "Oh, you're a man right?"

Interviewer: Do they ever physically rough you up as well?

Interviewee: I gotten beaten, when they thought I was a boy dancing on a train and I didn't even see the cop. All I remember is my shirt going up and I'm in the air like that, and people are like,

“Oh my god, what’s going on?” Cause people are like, “They are [the dancers] not doing anything.” And then I just get thrown on the ground, stick hitting my back and all that stuff. I’m not scared of the cops, so I was pushing and fighting back so then more of them was jumpin in.

Interviewer: So when they realized you were a girl . . . ?

Interviewee: They backed up. (Respondent 115, 18 years old, Caribbean, female)

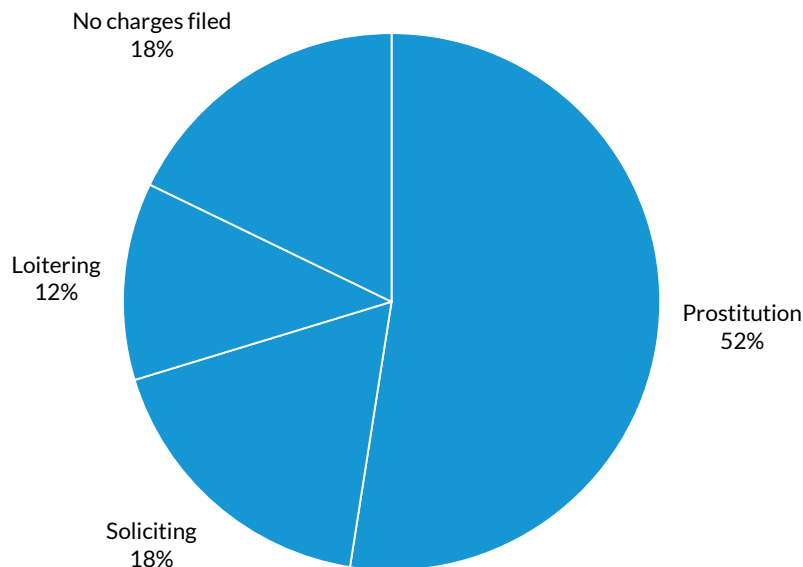
Although we didn’t specifically ask youth about their detention experiences, some youth disclosed what they had encountered in juvenile detention facilities, jails, and prisons. Their experiences were overwhelmingly traumatic and, as this young man describes, often involved physical and psychological abuse.

I got locked up at 13 for lying because I was too scared. Once you get inside and people begin to pick on you and you fight back, that’s more time added on. So I was the small one. I was picked on, so people attempted to rape me inside. I fought back, which I was so against doing things like that. So when I fought back, I got six month added on, five years later, I finally got out. It was, you know, when so many bad things happen in there . . . I have been cut, stabbed, my nose is broken, my jaw clicked. You know, it hurt. (Respondent 506, 20 years old, Jamaican, heterosexual, male)

Prostitution Arrests

FIGURE 5

Prostitution Arrests



Note: $n = 17$ youths who reported a previous arrest for prostitution.

Of the 197 youth who had been arrested, very few (9 percent) reported a previous arrest for prostitution. For 53 percent of those 17 youths, the prostitution arrest had occurred within the year before the interview was conducted.⁵ As shown in figure 5, for their most recent prostitution arrest, these 17 youth were charged with prostitution (53 percent), soliciting (18 percent), or loitering (12 percent). For 18 percent, no charges were formally filed. Of the 14 youth who had prostitution-related charges formally filed, 39 percent had those charges dropped before going to court, and the other 62 percent went to court.

Those who went to court had their cases resolved in various ways, including being released on their own recognizance (ROR; one respondent), being sent to jail (three respondents), having bail set (one respondent), receiving ROR and jail for separate arrests (one respondent), and an unspecified resolution (one respondent). The three respondents sent to jail for prostitution typically waited one week or less for their next hearing. Of the seven respondents who went to court, most (80 percent) had their next court date within a week of their prostitution arrest. One-third (33 percent) had their case dismissed, and two-thirds (67 percent) received a sentence—typically jail time, though two respondents were sentenced to community service or a diversion program.

Some of the young trans women who had been arrested on prostitution-related charges felt that they were specifically targeted because they were transgender, and that the police had unfairly assumed that they were prostituting. The following trans woman found these prostitution arrests particularly egregious since they usually result in jail time despite the fact that prostitution is classified as a misdemeanor.⁶

The majority were prostitution. I mean, it's so sad. You know false prostitution. I think that's very ridiculous. You can't be who you got to be. They're going to charge you. It's like a crime. . . . You're transgender or you're gay. You're getting locked up, but it's a misdemeanor. (Respondent 5127, 19 years old, black, transgender female)

This young man had a similar experience; he was arrested for prostitution despite the fact that there was no evidence that he was soliciting for prostitution.

He approached me and said 'I'm looking for an escort,' and I said, 'sorry I don't do that,' and he arrested me just because I said no and claimed me as a prostitute and all that. (Respondent 30, 19 years old, multiracial, bisexual, male)

Some youth also felt that law enforcement would harass them by mentioning previous arrests for prostitution, even when they were arrested for nonprostitution-related crimes.

Interviewee: I be in the back of the car, going to the precinct and they would just say nasty things like, "you won't get locked up if you give us some ass and you should let us have sex with you and different things. You're used to it anyway." Call me all types of names and things like that.

Interviewer: And this has happened how many times?

Interviewee: Like three or four times.

Interviewer: And for what reason?

Interviewee: Once I got arrested for prostitution, the other one was jumping the turnstiles, little things but they knew already that I was a prostitute.

Interviewer: Do you think it's because of your record?

Interviewee: Yeah. (Respondent 309, 20 years old, black, lesbian, female)

As discussed earlier, the practice of using condoms as evidence of a prostitution offense was permitted until changes in NYPD policy in 2014 and New York State legislation in June 2015. The state legislation amends the Criminal Procedure Law to prohibit the use of condoms as evidence of prostitution and loitering for the purposes of prostitution, but does not prohibit their use in promoting, patronizing, compelling, or permitting prostitution offenses, as well as sex trafficking offenses. That said, several of the young people who had been arrested on prostitution-related charges reported that condoms were the only source of evidence of their involvement in the sex trade. In some cases, as the following young person experienced, just one condom was used as evidence.

Interviewee: They'll [prosecutors and judges] try to give me programs and stuff but being that I'm on parole a lot of programs won't accept me, they would dismiss [the case]. But this last time, the judge really tried to give me, well not the judge the DA was really trying to give me six months. But the judge was acting like evidence, where's the evidence? Where did you catch her, you know?

Interviewer: This is in [name of borough] criminal court?

Interviewee: Yeah. [The judge said,] "Did you actually see something? Did you catch her in the date's car?" So the DA going to say no because it was just a condom and then they had pictures with the condom, like what is that? What kind of evidence is that supposed to be—one condom? And it's like I told the judge I go to programs and stuff. What do they [the programs] have condoms for? She agreed with me. She let me go. She was like I'm not giving this young lady no six months for something that you guys didn't even catch her doing. You've just arrested her for a condom. She went off and she literally said, like, all this stuff that we could be arresting people for, you're bringing somebody in front of me, in my room for a condom? I was scared, don't get me wrong. I was like, oh, my God six months. I can't do it and the judge was just shaking her head and the way she was shaking her head like she was reading the paperwork, shaking her head, and I'm like yeah I'm going down but she didn't. . . . (Respondent 186, 20 years old, West Indian, heterosexual, femme-queen)

One young person did not personally have the experience of being arrested on prostitution charges, but had a friend who did. His friend spent a day in jail when the only evidence against her was a condom. This was particularly confusing for him since he, along with his friends, was always taught to practice safe sex and carry condoms. This made them all question the practice of carrying condoms since there was a heightened risk of being arrested.

Interviewee: She was with a guy in a car and the guy [had] picked her up. Cops pulled over and she hadn't done anything. She was just in the car speaking to him. [The cop] tells her to get out, asks her for her ID, calls her by her male name although she told him that she didn't want to be

called by that name. She's transgender. He still insulted her, called her by her male name. He went into her bag, took her condoms and he was like, "You are fucking for money, huh?" And she was like, "How I'm fucking?" She actually spent a day in jail and they had no proof that she did anything at all.

Interviewer: And what did they cite as evidence?

Interviewee: The condom was used as evidence.

Interviewer: Was this in New York?

Interviewee: Yes this was in New York City.

Interviewer: Do you know what happened with the charge?

Interviewee: I don't know what happened with the charge; all I know is that she spent a day in jail. And I thought that was unfair and that's kind of stupid because we are promoting safe sex and that everyone should have condoms. So when you find a person with some condoms on them, it doesn't matter how much, that should be okay. Well, at least you are protecting yourself out there. So you are going to arrest everyone in the club for having condoms in their wallets or in their pockets or having a couple of condoms . . . maybe they want to have an orgy that night and they bring a shit load of condoms with them.

Interviewer: And how old was she?

Interviewee: About 19.

Interviewer: What's her race?

Interviewee: She's black. (Respondent 528, 20 years old, multiracial, gay, male)

As a result of this practice, young people would chose not to carry condoms rather than run the risk of being arrested.

A few friends of mine said that they when they were in the village [during] summertime last year. They said that the police were searching people's bags, and if you had more than like four or five condoms, they were going to arrest you because you shouldn't walk around with that many condoms. (Respondent 9, 18 years old, black, bisexual, male)

Another young woman had multiple experiences of being arrested for prostitution where condoms were used as evidence, and she questioned the rationale behind the practice.

Every time I got arrested, they always said my condoms was evidence, evidence to what? I don't know. Maybe I just wanted to have safe sex. Maybe I was on my way to my boyfriend house, who knows? But yes that's the thing, six condoms is evidence. (Respondent 450, 17 years old, black, bisexual, female)

Law enforcement also targeted those working for service providers that conducted street outreach, which often involved handing out condoms to individuals they encountered on the streets to promote safe sex. The following young man was arrested for having too many condoms despite showing his work ID, which was an organization known for their street outreach.

They arrested me for having too many condoms and I showed them my ID and they didn't believe that and I was working for [name of service provider]. I had my ID and my number on it with my name and everything, and it was like, oh that doesn't matter, you are out here in the Village and you are doing sex work. I'm not doing any sex work. I'm walking around, not standing on a corner. (Respondent 196, 20 years old, multiracial, open, male)

The youths' arrest experiences varied, depending on the circumstances of the arrest (e.g., charges, area where the arrest occurred, youths' gender and race). These experiences often shaped the youths' feelings of safety from the point of arrest through processing. The following section will describe these feelings in more detail.

Feelings of Safety

When individuals are arrested, they interact with a variety of actors during the process, including the arresting officer(s), processing officers at the precinct and central booking, and court officers. Young people's feelings of safety during this process can change depending on the officers they interact with. Of the 197 youth who reported a previous arrest, almost half (49 percent) said they did not feel safe in the patrol car following their arrest, 46 percent did not feel safe in the precinct, and 33 percent did not feel safe while being processed.⁷

FEELINGS OF SAFETY IN THE PATROL CAR

For many of the youth who stated that they did not feel safe while in the patrol car, the primary reason was because they had a negative experience with the arresting officer(s), and these officers were usually the ones to bring them to the precinct. They weren't sure what the officer(s) would do to them once they were in the car, and they felt helpless since they were alone and handcuffed in the back of the patrol car. Youth who had never been arrested before were particularly traumatized by the ride to the precinct since they felt like they were heading into the unknown. As one young man remembers, "I was scared. I was only 14. I was really scared . . . I didn't know what was going to happen next" (Respondent 333, 18 years old, multiracial, gay, male).

One young woman, who was arrested for the first time at age 16, was harassed by the police during the arrest and processing at the precinct. They harassed her for engaging in prostitution despite the fact that she was arrested for drug possession.

I was 16 at the time. There were two guys and they caught me with like 50 pills, and I remember that they would do jokes, like very disrespectful jokes. You know, like, saying that I was prostituting myself at that time but I wasn't. I felt very uncomfortable and very unsafe, because I didn't know if they were real cops, because they were doing some very unprofessional stuff. That was like four years ago. They were speaking very disrespectfully to me and stuff. You know, once I got to the precinct, everyone was acting the same way. So, I felt very unsafe and very uncomfortable. And then for me to call my mom, they made me wait like six hours at the place for me to get that one phone call. (Respondent 606, 20 years old, Latina, bisexual, female)

Another young woman stated that every time she was arrested, the police would drive recklessly to the precinct, knowing that she was not buckled into her seat. This practice—commonly referred to as a “rough ride” and brought to public attention after the killing of Freddie Gray, whose spinal cord was severed while he was being transported in a Baltimore police van—occurs when a handcuffed person is transported without a seatbelt and is thrown violently around the vehicle as a result of erratic and speedy driving.

When they drive, they drive nuts, like they drive real fast and they'll stop all of a sudden, and you will go flying and then round the corner real fast . . . they don't buckle you in or anything and you just fall all over the place. (Respondent 152, 18 years old, white, bisexual, female)

Although almost half of the youth reported not feeling safe in the patrol car, some youth didn't recall their experiences as particularly negative. In fact, some youth recalled the police stopping to get them food on their way to the precinct, which they were grateful for since they weren't sure when they would be able to eat again.

Interviewer: And did you feel safe in the patrol car?

Interviewee: I did. I was with two other people in there. And the cops they weren't really aggressive with us, they were actually very peaceful. And they just cuffed us and just put us into the car they didn't force like totally push us in or anything. And they just took us to the jail and just signed a release. It took about six hours. (Respondent 147, 19 years old, German and Cherokee, bisexual, male)

They were really nice they bought me food, you know. (Respondent 212, 19 years old, Latina, transgender female)

They brought me McDonald's. (Respondent 1095, 21 years old, multiracial, gay, male)

FEELING OF SAFETY AT THE PRECINCT AND WHILE BEING PROCESSED

Although slightly more youth reported feeling unsafe while being transported to the precinct (49 percent) than at the precinct (46 percent) and while being processed (33 percent), their experiences at the precinct were more vivid and memorable, for good reasons and bad. Youth who recalled negative experiences at the precinct reported being harassed by police because of their gender identity and sexual orientation. Transgender women felt particularly targeted by officers at the precinct and recounted stories of being verbally and emotionally abused, often for the amusement of the other officers.

One transgender woman who had been arrested dozens of times on prostitution-related charges recalled feeling indifferent about her experiences at the precinct despite being called a faggot and a homo, but then went on to describe a very traumatic experience where she was strip-searched in front of not only the other officers in the precinct at the time, but also men in the holding cells.

Interviewee: I felt safe . . . just the simple fact it had windows behind, so that nobody could have done anything to me.

Interviewer: But how do you feel that the police officers were with you?

Interviewee: I don't feel safe. I don't feel bad. I feel just in between. I mean, because I know they're not going to do anything to me. Just the simple fact that they don't want to lose their job. The majority of the police always called me a faggot and homo; you're transgender, fuck you. It was always something hateful that would make me cry and say listen, this is not who I am. I'm going to be a man. I don't want to be this way, because of who must be "protecting" us. . . .

Interviewee: The officer told me he wanted to see my titties, he wanted to see my butt, he wanted to see what was between my legs, he wanted to see my ID, he wanted to see what was under my hair, he told me I had a wig on which was not a wig it was glued to my hair. So I told him, "Listen you can't do that. You are my arresting officer, but I need you to get me."

Interviewer: This was in the precinct?

Interviewee: In the precinct.

Interviewer: Were there other people around?

Interviewee: There were so much people around. There were black men, there were straight men, there were gay men, there was transgender . . . it was a mixture of people. I told him, "Listen, you can't strip-search me in front of these people. I need to see a female officer—you can't do this. Take me somewhere privately, you know, that is just between me and you. Take me somewhere privately for me to be strip-searched. I need a female officer." And you know he told me—I'm gay, I'm a faggot and he doesn't give a fuck, and he you know he did what he did.

(Respondent 5127, 19 years old, black, transgender female)

One young man, who had identified as a trans woman when he was younger, only had a negative experience at the precinct when he identified as trans, but not during subsequent arrests when he identified as male.

When I first started out I had one problem. The officer wanted me to take off my bra to see if I was male or female, and I spit at her and then it never happened again. She was like are you a man? And I spit at her, and I expected her to beat my ass but they really didn't. (Respondent 446, 19 years old, multiracial, bisexual, male)

The following female-identified youth described her experience being placed in the male general population holding cells at the precinct.

Interviewee: One time they threw me in with dudes.

Interviewer: They did? Anything happen?

Interviewee: The dudes, just like, they was like fighting for me. They was like, even though she acts like a dude, we coulda been different dudes. We coulda beat her up or raped her in here. (Respondent 115, 18 years old, Caribbean female)

When you're getting processed and you're transgender . . . well, we call it the dog pen here and you got 50 men in it, it's no bigger than this room. Plus, if you're transgender and you've got breasts, and you look like a girl, and you've got a shape of a girl . . . I never forget I had one boy pulled his dick out in front of me, and he was like suck it. I was like, get the hell away before I knock the hell out of you. (Respondent 272, 21 years old, black, bisexual, transgender female)

Not all transgender youth reported that being treated as a “special category” prisoner and being held in a separate cell was a positive occurrence. The following young femme queen felt that the “special” cell was in a lot worse shape than the other cells, and that anyone placed in the special cell was usually neglected.

Interviewee: They have a so-called section that is supposed to be for LGBT . . . so they won't get attacked. If you see that place, it's horrible. Piss, holes, rats, and stuff and when you see where they put straight people, it's like a mansion in there. A mansion. But they put us in this freezing [cell] and everybody else can get a blanket and a cot. We don't have no cots. We have to sit on the [floor] and it would be so cold, it's horrible and they like literally rough you up when they are fingerprinting you, it's bad.

Interviewer: Did they touch you?

Interviewee: Yeah, they made me take off my bra; they wanted to make sure I had no tissue in my bra.

Interviewer: Was it a guy or a woman?

Interviewee: Guys, and it was like my understanding from being arrested before, it is not supposed to be like no 10 officers, a sergeant, and everything searching you. It should be one and then there were like so many of them and they were laughing, and the sergeant was calling for somebody, 'oh, come here look what I have for you?' you know like they are real horrible there. . . . (Respondent 186, 20 years old, West Indian, heterosexual, femme queen)

Another young trans woman would tell officers that she was straight to avoid being placed in the special cell since, in her experience, it took longer to be seen by a judge.

They tried to put me in special. That's when I indicated [that] I'm straight. They were like, 'What? Are you straight??' I was like, 'Yes, I like vagina, put me with the men.' I don't want to be put in specials because it takes forever for people in special to get seen. (Respondent 212, 19 years old, Latina, transgender female)

Similar to the youths' feelings of safety while being brought to the precinct, some youth recalled having more positive interactions with officers while at the precinct and being processed. Unlike some of the experiences described earlier, one young man was glad that he was placed in a special cell: “They made sure they gave me a special cell and that sort of thing and all that” (Respondent 9, 18 years old, black, bisexual, male).

Another young trans woman felt respected by the officers since they referred to her as “she” and immediately placed her in a special cell for her own safety.

Interviewee: Everybody was just normal and nice, like, they called me 'she,' but I really need to get me an ID.

Interviewer: And did you ask to be put in a special cell or they just automatically did that?

Interviewee: They put me in a special cell because like the officer would explain who I am, what I am, and they would be like, 'oh well it says male,' and they are like well, we can't put him [in general population].

Interviewer: But you're obviously female.

Interviewee: Yes. [They said] we can't put her in, so we'll take her in the back. (Respondent 5140, 18 years old, black, gay, transgender female)

Other youth felt that the officers they interacted with were respectful. This young man, who used to identify as a transgender woman, was even given special treatment by his arresting officers when they realized he was trans, as they were also part of the LGBTQ community.

Most of my arresting officers were female, and they were lesbian females. When they see I was a trans, they were like, 'I got this,' and they were buying me cigarettes, buying me soda, feeding me while I was in there. So, I never had a problem when I was in the precinct. (Respondent 446, 19 years old, multiracial, bisexual, male)

Another young man described how the officer at the precinct made him feel comfortable, which provided him with a sense of safety and led to him being able to benefit from the rapport he established with the officer.

Interviewer: Did you feel safe while you were being processed?

Interviewee: Yeah. Because the officer talked to me and made me feel comfortable.

Interviewer: Okay. That is good.

Interviewee: Well, it was always that way with me because in a way, I have to strike up a conversation to make myself feel comfortable inside. So I strike up a conversation with the officer, [and] he [was] nice. Then usually it end ups with me getting a sandwich, some money, and some cigarettes to smoke in the bathroom, right in the precinct and the captain don't care. (Respondent 591, 19 years old, multiracial, bisexual, male)

The youths' interactions with law enforcement, whether it be a routine stop and frisk, a violent arrest, or what they heard or witnessed from other people's experiences, shaped their perceptions of the criminal justice system. The next section describes these interactions overall and how the young people feel generally about the system that has been, for some, a constant presence in their lives.

Perceptions of Police and Courts

PERCEPTIONS OF THE POLICE

All youth in the sample were asked how they would describe their interactions with police, and almost two-thirds (63 percent) described their interactions as at least occasionally negative, 20 percent as neutral, and 18 percent as at least occasionally positive.

When the young people were asked to provide their overall thoughts and feelings about law enforcement, their responses ran the gamut from "they are just doing their job" to "every single [interaction] has been bad." However, for many of the youth, talking about their perceptions of the

police, based on either first-hand experiences or experiences of their friends and family, brought out a lot of complicated feelings, including feelings of respect, fear, frustration, and anger.

For youth who described their interactions with law enforcement as at least occasionally negative, these perceptions were often based on repeated harassment and sometimes abuse directed toward themselves or their friends and family, often because of their sexual orientation and/or gender identity. One young woman described how she was suffering from PTSD as a result of her own repeated arrests by the NYPD, in addition to witnessing her friends being harassed and abused by the police.

Interviewee: I actually have PTSD from how many times I've gotten arrested. Like I see a cop and I get like shaky and everything. It's really bad. They just, they instill a lot of fear in me. I'm like definitely afraid of the NYPD . . . I cry immediately. When I get stopped by a police officer I just cry. I cry my eyes out. I can't control it. And I am not that emotional. It's just like you know it really bothers me, it gets under my skin because you can't just take everything away from me consistently.

Interviewer: Can you tell me like what kind of things they said?

Interviewee: Well I have witnessed homophobic remarks and just a lot of hate from the NYPD through my friends. I mean my friend's house got raided a few months ago when we were staying there. And my best friend is a [transgender] who sleeps in the same room as me and she has a boyfriend. And they just insisted on calling her a faggot, telling her to get the fuck up, they were kicking her and shit. This is SWAT mind you, so yeah. (Respondent 145, 19 years old, Caucasian, bisexual, female)

Youth also stated that they were less likely to seek help or report a crime to the police based on past interactions with the police. One young woman who was a victim of a homophobic crime recalled how the police did not take her claim seriously and let the man she accused of assaulting her go, even after he admitted to committing the crime because of her sexual orientation.

Interviewee: We had a hate crime happen not too long ago and the police laughed.

Interviewer: What happened?

Interviewee: I was assaulted and the police were like, 'Why did you do it?' The guy was like, 'Because she's a dyke.' And the police were like, 'Okay.' And then I said, 'Can I make a phone call?' They said, 'To who?' I said, 'My girlfriend.' They were like, 'Your female friend?' I'm like, 'No, my girlfriend, like my spouse, my significant [other].' And the police just like doubled over laughing. They let the man go. (Respondent 284, 21 years old, multiracial, pansexual, female)

Another young man explained how he and his family had been victims of several crimes, and the police response, or lack thereof, was always the same.

Interviewer: How would you describe your interactions with [the police]?

Interviewee: Every single one of them have been bad because . . . we've been robbed, someone broke into our house, jumped me, took all of our stuff, police came. They don't do follow-ups, they don't do nothing. Mama's house was broken into, the big-screen TV was stolen, we called the police, it took them an hour to get to the house. They got to the house, sat outside and ate Subway and then came in. (Respondent 5045, 20 years old, black, open, male)

Some of the young transgender women who engaged in survival sex felt that they were more likely to be victims of crimes, such as theft and assault, because of their marginalized status. They rarely reported crimes to the police and expected the police to be unresponsive even if they did report a crime because of how the police viewed them, both as trans women and as people engaged in trading sex.

Interviewee: I don't really like them. I think they abuse their authority, and I have witnessed them treat people of my kind in a type of way.

Interviewer: By people of my kind you mean . . . ?

Interviewee: Trans women. . . If I was to get robbed at gunpoint or something, there's a great chance that I won't even report it because I'm a sex worker. And there's a great chance because I'm trans that I feel like I'm an easy target sometimes for those types of crimes because people, I feel like people really don't care what's going on with us anyway. So it's just like . . . I think they're trying their best but they'll be like, well we have to kind of wash our hands with this because you know, there's not much we can do about what happened or because the life style that they were living. It's just kind of sad, but it's true. (Respondent 374, 21 years old, black, fluid, transgender female)

LGBTQ youth also felt that the police targeted them because of the officers' beliefs regarding the young people's sexual orientation and/or gender identity. The following young man felt that the police would paint an inaccurate picture of LGBTQ youth to ensure a conviction in the court room.

They are hard on us because I feel like because one, I guess maybe because of their own personal views and beliefs throughout their personal lives, but in the same token I just feel like they're harder on us because of who we are and also because they know we are an easy target. Oh, they are gay, they are this, they are that and then all they have to do is just make up a report to the district attorney and you just look like a monster. And we can be the sweetest person in the world, but once the district attorney gets hold of it and you give him too much information that make you look like a monster in front of the judge. (Respondent 472, 19 years old, black, gay, male)

Youth also described having mixed emotions when it comes to the police. They acknowledged that law enforcement is there to enforce the law, but many felt that they were unfairly targeted by the police because of their sexual orientation, gender identity and/or race. The young people expressed the desire to be treated with the same respect that they tried to show the police.

I mean I respect them because they are the cops they are there to enforce the law but when you violate somebody, like if I'm walking with a gay guy and you say something to him because he's a man and he's gay, I have a problem with that. I don't like bullies and most cops are bullies just because they got a badge and a gun. (Respondent 273, 20 years old, other, lesbian, female)

Really I feel like they are fair, because I know they are just doing their job, but some police take it overboard and I can't really get mad because they were doing their job. (Respondent 507, 20 years old, black, heterosexual, male)

When it comes to the cops, I usually get along with the cops. But I don't like them because I'm always getting targeted for some reason. I mean I don't know if it's just me, but it is very

frustrating, just getting stopped by the cops for no reason. (Respondent 637, 19 years old, Latino, bisexual, male)

Some young people stated that their perceptions of the police would change depending on which officers they interacted with, and that it often came down to the personality of the officer.

I've had some pretty shady interactions but I've also had some absolutely nice interactions. So an officer let me go with a warning on a hopped turnstile, and I was like, don't harass me, like this is the first time, and he's like, alright fine. Since I didn't have any warrants or outstanding tickets or anything like that he said, alright fine, go. (Respondent 167, 18 years old, multiracial, bisexual, female)

One young person would try to find the most reasonable-looking officer to speak with if he was approached by more than one, and felt that when you spoke to a reasonable officer with respect, you would be treated with respect.

It depends on the officer because you going to have your dickhead officer and you can have a good officer. I always look for the cool officers, the ones that you can actually talk to because the dickhead one you can't say nothing to. Because you'd be like, "Excuse me officer?" [and he would be like] "Shut your fucking mouth. I'm here to search you." If you get a cool one you'd be like, "What's up officer?" [and he is like,] "Hey man what's up? What you are doing out here?" [I'm like], "Oh I'm out here this that dah, dah, dah." [He is like,] "Let me see some ID." He'll be there sitting talking to you. . . . Then, even if you have a warrant, they'll let you slide sometimes depending on how you talk to them. They'd be like, "Oh let's pull it up. You have a warrant but seems like you are a pretty cool guy. I'm just going to write you this little summons, show up for court, this and that, have a nice day." (Respondent 379, 21 years old, multiracial, heterosexual, male)

Another young man felt the same way—if you speak to the police with respect, you will often be treated with respect.

Good, you know what I mean, how do you doing sir, speak to them with respect, they will definitely show you respect back. Once you want to be an asshole then you want to do that to yourself. If you give them respect they will give you 100 percent respect back. (Respondent 405, 19 years old, Afro-Latino, gay, male)

Despite some of the youth expressing mixed feelings about the police, the majority of youth (63 percent) who have had interactions with law enforcement stated that their experiences were negative overall. When asked how she would describe her overall interactions with the police, one young woman summed it up in one word: "hurtful" (Respondent 5248, 15 years old, Trinidadian and black, lesbian, female).

PERCEPTIONS OF THE COURTS

Youths' perceptions of the court system, including family court, were somewhat less negative; of the 183 youth who responded to the question, 31 percent described interactions with the courts as positive, 25 percent as neutral, and 44 percent as negative.

Overall, the youth we interviewed did not have that much to say about their interactions with family and criminal courts in New York City.⁸ For many, their time in the courts was short and uneventful, especially compared to their experiences with law enforcement. That said, some young people developed perceptions of the courts as a result of repeated appearances, especially in adult criminal court, and others remembered specific negative and positive events that occurred in the courtroom, which contributed to their overall feelings about the courts.

One transgender woman who had been to court dozens of times, mainly for prostitution-related charges, felt that few court officials, especially public defenders, wanted all the facts so that they could truly understand the nature of the case(s).

They just want you out in and out; very, very, very rare[ly] do you find someone who is genuinely passionate to help you and really hear your story and want to argue and get you out genuinely. But at the end of the day, you know, [they are] public defenders or you know, appointed attorneys. Usually [they] just don't want to deal with this type of work, it's like, oh it's either easy for them or it's not a priority or important. So it's like, you know, you are not important. (Respondent 25, 26 years old, Latina, heterosexual, transgender female)

Another young man also felt that court-appointed attorneys were not doing their best to represent him in court and that they often deferred to the prosecutors rather than arguing on his behalf.

Well Legal Aid, don't get me started on Legal Aid, they don't do shit. They don't do anything. Legal Aid are working for the DAs, that's all they are doing. The district attorney, now I mean that's something you need to worry about. If you've got a Legal Aid they are not going to do nothing because when I caught my assault on the officer case, I tried to plead my case. I took it to trial. I'm trying to plead. I'm like, 'I did it in self-defense because he took my stuff. How would you feel if you are getting searched by a police officer and you have your grandfather's old watch and then they take your shit? What are you going to do? You are going to sit there and let them take it or are you going to try get your shit back?' The judge is like, 'I would just let the officer take it.' That means you are soft. I'm not soft. Never have been, never will be. (Respondent 379, 21 years old, multiracial, heterosexual, male)

Many of the youth felt misunderstood and that mitigating factors were rarely taken into account when their case was being heard by the judge. Their perceptions were that past crimes, even ones committed years prior, often determined how they were perceived and treated in court, and that no one bothered to look into the underlying factors as to why they were constantly in and out of the court room.

Because my record . . . I try to get everybody to understand, like, I don't have a record because I choose to be all gangster and be on the street. This is stuff I didn't have choices. I had to defend myself, you feel me, and I didn't want to just sit there and let a man kill me, beat me to death. You expect me to sit there and let somebody rob me of [every]thing so I have nothing? I'm going to defend myself. (Respondent 186, 20 years old, West Indian, heterosexual, femme queen)

One young man thought that he was being treated unfairly by the prosecutor, which led to him being put on house arrest despite the fact that the alleged victim never showed up in court and there was no other evidence that proved his guilt.

Interviewee: The one time I was arrested, I hated it because they were sitting there lying on me and stuff and it was like they didn't have no proof that I actually cut somebody. They were just going by what the person said. And the person never showed up to court or anything. Then they were like, he's a college student. I had just graduated out of high school, I was 17. They were like, 'Oh, he's a good child.' Then the judge just goes, 'But I'm giving him four months of house arrest.' It was like I was in prison for four months. I'll be sitting on the porch watching everything go by and it was like I was dying slowly. And they were saying things like I'm a menace to society; this is what the guy with people against me were saying.

Interviewer: The prosecutor?

Interviewee: Yeah the prosecutor. They were like, 'He's a menace to society. He needs to be behind bars.' (Respondent 432, 21 years old, multiracial, gay, male)

Youth also described situations where their gender identity and/or sexual orientation was not respected, and in some cases, resulted in mockery by court officials. For transgender individuals, this usually entailed not calling them by their preferred name and/or not using their preferred gender pronoun. Some gay and lesbian youth stated that their sexual orientation was unnecessarily brought up by the prosecutor or judge. This young man was made to feel embarrassed and ashamed in the courtroom.

Interviewee: When I was being arraigned they were like, '[Name of defendant], had an altercation inside the hotel with his lover and they say his name and everyone started laughing—the whole courtroom the judge, the bailiff, everybody. They all started laughing. I was so mad. I could only see the people in front of me, so that means that the prosecutors were laughing, the judge was laughing, the bailiff was laughing, the two cops over here were laughing. Everyone was laughing.

Interviewer: And what did you do, you just stood there?

Interviewee: I was embarrassed. I just stood there.

Interviewer: And then what happened after that? They just stopped and just kept going?

Interviewee: They finished laughing and they kept going, and then you know my bail was out and I bounced. (Respondent 1095, 21 years old, multiracial, gay, male)

The following young trans woman described one court experience where the judge wouldn't even hear her case because of the way that she was dressed, even though she had spent the previous night in jail. She also felt that the judge refused to let her into her courtroom because she was transgender and was brought in on prostitution charges.

Interviewee: I had a judge that was so disrespectful to me. I mean, I got locked up on a prostitution charge and when I went to her courtroom, I had on heels—some red bottoms and everything you know. I'm so tired, and my make-up was coming off, and she told me, I was doing disorderly conduct. She said, 'I don't want her in my courtroom. Bring her to the other one,' and everybody in the courtroom started laughing, like it was a joke. I felt insulted, because they don't have [any evidence].

Interviewer: Why didn't she want you in her courtroom?

Interviewee: Because I was transgender.

Interviewer: And because the way you were dressed?

Interviewee: And because [of the way] I was dressed. And [because I was] supposedly doing sex work in her community which was [area of Manhattan], and she told me to get out of her courtroom. So, the officer had to take me and put me in the other courtroom. (Respondent 5127, 19 years old, black, transgender female)

Similar to some of the youths' perceptions of the police, some young people felt that their experiences in the court room—good or bad—depended in part on the judge who presided over their case.

Depends on the judge. If the judge is in a bad mood, they take it out on everyone else. The defense was good. (Respondent 129, 18 years old, black, bisexual, female)

The court system is not bad. It actually depends on the judge. I only run into a bad judge one time. That was very rare. I don't know if they was cranky, or whatever the case may be, but the judges are usually not that bad. (Respondent 497, 20 years old, Latino, bisexual, male)

It's actually really fine. I mean most of time. Whenever I was arrested the judge always used to tell me, you look like a very sweet person. You don't need to be doing all this, just try and get a job, settle down, do something. (Respondent 313, 21 years old, Puerto Rican, lesbian, female)

Youth also felt that it was important that they be on their best behavior while in the courtroom to avoid a more punitive sentence.

Court system—I don't mess with them. I'm on my best behavior—in and out. Just give me community service. I will do it, stuff like that. Why? Because I'm not trying to be held in jail 15 days because I ran my mouth. (Respondent 199, 21 years old, black, gay, male)

Some youth who were brought in on prostitution-related charges felt that jail should never be an option, whereas others preferred to serve jail time rather than be mandated into a diversion program. That said, youth preferred to have the option of serving jail time or attending a diversion program, and, if ordered to attend a diversion program, to have the choice of which program to attend. The following young woman wasn't given the option of attending a program when she was sentenced on a prostitution charge.

I don't believe the court system is fair. Because like they shouldn't be locking prostitutes and stuff up. They should give them a choice, jail or counseling, instead of just throwing them in jail because how do they learn that way? Because they are going to do the same thing in jail, it goes

on in jail. It goes on in prisons. This is always going to happen. (Respondent 5066, 20 years old, white, bisexual, female)

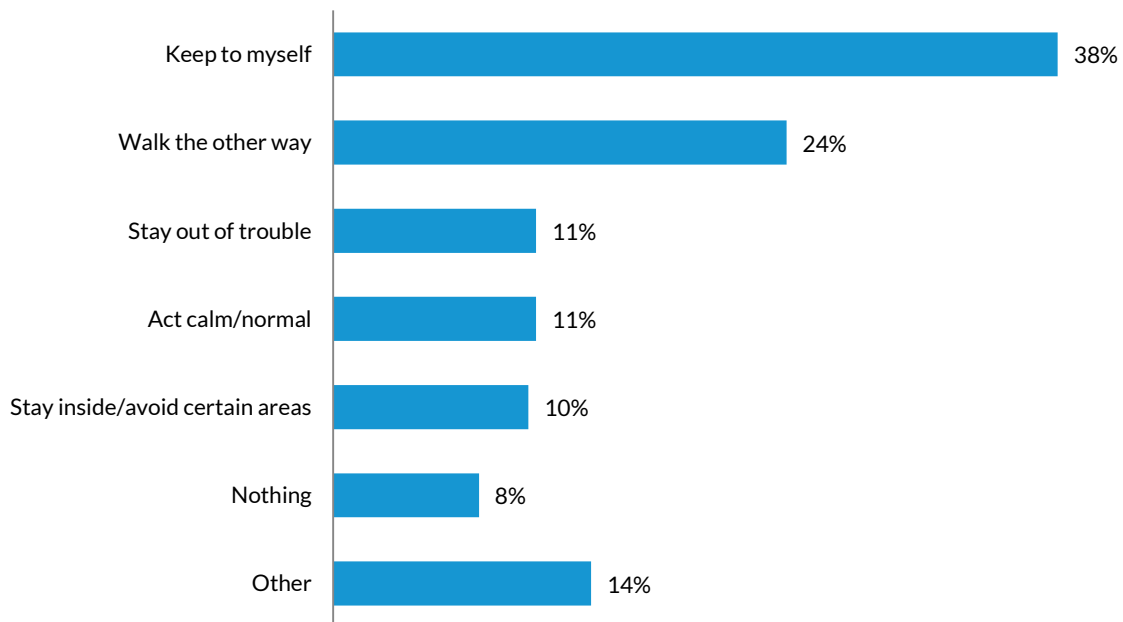
Whether or not young people had experiences with the police and courts, many of them did whatever they could to avoid the police altogether, as the next section describes in more detail.

Avoidance of Police

All youth were asked about the ways they avoided police encounters. As shown in figure 6, youth reported avoiding police in a variety of ways, including keeping to themselves (38 percent), walking the other way (24 percent), staying out of trouble (11 percent), acting calm or normal (11 percent), staying inside and avoiding certain areas (10 percent), and other ways (14 percent). Fewer than 1 in 10 (8 percent) said they did nothing to avoid the police.

FIGURE 6

How Youth Avoid Police



Note: “Other” includes pay attention to surroundings, not stay out late, keep a disguise, and ask clients if they are cops; *N* = 283 youths in the sample.

The ways the young people avoided contact with the police often had to do with lessons learned from prior police interactions or from observing how others came under the radar of law enforcement.

Over a third of the youth found that keeping to themselves and avoiding eye contact with an officer was an effective strategy. As the following two young people explain, making eye contact with the police could be seen as a sign of guilt.

I just don't look at them. Because usually when I make eye contact they say something.
(Respondent 115, 18 years old, Caribbean, female)

Normally I try very hard to get out of their way, but I don't like to make eye contact with them. I feel like they could just see through me and know, so I do make eye contact with them. It's usually me nodding or smiling at them. I don't know what looks suspicious to them and what doesn't, so I just keep walking and very fast. (Respondent 166, 19 years old, Caucasian, gay, male)

Other youth felt that if they stayed out of trouble and conformed to societal norms such as dressing more conservatively and not littering, they would be less likely to be stopped by the police.

I just try to obey the law, I don't really try to hide anything. I'm not doing anything wrong, in fact I try to do the right thing. I clean up trash when I see it and I just try to stay on the good side, that's what I just try to do. (Respondent 147, 19 years old, German and Cherokee, bisexual, male)

I try to keep my pants up, I try to dress like not so I look too street and I just avoid them, stay away from them, walk around them if I see them coming. I would never do nothing so that they could stop me, always prevent it. (Respondent 405, 19 years old, Afro-Latino, gay, male)

Interviewee: Mind my business and don't make yourself hot like if you look a certain way, they're going to fuck with you. Dress like a regular person.

Interviewer: And what does that look like?

Interviewee: If you look skankish, officers know, they just know when you're up to something if you look a certain . . . they're going to approach you, ask for ID and all that. You just have to carry yourself a certain way that way they don't fuck with you. (Respondent 453, 20 years old, Jamaican, heterosexual, female)

Almost one-quarter of the young people would do whatever possible to avoid crossing paths with a police officer. This included walking the other way if they spotted an officer, walking on the other side of the street, and walking to another subway car or even waiting for the next train if they saw that the police were on the train. One young person stated that they would avoid them at all cost and when that was not possible would "act as white as possible" since they knew that they would be less likely to be stopped by the police because of their skin color.

Avoid them at all cost, try to act as white as possible. You know and it's sad because for people like us, because we are white, we don't see it as that until other people tell us. They are like, 'Oh, you're white, you can get away with a lot of stuff and then you start paying attention and you realize that's how it is, so whenever you're doing illegal things and you're doing this and you're doing that, that's whenever you're like I'm white. (Respondent 5175, 21 years old, heterosexual Caucasian transsexual)

A young West Indian woman confirmed the impression that the police are more likely to stop people of color. She chose to walk on the other side of the street when she spotted an officer because she felt that she was more likely to be stopped because of her skin color. She witnessed racial bias by police on a daily basis on her way to work.

Interviewee: I walk on the other side of the street because I feel like, I don't know sometimes I see them mess with people just to mess with people. So I don't want to be messed with.

Interviewer: When you say they mess with people what do you mean exactly?

Interviewee: Like it could be a bunch of black guys on the corner and because they're on the corner they're going to stop them. But if there are a bunch of white guys on the corner they're not going to stop them, and they could be doing the same thing. Like for instance I live at [name of shelter], and I see a white man every day I go to work smoke a blunt, right on the same corner every day and he never gets stopped . . . smoking something that you could smell three blocks away, he never gets stopped. But if it's four black boys smoking a cigarette, I see these boys get stopped all the time. (Respondent 5220, 19 years old, West Indian, lesbian, female)

Another young transgender woman would run every time she saw the police, even if they were not focusing on her.

Interviewee: I run, I don't walk, I don't speed walk, I run.

Interviewer: But even if they are not coming for you like they just?

Interviewee: I still run. Because you still don't trust they won't have back up. (Respondent 251, 21 years old, Caucasian and Latino, gay, transgender female)

Ten percent of youth stated that they avoided going outside unless they had a reason to, or avoided certain areas that they knew would draw the attention of police. They felt that it was best to limit their exposure to potential police interactions, even if that meant not hanging outside with friends.

Stay in the house most of the time or go to different programs or just, I try my best not to get stopped by them because they'll still just . . . I don't know. (Respondent 408, 18 years old, black, bisexual, male)

I don't hang out in crowds and I'm never loud in public. The police in New York, they have this theory that if you commit one small crime you probably committed a bunch of them in succession. So I don't hop the train, or I don't litter and I don't do things like that because they start thinking where there is smoke there is fire, blah blah blah, so . . . (Respondent 414, 19 years old, black, gay, male)

One young man stated that he would keep himself busy with street dancing since it prevented him from associating with old friends that he used to commit crimes with.

Interviewee: Street dancing.

Interviewer: That is how you keep away from the police? Explain it to me.

Interviewee: If I am in the hood, like when I was younger I grew out of that mentality like if I am in the hood I be gang banging, beating up people or robbing something. That was when I'm with my bad friends and my good friends is my dancing friends, so like that. (Respondent 566, 18 years old, Latino, male)

Some youth described how they would avoid the police when they were engaging in survival sex. This included not soliciting clients during the day or out in the open, being discreet while on dates, and not talking about their dates or how much money they made in public.

I wish I had a safe environment . . . to me cops are everywhere, but that's why I won't do it nowhere out in the open or in daylight or in places where I know the cops are always around. Because you are bound to get arrested you are bound to get stopped, you are bound to get frisked, things of that nature. (Respondent 669, 17 years old, multiracial, bisexual, female)

I don't walk the streets, I don't make it obvious, I don't tell my business, that's what a lot of people do which I don't like, I don't [say], 'Ooo girl, I made this.' Like, that's nice but you're talking mad loud, everybody is listening, you going to get caught. (Respondent 1029, 21 years old, multiracial, lesbian, transgender male)

I just don't tend to bull shit. I don't go smoke weed outside, that's a no. If I'm on the clock, I'm on the clock. I tend to go other places, like, I don't stay on the strip with my dates. You know if we're going to go do something, we're going to a hotel, if you want to go have coffee, we're going down by [name of place] to have coffee, you know what I mean? I play it safe. (Respondent 5174, 19 years old, Latino, heterosexual, male)

Although the youth employed a number of different tactics to avoid police contact, they were not always successful. The next section describes the safety plans some of the youth had in place if and when they were arrested

Safety Plan if Arrested

All youth were asked about a safety plan if they were arrested, and most (56 percent) responded that they did not have a safety plan. Twenty-five percent did have a plan, and it was simply to call their family or friends for assistance. Six percent said they would call a lawyer, 3 percent would call a service provider they knew (e.g., case manager, counselor), and 14 percent had some other plan, including trying to run away, crying, talking their way out of it, and asking for a special cell.

Over half the youth who did not have a safety plan in place said that they would serve the time given to them and figure out the rest later. For many, including those who had been arrested before, it never occurred to them or was suggested to them to have a plan in place.

Not really. I just basically, you know, just went with it, if it happened it happened. I'm not really good with preplanning things, it never works out that way. (Respondent 463, 18 years old, black, bisexual, male)

I'll go to jail and do time, that's my safety plan. (Respondent 269, 20 years old, Afro-Latino male)

Actually I really don't think that I do. If I got time, I'll just say eff everything I have because things are replaceable, and I'll do my time and when I come home hopefully I have somebody in my

corner. If not, I guess I'll just start all over again . . . that my best bet. (Respondent 302, 19 years old, black, lesbian, female)

Other youth stated that they always had their lawyer's number on them. The following young woman explained that she would call her counselor at the program she was attending, since she felt that her counselor was best equipped to assist her if she were to be arrested.

Interviewee: I just call my counselor at [name of service provider] and try to see you know?

Interviewer: And do feel like your counselor provides you with a lot of support?

Interviewee: If they could, she would do the best that she can, that's one thing I can say about the people that I have been working with. They do the best that they can. (Respondent 450, 17 years old, black, bisexual, female)

Despite the fact that many of the respondents described strained relationships with their families, or even being estranged from their families, some youth said that they would call a family member, especially their mother or grandmother, even if the family member didn't agree with the way they lived their lives. They felt that at the end of the day, their family would come around and help them when they were most in need.

Well if I ever [went] to jail, I'd call my mom even though she says she's not dealing with me getting locked no more. I'll still call her and that's about it. (Respondent 29, 16 years old, gay Latino, male)

Interviewee: I would call my grandmother. But my grandmother don't know I prostitute. She would kill me. It's bad enough she don't accept me because I'm gay.

Interviewer: But you'd call her anyway.

Interviewee: I'd call her anyway. She still talks to me but she just won't let me live there because I'm gay. (Respondent 5246, 20 years old, Afro-Caribbean, bisexual, male)

A surprising number of youth stated that they had put aside money for bail, and that if arrested they would call a friend to retrieve the money—whether it was in the bank or stashed in a safe place—and bring it to the courtroom so they could bail themselves out.

In case I get arrested, I have money in the bank, which will bail me out and I have a lawyer who is very good and would be able to get me out of any trouble whatsoever, with possibly getting arrested for prostitution. (Respondent 146, 18 years old, bisexual, European female)

Yeah I got the bail money safe, it's no shade, really, I have bail money safe just in case, so that's alright. (Respondent 272, 21 years old, black, bisexual, transgender female)

One young man had a very detailed safety plan in place with a friend in case either of them was arrested.

I always have these certain amount money stashed in my friend's house, in her mattress and its if either me or her get arrested . . . we started putting like \$100 away a month and now we have like probably like \$600 under there, so that will be bail money. But she knows like I told her and we told each other, if I call you and you don't answer, always [check] your voice mail and that's

because you never know what happened. And that's kind of my safety plan if I leave her voice mail, I'm like, you know, I got locked up and she could come and bail me out or I will go bail her out. If it's like a DAT [desk appearance ticket] or something, my safety plan is just be polite, be honest with them, don't give them too much information. Don't be rude and try to deescalate the situation. (Respondent 472, 19 years old, black, gay, male)

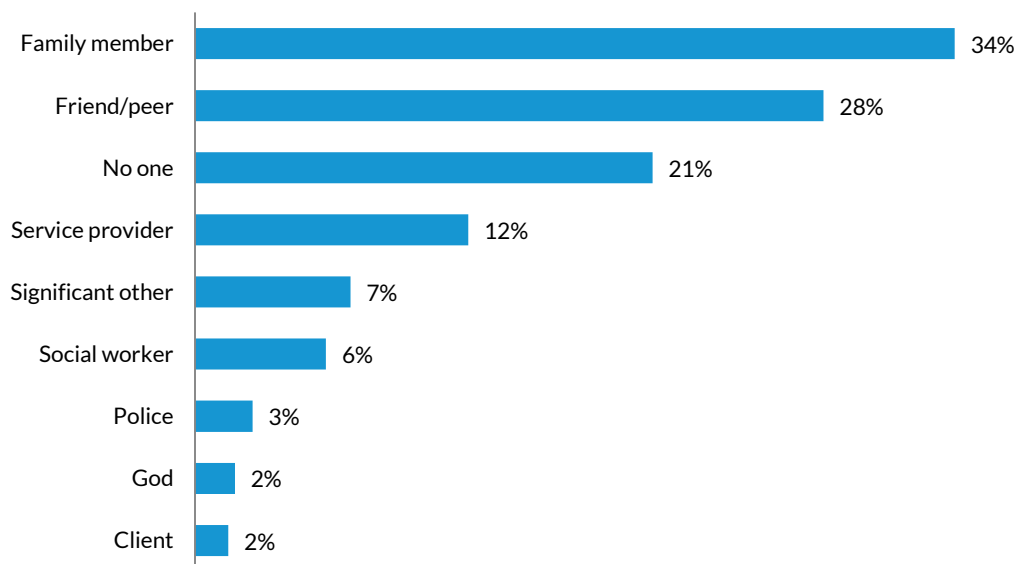
Although less than half the youth had a safety plan in place in case they were arrested, more felt that there was at least one person in their life that they could go to if they were ever in trouble, as will be discussed in the next section.

Whom Do Youth Turn to When in Trouble?

All youth were asked whom they would go to if they were in trouble, and their responses are displayed in figure 7 below. Most commonly, youth reported turning to a family member (34 percent) or friend or peer (28 percent) for help; another 7 percent said they would turn to a significant other for help. One in five youth said they had no one and would rely on themselves alone. Twelve percent of youth said they would return to a specific service provider, and another 6 percent cited a social worker. Fewer than 5 percent of youth would go to the police, God, or a client if they were in trouble.

FIGURE 7

Who Would You Go To When in Trouble?



Note: *N* = 283 youths in the sample.

Although many of the young people described tenuous, and in some cases nonexistent, relationships with their families, over a third of the respondents stated that they would go to a family member if they were in any kind of trouble, whether it was financial, legal, or health-related. The family member most often cited as the person they would go to for help was their mother—this included not only their biological mother, but also their foster mother, godmother and gay mother.

I would go to my mother. My mother is the key. (Respondent 575, 20 years old, black, lesbian, female)

My parents most of the time because my parents have always been there for me and they understand. I just finally told them I'm gay and everything, and they've been supportive since I told them I have HIV and everything. So I felt like I had a good bond with them but I try to keep that communication like open between us. (Respondent 5018, 20 years old, multiracial, gay, male)

If I was in some serious, serious, serious trouble, I would honestly go to my mother because I know even though I'm not supposed to be there or we don't get along, if I'm in some real deep stuff, I could tell her and she'll either do something, she'll say you can crash here, or she'll tell me, here is some money, go do what you've got to do just don't get caught. So that's the one person I can come to. Even if right now, you know we got issues, if something serious has happened to me I will just call her, she will answer and I will tell her. She might [let me] come into the house and then she will forget about everything that we are going through and she would want me to explain it to her. (Respondent 472, 19 years old, black, gay, male)

I don't know. I would probably try and calm myself down because I don't know nobody out here. I will probably talk to my foster mother. I still keep in touch with her no matter that she kicked me out. She still help me raised me for seven years. (Respondent 639, 18 years old, multiracial, gay, female)

I would go to my gay mother but she's in St. Louis now, so now I don't know. (Respondent 3, 19 years old, black, gay, transgender female)

Twenty-eight percent of the youth said they would reach out to a friend if they were in trouble or just needed someone to talk to about their problems. For many of those youth, their friends were the only family they had.

If it came down to it, if it's just like something I can talk about, it'd be my best friend. If it's a slightly bigger situation, then I'd even go to my godmom's place. (Respondent 18, 19 years old, Puerto Rican, gay, male)

I will go to a friend that is like very close to me, and like you know I can talk to her about all my problems because she won't judge me. (Respondent 225, 18 years old, multiracial, bisexual, male)

I might talk to my friends because they're like the only ones I really got right now. (Respondent 380, 20 years old, black, lesbian, female)

Youth who did not have anyone in their lives to go to for help found the question about this topic one of the most difficult questions to answer. For some it was because it was something they had never

really thought about since they were so used to being on their own and doing everything for themselves. Others thought about it constantly, and talking about it out loud made them realize just how alone they felt.

That's a tough one. I don't really know. Myself, I'm a loner in this world. (Respondent 155, 19 years old, Caucasian, bisexual, male)

Nobody, I have myself. I don't have nobody to run to, which is why I keep myself out of situations where I'm going to be in trouble. (Respondent 202, 21 years old, multiracial, gay, male)

Who would I go to if I was in trouble? I would go to my mother but she's dead, so with that said, I'll go to nobody when I'm in trouble. (Respondent 458, 21 years old, black, bisexual, female)

I try not to tell people a lot. That's why when I cry, it just coming out cause there's so much. (Respondent 768, 20 years old, black, questioning, female)

Interviewer: Who would you go to when in trouble?

Interviewee: That's a hard one. I usually don't. . . . Yeah, I'm just like alone. (Respondent 5281, 20 years old, black and Dutch, lesbian, female)

Interviewer: Does anybody come in mind like is there anyone right now that you're close to that you talk to?

Interviewee: No, not really. It's really a lonely world. (Respondent 478, 19 years old, black, gay, male)

Issues regarding trust were another reason some youth didn't go to anyone with their problems. They had been let down or burned by friends or family members in the past, and felt that it was best to figure out a solution themselves or keep everything bottled up inside.

I got nobody to go to. People go run their mouth and tell your business. . . . I'll keep everything bottled in. (Respondent 197, 20 years old, multiracial, bisexual, male)

I have trust issues with people so I don't kind of do that . . . I write all the time. There are friends but I keep them at a distance for a reason. (Respondent 274, 18 years old, Latina, bisexual, female)

I don't even know. I don't really have friends and stuff. I consider people my associates because everybody that I was ever friends with, they all did something fucking dirty to me, so it's like who the fuck do I trust? (Respondent 453, 20 years old, Jamaican, heterosexual, female)

I really don't have anybody I like to tell my business. I'm a fairly private person. If I have a problem, I like to solve it on my own. Why? Because I feel like once you have everybody all up in your business, that's when you have the true problem. (Respondent 199, 21 years old, black, gay, male)

I mean I don't go to nobody financially because I feel like nobody cares enough, you know what I mean? I don't really think anybody cares and that's why I've been doing what I've been doing. I feel like there's no other way to get money. Sometimes I'm afraid to ask. (Respondent 706, 19 years old, black, bisexual, female)

Young people who had regular access to the same counselor or therapist felt most comfortable going to that person with their problems. That said, many of the youth who either sought or were placed into counseling were not able to develop a long and fruitful relationship with that person because of the high turnover rate, often driven by burn-out and low wages, of counselors, social workers, and therapists that work with youth. However, the youth who were able to work with the same counselor described a bond that was forged over time.

My counselor. She will take me into her office, she will sit me down and she will figure out what's the problem and she will figure out a way to help me from there if she can. (Respondent 154, 19 years old, multiracial, bisexual, male)

I love my therapist. Because everything is confidential, she don't say anything. When I have any problems, I go talk to her, if I feel like crying or whatever. (Respondent 5260, 20 years old, black, transgender female)

I try to see a therapist or some of my own friends or something like associates. If I don't talk to people, I write, I talk to my notebook. (Respondent 273, 20 years old, other, lesbian, female)

I have a number of people . . . the counselor at [name of service provider] or I can always call my mum or whatever or like my gay mother. My gay mother is like biological family. I talk to them as well, so I have a number of people that I can talk to. (Respondent 434, 19 years old, black, bisexual, male)

Although some youth did mention that they had a counselor or therapist that they talked to, some of those youth also said that they specifically avoided talking to their counselor about their engagement in survival sex. They worried that their counselor might judge them, think differently about them, or even try to stop them from doing it. The following young man described how he did not talk to his counselor about trading sex, but believed she knew based on the fact that she had seen him engaging with different older men on a regular basis.

Interviewee: When I'm in trouble I have this counselor that I talk to from [name of service provider]. She knows everything about me, but I've never told anything to her.

Interviewer: How does she know everything about you?

Interviewee: Because you know X Street is the center of the universe.

Interviewer: So she seen you over there and stuff?

Interviewee: Of course she's seen me sitting down, having cups of coffee with old people, wondering why I'm shaking this man's hand, wondering how I went from this side of the block talking to this guy and up the block talking to the next guy, you know it is what it is.

Interviewer: Does she ask you point blank?

Interviewee: Of course she does but I say nothing.

Interviewer: Nothing.

Interviewee: I tell her, oh you know my thing is I'm homeless and I'm panhandling, that's what they think.

Interviewer: Why do you feel uncomfortable just out of curiosity, I'm just curious about it?

Interviewee: Because I don't want them to know anything because they don't you know, out of sight out of mind is how I am you know.

Interviewer: I didn't know if there was something like you felt uncomfortable, you felt like there would be prejudice or bias against you?

Interviewee: No, at the end of the day I know what my sexual orientation is, you know, at the end of the day it's business related and that's it. (Respondent 5174, 19 years old, Latino, heterosexual, male)

Concluding Thoughts

The young people interviewed for this study recounted experiences of police bias, discrimination, and abuse. They also spoke about positive encounters with the police, but wished that law enforcement would be more responsive when they reached out for assistance. Many of the youth stated that their perceptions of the police would be vastly different if the police showed them respect and did not judge them based on their race, sexual orientation, and gender identity. Their perceptions of the courts, specifically judges, prosecutors, and defense attorneys were generally more positive than their perceptions of the police; however, their experiences often depended on whom they interacted with in court.

The following section will describe, from their own perspectives, how criminal justice stakeholders—law enforcement, judges, prosecutors, defense attorneys, and probation officers—respond to LGBTQ youth, YMSM, and YWSW, some of the challenges they face, and what they need to better assist these young people.

Criminal Justice System Responses to LGBTQ Youth, YMSM, and YWSW

Overall, the criminal justice stakeholders felt that although the system was not completely LGBTQ-affirming or friendly, there were good-faith efforts to address the needs of LGBTQ youth or change LGBTQ policy. However, service providers who engaged or collaborated with the justice system provided stronger critiques of criminal justice practitioners' lack of competency in interactions with the LGBTQ community.

LGBTQ-Affirming Policies and Practices

Several stakeholders reported that, overall, their staff and office made a good-faith effort to be sexual orientation- and gender identity-affirming toward their LGBTQ clients. Stakeholders identified several efforts that demonstrated their LGBTQ inclusivity, including using an individual's preferred pronoun, assigning transgender individuals to spaces that matched their gender preference, searching for LGBTQ-affirming resources and service providers, and following LGBTQ policies when they existed. They also discussed how they personally approached LGBTQ individuals in affirming ways, such as trying to not let their personal prejudices and misconceptions get in the way of treating LGBTQ individuals appropriately, and generally being respectful of sexual orientation and gender identity. Police officers, probation officers, and judges all recognized that acknowledging LGBTQ identity mattered, with one law enforcement officer saying, "this is a precinct where we care about how we interact with gay people. That's not always the case [in other precincts]." Another stakeholder, a judge, explained, "we're trying to make [our court] LGBTQ friendly."

A few stakeholders mentioned that LGBTQ-affirming practices were formally adopted within their office's policy or training. One law enforcement officer explained that deferring to "what the person wants in regard to gender identification" was a "good policy, and our officers follow it." This sentiment was mirrored by another officer, who was proud of the portion of his patrol guide that provided direction on how to appropriately treat transgender and gender-nonconforming individuals. Another stakeholder, a judge, explained the ways in which probation officers and attorneys tried to educate

themselves on appropriate and inappropriate ways of making known the sexual orientation and gender identity of their clients:

The lawyers are getting trained on signaling in court in an important way. They ask to approach the bench and then disclose the status of the youth. We've tried to work on educating the bar. . . . If kids don't tell you or show you—and gender-ambiguous cases are tough—if they don't tell you . . . we do training on speech and language.

Some stakeholders who did not have formal policies or practices on how to treat LGBTQ clients still attempted to be LGBTQ affirming. Despite the difficulty and lack of effective training, resources, or formal policy to guide their actions, probation officers still described treating their LGBTQ clients with “common sense and respect.” One probation officer stated that despite resistance from her colleagues when it came to using a transgender client’s preferred pronoun, “It’s discrimination . . . I’m going to call her ‘her.’ She wants to be called ‘her.’ I’m going to let her use the bathroom she wants to.”

Differing Levels of Comfort

While some stakeholders attempted to be LGBTQ-affirming in their policies and practices or tried to practice LGBTQ-friendliness despite the lack of formal policies, most stakeholders reported inconsistencies in how comfortable justice system staff actually are with interacting with LGBTQ youth and effectively addressing their unique needs. Some staff reacted poorly to finding out that a client was not the gender that they had originally perceived. For example, one probation officer told the story of how another probation officer, upon realizing that her presumably male client had female genitalia, reacted poorly: “And she’s running straight down to the executive wing, screaming all the way. I said, ‘what happened?’ [She said,] ‘I will never, I cannot, I will never, I don’t understand!’”

Stakeholders felt that although formal LGBTQ policies were effective to an extent, they wouldn’t change the true way organization staff viewed LGBTQ clients. Policies could “force compliance from those who are biased” but wouldn’t actually change how an officer feels. Some stakeholders believed that being comfortable with LGBTQ clients was important for their job, noting the difference between staff who were uneasy with differing sexual orientations and gender identities and their LGBTQ clients: “I’ve gotten to know [my LGBTQ clients]. And they’re not uncomfortable. It’s the grownups that are often uncomfortable.” Another probation officer echoed this sentiment: “You have to be very comfortable with yourself, first of all. And if you haven’t established that, then it makes it very difficult to do that with someone else with some kind of difference.”

Other stakeholders disagreed with the importance of making staff feel comfortable around LGBTQ youth, believing that serving the client in a gender- and sexual orientation-affirming way was a higher priority than personally being comfortable with their LGBTQ clients. When asked about institutionalizing formal education for probation officers, one respondent said “I don’t think it would be fair. Because who are we really trying to make comfortable? The probation officer or we’re trying to make the kid comfortable?” This probation officer believed that the comfort of other probation officers, while important, was ultimately not as important as the comfort of the client.

Gender Orientation and Sexuality Don’t Matter

While most stakeholders discussed the ways they addressed the needs of their LGBTQ populations and the specific challenges they faced, a few stakeholders reported feeling that sexual orientation and gender identity were irrelevant to their work. Some probation officers explained that their clients’ LGBTQ identities did not come into play for their decisionmaking and services. One judge felt that it was not appropriate to consider gender orientation and sexuality as part of their records. While these stakeholders felt that this information was irrelevant either because they would treat LGBTQ clients the same as their other clients or because their LGBTQ status would not be important, other stakeholders actively disregarded gender identity and sexual orientation in a nonaffirming way. Several months after the NYPD Patrol Guide announced a new policy in 2012, one officer still reported processing transgender individuals “based on their anatomy. If they are pre-op, they are processed as men.”

The Criminal Justice System Has No Expertise with LGBTQ Clients

When asked about their experiences with justice system stakeholders and how they treat LGBTQ clients, several service providers were highly critical. They did not perceive criminal justice system stakeholders as experts in addressing the unique needs of LGBTQ youth, particularly since there was a lack of LGBTQ-specific programming in many justice settings. One service provider explained how they tried to prepare their LGBTQ clients to deal with appearances in court that could potentially be non-LGBTQ affirming: “We speak to clients about what court will be. [We] give the judge a cue about the trans status . . . and we’ll say ‘she prefers to be . . .’ But we still inform clients that name changing is very hard.”

What Challenges Does the Criminal Justice System Face in Addressing this Population?

Criminal justice stakeholders and practitioners widely acknowledged the challenges they faced in trying to address their LGBTQ clients in an appropriate and affirming way. Most of these challenges involved resources, including the lack of gender-appropriate staffing; the lack of affirming resources, service providers, or service referrals; and the lack of financial resources to address the unique needs of LGBTQ clients. However, some stakeholders also understood the perceived lack of trust in law enforcement on behalf of the LGBTQ communities to be a barrier.

Facility and Personnel Challenges

Because of the often gender-fluid nature of transgender or gender-nonconforming clients, stakeholders sometimes face challenges in securing appropriate or preferred personnel for interactions requiring physical contact or privacy. As part of their jobs, justice system stakeholders frequently administered drug tests and conducted searches, which meant there was potential for them to approach LGBTQ individuals in intrusive physical ways. As a result, they described the issues that came up when an officer of one gender interacted with a client who was transgender, in the process of transitioning genders, or perceived to be a gender that was not self-identified. In this example, the probation officer explained the challenges that the precinct's staff experienced when there was confusion about the client's gender and who would be the gender-appropriate staff:

Well, my girlfriend [probation officer colleague] had a case that came in at the precinct that made the arrest. And then the perp started hollering and screaming, 'don't touch me!' because it was a woman. But when they did the searching under the waist—then it was like a whole big thing. They started screaming and hollering because they sent in women to do the search. They were like, it was a man. So now they have to call in the men. And it was a whole thing that they weren't ready for that night.

Another probation officer explained how the lack of gender-appropriate spaces within justice system facilities could be a challenge. In her story, a transgender client was assumed to be female by a female probation officer. But "it was actually a male dressed as a woman going into the bathroom with part of the transformation done, so you know, the male felt uncomfortable and the [female probation officer] felt uncomfortable as well."

Services and Referrals Challenges

Many stakeholders understood the importance of LGBTQ-affirming resources, services, and spaces for the safety of these clients. There was constant concern about sending LGBTQ clients to shelters or service providers that had hostile clients, where they would experience physical and sexual assault, homicide, and other forms of physical harm. One probation officer explained why it was important for her to know her client's sexual orientation for safety reasons:

Because I don't want to send you somewhere and they say, oh we don't, and then you say, oh they couldn't. I need to know upfront, are you gay or are you not? Are you gay or you're not, is it dangerous or not, I need to know where to send . . . a shelter referral is dangerous . . . if you come and even if you don't self-identity, if you present as being effeminate, you're liable to get really hurt.

However, actually finding an LGBTQ-affirming or the appropriate shelter for LGBTQ clients is difficult. There is a lack of LGBTQ shelter beds in the area, and depending on the location of a stakeholder's precinct, getting to an appropriate service provider or resource could be difficult. Many stakeholders discussed the sheer challenge of even *finding* an LGBTQ-affirming resource to make the proper referral:

[A client] came to me and you know, and she was like, listen, I need a referral. She wasn't even on my caseload. She was on some next PO's caseload, but it was my late night, I was the only supervisor there. She said, my parents won't let me come home because they didn't agree with her lifestyle and everything else. So anyway, Google, thank god for Google, I'm Googling, I'm putting 'LGBTQ shelter.' . . . And that was a freakin' nightmare. . . . And then one shelter somewhere . . . finally said, send her over. Praise god, here's the information.

This probation officer explained that it was her responsibility to find housing for the client regardless of how challenging it was, precisely because of the danger that could be posed to the client in the wrong shelter: "It's our responsibility. It falls on us. Whoever that officer is at the end of the day, if someone is homeless, you better find it. You have to find them someplace."

A law enforcement officer also articulated the challenges of finding detention cells that would work for transgender and gender-nonconforming individuals. Because they must separate people in detention by gender but also in some cases assign transgender individuals to "special category" cells, there often are not enough facilities with "special" cells. As a result, the officer explained that they "have to get creative" which can mean processing individuals in other precincts.

Despite the clear need for LGBTQ-affirming services, stakeholders described a significant challenge in actually finding them in a consistent and reliable way. One probation officer explained how knowledge of appropriate programs was not centralized and differed by staff and location: "It depends

on PO and borough on what programs they have accessible to them. It is inconsistent, and not evidence based. Trying to align the issue with what we have access to. That is hit and miss.”

When attempting to find appropriate resources and service referrals, stakeholders described trying to consult their official policy guidelines or resource manuals but ultimately finding them lacking in useful information: “Sometimes the book doesn’t even give you an actual resource. It will be a paragraph of “make sure to ask if they’re sensitive to gay and lesbian” you know. It’s not even a place.”

Sometimes, it was actually their LGBTQ clients who told them about services they had received and preferred:

When people come in, they’re in the community, they know where to reach out for those services. I mean, they teach me, and I pull out my book, I’m open to it. And you, you start to get a resource, like that’s how I found out about [service provider], which is like six blocks down the street. A kid told me about it.

Community Mistrust and Perception Challenges

Law enforcement stakeholders reported perceiving mistrust on behalf of LGBTQ youth or LGBTQ service providers and community advocates. One police officer described his precinct as having a “very adversarial relationship with advocacy groups. They give kids a lot of misinformation on what the police do.” However, this officer did not provide specifics as to what the misinformation consisted of. The officers from this precinct distinguished the “good kids” from the true criminals, and believed that “the fantasy world that they’re living in [with] their ‘gay family’ is difficult to break. . . . We want to prevent crime, and this ‘gay family’ model sets up our grand larceny program.” In his opinion, the misinformation about law enforcement ultimately prevented him and his colleagues from doing their jobs and addressing the needs of the youth. Another law officer explained that his office was not a popular presence at community forums on LGBTQ-related issues, despite having formal policies and even an officer to directly be a liaison to the community: “[law enforcement agency] is not popular at these functions.”

What Do Stakeholders Need to Better Serve LGBTQ Youth?

Criminal justice stakeholders of all types identified four primary needs that would help them better serve their LGBTQ clients and approach justice-involved LGBTQ youth.

Ability to Routinely Ask about Sexual Orientation and Gender Identity

Probation officers, prosecutors, police officers, and judges all discussed how simply *knowing* a youth's sexual orientation and gender identity would help them significantly in addressing any potential particular needs and creating LGBTQ-affirming services and spaces. Stakeholders explained how sexual orientation and gender identity is not a question that is regularly asked or taken down in a youth's file: "We don't mark whether they're trans anywhere in the files. We just do it from knowledge [and] memory." Another stakeholder, a probation officer, explained, "There are no questions about sexual orientation—not systematically. It might be in a PSI if it is a relevant issue that impacted tie to community, likelihood to reoffend, housing situation. It is not a routine question asked."

As a result, several stakeholders noted that they needed to be able to record information on sexual orientation and gender identity because of the potential that LGBTQ individuals would need special facilities or services within the justice system. As one probation officer explained:

You would want to place [LGBTQ individuals] where they would be most comfortable and where they would be able to get something out of it. Because if you put them in a different setting, the harassment, the bickering, the jokes—it's not productive. . . . It would probably be helpful to have that category on the face sheet of our PSI, because it does come up in terms of corrections, especially if the person looks very much like a woman or looks very much like a man and has to be housed in certain facilities.

Another probation officer felt that asking the question was important because of the LGBTQ community's potential for marginalization: ". . . I would ask the question, 'what is your sexual orientation?' Only because I realize this population is real but unrecognized or not considered."

Though sexual orientation and gender identity are not characteristics that stakeholders regularly report, some indicated that they record the information anyway because of how important it can be. One law enforcement officer explained that his precinct asks for preferred name and gender "out of respect," but only if an individual's gender presentation does not match what is on a driver's license and the information is not provided in official reports and numbers.

Providing Safe and Appropriate Facilities and Spaces

Relatedly, stakeholders identified one of their other primary needs as safe spaces and facilities for LGBTQ individuals. Many of the stakeholders wanted the ability to routinely ask gender identity and sexual orientation with the ultimately purpose of ensuring that LGBTQ individuals are in facilities that are comfortable for them. However, many facilities are simply not LGBTQ-affirming or safe, or do not have enough preferred spaces for LGBTQ youth. When asked if there were transgender-affirming facilities, one prosecutor answered: “there are not facilities for them. A trans youth will have to go to a boys’ facility because she has a penis” (Prosecutor 01). Another stakeholder, a police officer, explained that there simply are not enough spaces to place gender-nonconforming individuals where they prefer.

One probation officer told the story of a client who was continually harassed in a probation office waiting area:

There was a guy . . . he would complain because when he was sitting in the waiting area, they would pick on him. You know what I mean—the other males in the waiting area. He was, you could tell, very feminine.

Another probation officer in the same office shared a similar story of having a client who was continually harassed. The probation officer ended up moving the harasser’s court date to protect the individual.

When it comes to putting LGBTQ youth in short- or long-term detention centers, the threat to their personal safety is very real. Probation officers, judges, prosecutors, and law enforcement all recognized the potential dangers that exist when placing transgender individuals in cells or facilities that do not match their preference. Physical abuse, sexual assault, and rape were cited as very real dangers. As one probation officer explained, from the perspective of another person who was incarcerated:

I don’t give a damn how hard you are, I don’t give a damn how much you bench press your breasts away. There’s always going to be some dude that’s going to be stronger than you and want to prove to you a woman is a woman . . . [he’s] still going to rape you.

A judge also cautioned about the physical dangers that could occur if a transgender youth is sent to the wrong facility: “If you know you’re remanding a trans or gender-nonconforming youth, you think 100 times about what will happen. The housing issues are tremendous. They just end up in a health unit . . . In detention, you know you’re sending them to a straight environment.” When asked if transgender youth experience abuse, the judge answered affirmatively: “Yes, by staff. Girls are told to man up. It doesn’t happen a lot, but in seven years doing delinquency cases, I’ve seen maybe six to seven investigations of beatings by staff or peers.”

Training and Education

Stakeholders discussed the lack of training on policies and procedures that would help them address the needs of their LGBTQ youth clients, and also said that they were often unsure of how to be sensitive, understanding, and affirming of nonheterosexual sexual orientation and nonconforming or nonbinary gender identity.

Some stakeholders understood that being LGBTQ-competent was part of their jobs and wanted to be more comfortable with different sexual orientations and gender identities to better serve their clients. One probation officer acknowledged that she was not an “expert” in working with LGBTQ clients and understanding their needs, but was willing to improve and thought additional training would help:

I’m not necessarily an expert. I really accept the client for who they are. But maybe with some more training or something, you could tell me what to say or not to say. Which, you know, I am aware, you know, who am I to put my beliefs on them.

Another probation officer also believed learning more about sexual orientation and gender identity would help them in their jobs, including helping them find more appropriate resources:

I think the more you learn about the problem, the more—it’s better for you, you can help the family or to refer them for counseling, like I said in the beginning, to make sure there’s programs there and you don’t need information. You know, we can refer them. You know, it’s too easy like, ok I understand what you’re going through.

But not all stakeholders were as optimistic about the difference LGBTQ sensitivity training would make. One law enforcement officer pointed out there they had already had training, but perhaps it was not enough to create true competency:

Training—both in the academy (LGBT sensitivity training)—prepares you to some extent, but for most people, if they’ve never been exposed to that scene before, they’re shocked.

Another stakeholder mentioned the difficulty of actually implementing additional training and education for a large amount of staff: “There are lots of issues; we can’t take all of our clerks and send them to training for two days—these are big logistical challenges.”

Financial and Service Resources

One need that several probation officers described was the need for additional resources that could aid their work with LGBTQ clients. In situations where perhaps services and support from other stakeholders do exist for LGBTQ-affirming services, financial support is often a key missing piece. As

one probation officer explained, a lack of nearby LGBTQ residences resulted in the officer needing to personally pay to transport a client to a county outside the five boroughs:

The judge ordered me to find this transgender woman a residence and we also had to pay for her transportation because the only place I could find was [name] County and she needed to come back to Manhattan for her court date. So we had to figure out how she was going to figure out how she was going to get back and forth. I was like, this is not my job to be doing all this stuff.

The other probation officers were shocked that she had to pay out of her own pocket, but ultimately the officers understood that it was their job to find the client shelter by the end of the day. When asked if they felt like mandates to serve LGBTQ youth are unhelpful, the probation officers all agreed that mandates are unhelpful when there are no resources attached to them.

Service referrals for shelter and residences were cited as a need by other stakeholders as well. LGBTQ-affirming shelters are often important for the safety of LGBTQ clients, and getting them to such shelters, which are sparse and frequently distant, is difficult. As one law enforcement officer said, “Agency referrals, especially with runaway youth, would be helpful.” Another probation officer explained the difficulty of finding an appropriate LGBTQ-affirming shelter for her clients, and how finding them often involves asking the youth themselves or discovering shelters in piecemeal ways. When asked what would help her do her job, she responded, “Just a resource manual . . . That would be awesome. By borough.”

What Role Does the Criminal Justice System Play for LGBTQ Youth Engaged in Survival Sex?

Law Enforcement Perspectives on LGBTQ Criminal Activity

When asked to describe LGBTQ youths’ involvement in criminal activity and their resulting involvement in the justice system, stakeholders reported that LGBTQ youth are engaged in various crimes related to their lack of financial resources. One law enforcement officer explained that prostitution is just one crime in a larger set of crimes that are related to survival:

Hustle starts with prostitution. If you don’t make any money doing that, then you resort to robbery. Then you move on to robbery and assault. The focus of the crime is some material good, some way to survive: money, food, shelter. Everyone has some kind of hustle—it’s which hustle they’re better at.

Another stakeholder, a probation officer, echoed these sentiments:

Anecdotally speaking, what I have seen is more of a tendency to offenses related to being homeless and disconnected (sex crimes, theft, etc.) which disproportionately affects this population.

Despite their understanding that LGBTQ youths' crimes are largely related to meeting their basic needs and survival, law enforcement still frequently saw LGBTQ youth who engaged in survival sex as generally criminogenic, meaning causing or likely to cause criminal behavior. They reported LGBTQ youth as frequently committing a variety of crimes that are not prostitution-related. As one police officer explained, prostitution-related charges are not typically the sole or top charge for the LGBTQ youth he sees—in fact, he's never seen such a case.

Another law enforcement officer believed that crimes such as robbery, assault, and other forms of “hustle” were, in his district, actually *driven* by LGBTQ youth: “[Neighborhood] crime is driven by LGBT youth—some robbery, simple assault, more serious crimes related to hustling customers or potential customers.”

Criminal activities were not just reserved for individual LGBTQ youth. Law enforcement officers believed that affiliations between various LGBTQ youth contributed to heightened group criminal activities and crime syndicates. Law enforcement officers believed that LGBTQ youth networks were negative influences on youth who may not have otherwise committed crimes for survival. One law enforcement officer described “gay family”—or a social support network of LGBTQ people, particularly youth—and ball scene—a community of family-like structures, called houses, organized around competitive performances—as “fantasy world[s] of family” where “kids come from ghetto neighborhoods looking to get acceptance.” This officer ultimately believed, however, that the gay family is a negative influence and even described it as a criminal syndicate.

While this police officer didn't see all LGBTQ youth engaged in survival sex as “criminals,” he made the distinction between youth who were older and perhaps the true “criminals” and younger, impressionable youth who ultimately follow in their footsteps:

They are interacting with harder, older youth—17 or older mostly in their 20s. They are the ones who turn those younger kids into criminals. Lots of them come from the ball scene [and are] caught up in their social network.

Law Enforcement Perspectives on Survival Sex

Related to their views on LGBTQ youths' criminal activities, law enforcement officers also saw LGBTQ youths' involvement in survival sex as a continuation of their criminal behavior, and always identified the person at fault in a commercial sex exchange as the youth instead of the client. When asked to describe what they knew about youth who turned to survival sex to meet their basic needs, law enforcement explained that they don't arrest youth when their actions don't reflect attempts to "necessarily sell or buy sex." These included instances when youth were loitering on the street for survival purposes, such as "it's late at night, [they] need a place to stay, they just want to go home with someone."

However, this officer clarified that while he doesn't arrest for these related but not explicitly sexual transactions, "the street activity is what we enforce." He explained that his precinct arrested youth primarily when their involvement became public and visible, and either perceived as or in reality a nuisance. One officer explained how prostitution arrests were related to public lewdness or loitering on the street. Markers, such as cars stopping for youth on the street or youth spending time at bus stops, indicated that they were selling sex. When asked why it was these public markers that resulted in arrests, he said, "The street activity is where we get pushback from residents. Even if they don't care about prostitution or don't think it should be illegal, they don't want the activity in their neighborhood in public."

Because of their understanding of LGBTQ youth as frequently involved in criminalized activity, law enforcement saw their arrests as more valuable than arrests of others involved in commercial sex, such as the clients. When asked whether officers arrest the clients of LGBTQ youth who engage in survival sex, one officer responded that it is more valuable to arrest the youth instead because of their larger propensity to commit other crimes and the likelihood that they are currently committing crimes:

We'll arrest johns sometimes, but for the 17 and older population, they're already committing more crimes. We get more bang for our buck in crime reduction when we arrest those people. That's what stops the robberies.

This officer described the clients as "victims" because "if they're robbed and assaulted, all they wanted was to have sex with a person." While he was quick to point out that this did not apply to minors who traded sex, he clarified that clients can be victims even when the individual selling sex is young.

This particular officer explained that ultimately, he couldn't arrest a "gay family" for promoting prostitution: "sometimes we will if they commit other crimes . . . but for promoting, we need confirmation from the youth, and won't get it. They're never going to give up on the pimp."

Does Law Enforcement Help or Harm LGBTQ Youth Who Engage in Survival Sex?

While LGBTQ youth were occasionally arrested for survival sex and other prostitution-related charges, they were primarily arrested for quality-of-life crimes and misdemeanors associated with being homeless or in unstable life situations. That said, although law enforcement viewed the youths' sex-selling activities as criminal (instead of criminalizing the johns buying sex from them) and believed that networks of LGBTQ youth signaled an increase in assaults and robberies, law enforcement still viewed their policing role as inherently positive. One police officer spoke about how his agency did various forms of outreach to LGBTQ youth, which included "discouraging them from working." Another officer applauded the ability of field intelligence officers to facilitate positive interactions with homeless youth in order to distinguish between "good" and "criminal" kids:

[There's] lot of personal interaction between field intelligence officers and youth. [They] know who the bad kids are and who the good kids are, and we want to target the hardened criminals, not the good kids.

However, law enforcement and other stakeholders understood the inherent contradictions in law enforcement simultaneously arresting LGBTQ youth for various crimes and attempting to help them stay out of criminal behavior and not resort to survival sex. This same police officer understood that survival sex was "about basic survival needs. [The] police can't help with it. [We are] not in a social worker position." And because their understanding is that some youth are over the age of 18 or those that are under 18 engage in survival sex out of their own volition and need, they feel that "there is very little trafficking involved, so we can't use any of those resources."

A service provider was also highly critical of law enforcement's contradictory responses to LGBTQ youth who traded sex: "we wish there was no criminal court prosecution of 16 and 17 year olds for prostitution. The district attorney says that without arrest, 'how could we know and help them?'" Another service provider also criticized the use of law enforcement in the lives of LGBTQ youth when many of them are actually victims of a wide array of abuse and violence:

There are so many mutual arrests that happen, or uses of orders of protection against our clients, when they're like seeing themselves like the victim of violence or manipulation. Using the criminal justice system in a way to manipulate the situation, I think that's problematic.

Service providers and non-law enforcement stakeholders who engaged heavily with law enforcement and the courts echoed these critical sentiments: law enforcement treatment of LGBTQ youth who trade sex for survival is frequently violent, abusive, and unjust—making the criminal justice system in no way the best solution to help LGBTQ youth. Several service providers pointed out how law enforcement officers in New York City explicitly target LGBTQ individuals and unfairly profile their

actions to be criminal: “100 percent of loitering [for the purpose of engaging prostitution] cases are profiling. If there was actual solicitation, money changing hands, lewdness, they would charge the kids with prostitution proper.”

One service provider explained that law enforcement officers profile Latina transgender women, saying that these individuals are “all profiled, even when they’re not working.” Another service provider corroborated the profiling that occurs:

[There is] lots of profiling. Who you are determines what you’re charged with. LGBT- specific risk factors are the same as [those in] the broader population, but sometimes they have additional risks. That’s why you see them overrepresented.

Aside from the profiling, service providers felt that law enforcement treatment of LGBTQ youth after arrest is particularly cruel. As another service provider explained:

Trans youth are often held in custody for longer. Police say it’s about “safety.” Interactions with police are difficult. They don’t use the youth’s chosen name—only legal and it all depends on the gender marker on their ID.

Law enforcement officers are not the only ones who disrespect the preferences of transgender youth; as one service provider stated, “The prosecutor’s office will call clients [by their nonpreferred pronoun] in direct violation of New York’s ethics rules. Judges don’t care.”

“We’ve Got the Criminalization Down. Caring, Not So Much.”

LGBTQ youth who engage in survival sex come into frequent contact with the justice system. At every point, they risk experiencing violence, abuse, and disrespect from stakeholders, peers, and other individuals facing criminalization. Justice stakeholders range from those genuinely concerned with youths’ well-being but struggling to find ways in which their needs can be served, to those who actively pursue them as targets for the justice system because of perceptions of their criminality, or treat them and their nonconforming gender identity and sexual orientation with disparagement and abuse.

Many stakeholders stated that they attempted to treat LGBTQ youth fairly and in a manner that affirms their struggles and identity, but faced difficulties resulting from a lack of appropriate training, resources, and infrastructure. But while some stakeholders understand the significance of criminalizing a large number of LGBTQ youth who trade sex because they lack basic necessities, others seek to further criminalize their activities because they perceive LGBTQ youth to be particularly criminogenic. As one service provider commented, “we’ve got the criminalization down. Caring, not so much.”

Child Welfare Stakeholder Perspectives

How Does the Child Welfare System Respond to LGBTQ Youth, YMSM, and YWSW?

Child welfare systems that the LGBTQ youth, YMSM, and YWSW in this study come into contact with, including New York City’s child welfare system, the Administration for Children’s Services (ACS), were criticized by stakeholders and by the LGBTQ youth clients they serve. ACS acknowledged the need to provide LGBTQ-affirming services, and some stakeholders and youth we interviewed attested to ACS attempts to follow its internal guidelines for ensuring LGBTQ-affirming services. However, similar to the justice system, the child welfare system faces calls to provide LGBTQ-appropriate services more consistently and to treat LGBTQ youth, many of whom they acknowledged to be involved or at risk of being involved in survival sex, more appropriately with the support they need.⁹

Child Welfare Provides LGBTQ-Affirming Services and Placements

The New York City Administration for Children’s Services provides detailed guidelines for addressing the needs of child welfare- and justice-involved LGBTQ youth and their families. Included in the guidelines are guidance for using respectful and preferred pronouns, assigning LGBTQ youth to preferred gender placements and sleeping arrangements, and confidentiality and disclosure of sexual orientation and gender identity. Also included are detailed responsibilities regarding child welfare and juvenile justice placements for their LGBTQ residents, protocols for determining youth requests for hormone therapy and other transitional treatments, and the designation of an “LGBTQ point person” in every foster care and juvenile justice placement (NYC ACS 2012).

When speaking to ACS’s LGBTQ-affirming practices, ACS stakeholders reported progress in the ways in which their home and detention facilities treat LGBTQ youth. According to the stakeholders, who had backgrounds in program services and detention, “LGBTQ youth are treated as any other youth.” They emphasized that gender-nonconforming and transgender youth are provided placements according to their preference, and are also provided clothing and other gender-specific hygiene items

according to their preference. One service provider affirmed that ACS was progressive in many of its practices:

ACS has done diligent work and other agencies have done diligent work creating affirming foster homes. There has been a recent invigoration with the new administration.

This service provider noted that progress may be “glacial at times,” but that, overall, there have been new efforts on the part of ACS.

Child welfare, as a system that provides placements for youth who are in family situations that involve harm or neglect, is also considered a system in which LGBTQ youth can access services that they would not otherwise receive. Youth and service providers recognize their role in providing services and resources that would not otherwise be possible. One service provider recounted the difficulty of ensuring services for some of her clients, and noted that despite ACS’s weaknesses, ACS ultimately plays an important role:

I think the majority of the young people we’re seeing are kicked out of their homes at a young age, because either the parent is identifying them as LGBTQ or trans and don’t want them in the home. So they’re kicked out or end up leaving because of hostility in the home . . . We try to call a [domestic violence] agency and say there is violence based on the parent, there is not [a] domestic violence shelter that is going to take them in, and I consider it family-based violence, but they’re like you should go to ACS. And child protective services won’t touch older adolescents, they just don’t want them in care. And when I first started working here I was like oh, we don’t see so much involvement with child protective services with young families, like of color, we don’t want to push that. But, the more I work with young people, the more I see how many services would be available to them if they could access child protective services, like foster care or really supportive group housing that they want to get into. Here in NY, it’s great because it goes up to 21, I mean you can sign yourself out at any time if you don’t like it. But it goes up to 21. They have to provide shelter and clothing and food, so if young people can’t access that it’s really damaging.

Child Welfare Needs to Improve Its LGBTQ Policies and Services

While ACS’s official LGBTQ policies are progressive and affirming, there are discrepancies according to service providers who serve ACS-involved youth and from LGBTQ youth in the child welfare and juvenile justice systems themselves. Several service providers of LGBTQ youth were highly critical of ACS’s practices towards LGBTQ youth in their care, and some mentioned lawsuits that ACS faced as a result of its treatment of LGBTQ youth.

According to one service provider: “From my experience and as far as children in New York, [there is] no cultural competence around LGBTQ youth.” This service provider noted instances where youth

had their sexual orientation or gender identity “outed” while in foster care, and attributed the “loosely interpreted” LGBTQ cultural competency policies to personnel incompetence. Another service provider identified a “lack of training among service providers in ACS” and noted that “placements are sometimes hostile to LGBT youth”

One key issue with ACS’s treatment of LGBTQ clients is the dynamic between youths and their families, which can oftentimes be homophobic:

Even when we report, ACS doesn’t want to follow up. With LGBTQ youth, there is often homophobia within [the] family. Youth have been kicked out or run away, and ACS says they can go home if they stop being gay . . . [The] level of ability to deal with LGBTQ youth is horrendous. These youth are so system-involved, and the systems are so homophobic.

Overall, service providers reported inconsistencies in how LGBTQ youth are treated, despite the presence of an overall policy: “There are no foster care programs for LGBT youth . . . Each child welfare-based service does not address LGBT youth.”

What Challenges Does the Child Welfare System Face Addressing This Population?

Placing LGBTQ youth in foster care or group homes with appropriate and complementary guardians is difficult. Unlike detention, which one family court judge called a “straight environment,” child welfare placements have the potential to be LGBTQ-affirming by recruiting LGBTQ foster parents and providing peer groups for LGBTQ kids.

The youth we interviewed echoed this sentiment. One of their criticisms of the child welfare system (all of which are detailed in the following section) was in regard to their family placements, as many were abusive, harmful, and hostile to them and often provided the catalyst for running away.

Similar to the complaints made by criminal justice stakeholders, child welfare stakeholders identified their inability to ask about sexual orientation and gender identity as a problem:

[It’s] difficult to ask about sexual identity/personal questions, but it is important for medical services, especially for those with hormones, although ACS does not provide hormones . . . Case managers don’t want to ask very personal question [but we] want to make sure these kids are getting services, though.

The youth who experienced the child welfare system also discussed the need for smoother transitions out of the system once they were of age. Stakeholders also echoed this challenge and need—

it is difficult for youth to age out of the child welfare system and suddenly be on their own if they do not have access to any resources, such as housing. One service provider recommended “permanent stable housing (supervised dependent living)—especially after they age out of ACS custody.”

Ultimately, stakeholders recognized that the child welfare system was making a good-faith attempt to serve LGBTQ youth, but felt, like the criminal justice stakeholders, that the system was constrained by its resources. As one child welfare stakeholder explained, [We’re] doing best with the resources we have. There is a lot more we’d like to do with more resources, such as educating staff on LGBTQ. Some staff members are ignorant on these issues.”

LGBTQ Youth Perspectives on Child Welfare

While this study did not explicitly set out to gauge LGBTQ youths' experiences and stories of interacting with the child welfare system, many youth chose to disclose information about their time in foster care, group homes, and appearing in family court. This information often emerged when the youth recounted their family and residential situations; their experiences of physical, emotional, and sexual abuse; what drove them to engage in survival sex; and their involvement in the justice system. It is clear that for many youth, involvement in the child welfare system was closely intertwined with the situations that left them—either voluntarily or as a means of survival—on the streets and ultimately trading sex.

What are LGBTQ Youths' Experiences in the Child Welfare System?

Initial Involvement with Child Welfare

By the nature of child welfare involvement, youth spoke about their entry into ACS and other child welfare systems in relation to their biological and adopted families. Familial neglect and abuse were typically cited. One youth described how ACS became involved in her and her family's lives after her adoptive mother neglected her. This involvement ultimately resulted in this youth being kicked out:

Interviewer: And you mentioned ACS earlier, can you tell . . . have you ever been involved with ACS?

Interviewee: Yeah, when I was in . . . before my mom kicked me out. That was part of the reasons too, because ACS was at the house for allegations against her, she wasn't feeding, clothing us because I'm adopted so it was like, you know.

Interviewer: So somebody had to call the ACS and they came in?

Interviewee: Yeah. So you know they came to the house saying 'that we wasn't even clothed and fed and all the other stuff. (Respondent 99, 17 years old, black, bisexual, female)

Another youth recalled ACS involvement because of the experience of his twin, who was also engaging in survival sex. However, his particular case was closed:

I went through the ACS and that was because of my twin sister running around, being in the village and stuff, getting into trouble, getting locked up for prostituting and things like that. So, it affected me but I was old enough to know and lie to them. I lied to the ACS, so they let us, they closed the case. (Respondent 1, 19 years old, Latino, gay, male)

Like several other respondents, this particular youth recalled experiencing sexual abuse from a family member and resident of her home. Her involvement in child welfare was through family court:

My step father was like molesting me and I would you know have to go to court to decide whether or not I was going to stay with my mother. (Respondent 99, 17 years old, black, bisexual, female)

Negative Placements, Including Guardians and Other Residents

The youth who mentioned their child welfare involvement did not speak positively about their placements. Because their placements—either in foster families or group homes—and the adults and peers in them were negative, they were usually tied to the reasons youth frequently ran away.

For some youth, their foster homes and group homes were restrictive, disruptive places where they did not get along with the guardians and other residents. One youth provided a detailed explanation of why her first group home residence was a frustrating and harmful experience and how it differed significantly from her second placement. For her, the group home was overcrowded and lacked privacy, and the additional residents were unnecessarily cruel. Her second placement was less crowded, more consistent in terms of who she interacted with on a daily basis, and felt more like a home:

Interviewee: I was in a group home.

Interviewer: When were you in a group home?

Interviewee: I was in the group home from the age of 15, when my mom started kicking me out, to like 18. But my group home like, it was like I didn't get—the first group home it was bad. When I got into my second group home that's when I did better because it was more prosperous for me.

Interviewer: Yeah and when you say that the first was bad, can you tell me what you mean a little bit with that?

Interviewee: It was like, okay like I lived in a house with like 20 other girls . . . and it was like we were from ages of 13 to 21 in the same house. So it's like it's a bunch of mixed emotions, you fight, nobody calls the cops, nobody gets in trouble, you fight, you don't have any locks on your doors so anybody could just come in your room and take what they want, steal what you want, you know, whatever the case may be. It was to the point that like if you have your homework and you go to the bathroom, somebody might take your homework and flush it down the toilet. Like stuff like that for nothing, like for nothing just to make your life harder. . . .

Interviewer: And then the second one was better and why was the second one better?

Interviewee: Because I lived on [name of place], and it was plus me, six girls in the house in a building, an apartment building. And it was like, because it was less of us; it's easy to keep track of us, with six of us in the house. It's easier, it feels more like a home environment because it's only six of us so we was used to only seeing us there, like you know a new girl come in it was usually

weird because it was like you know, all of us age of 21, all of us still there. So it was different, it made it feel like home because you see the same staff every day and who was coming in every day so it was different. (Respondent 5220, 19 years old, West Indian, lesbian, female)

This youth explained that her group home “feels like jail” ultimately, because of its crowdedness, its lack of privacy, and her inability to do everyday tasks like make phone calls and make choices in how she spent her time.

For other youth, their assigned guardians defined their negative experiences. Their foster parents or group home staff were often restrictive, perceived as cruel, or downright abusive.

For this youth, the foster parent she had before she came to New York was the individual who first introduced her to exchanging sex for money. This ultimately became catalyst for her to run away:

Interviewer: Can you tell me a little bit about your experience in the system in [state]?

Interviewee: I was with different foster parents. But one of them, the father foster parent used to tell me to do things with his friends and give me a couple of dollars or whatever things like that and then I left them.

Interviewer: You left that situation to come here because of that? Okay so you’d been in the system for about how long?

Interviewee: Since I was four. (Respondent 309, 20 years old, black, lesbian, female)

Another youth told a story of how her foster mother actually prevented her from seeing her case worker and reporting any issues in her foster care placement:

Interviewer: And would your case worker? How often would you see your case worker?

Interviewee: The foster mother and they wouldn’t let me see her really.

Interviewer: Really. And so you weren’t even able to explain what situation you were having. How old were you when you went into foster care?

Interviewee: I went into foster care at two years old.

Interviewer: Two years old, okay. So you spend your whole life going through that system and there wasn’t a single positive moment.

Interviewee: No. (Respondent 575, 20 years old, black, lesbian, female)

The negative experiences youth had regarding their child welfare placements, guardians, and other residents were related to their later experiences running away from home and becoming homeless. When asked about running away from foster care, this respondent strongly attributed her motivations for running to her negative foster care experience:

Interviewer: Can you tell me when was the first time you ran away from foster [care]?

Interviewee: Sweetheart, truth be told, I have been running away for so long I can’t even tell you the first time I started.

Interviewer: And can you tell me some of the reasons you ran away?

Interviewee: Fucked up foster parents, favoritism, me being bullied and nobody doing anything about it things like that. (Respondent 5024, 18 years old, Latino, lesbian, gender nonconforming)

Child Welfare Placements Need to be Improved and Better Monitored

In light of their negative experiences with their child welfare placements, youth frequently spoke about the need for ACS and other child welfare systems to make more appropriate placements, ensure greater accountability on behalf of the placements, and provide effective oversight of placements because of the potential for abuse.

One youth spent time in an ACS holding facility, and her recommendation was that ACS should not have facilities of that nature and size:

ACS I was there in they walls, I don't think ACS, I don't think that they should have the children, how they have the children under the building like that I think that shit is really overwhelming, I think it's, I was there one day, one night I was there, it was overwhelming like, it was too much for me, like I couldn't handle it, like . . . (Respondent 682, 18 years old, Dominican and Haitian, lesbian, female)

In light of her negative experience with her placement, this youth felt it was important that ACS provide more oversight over placements.

I feel like when it comes to ACS like I feel like the only thing that they should [do is] follow up more with cases than to just follow up every year. You know all the shit done and happened to me in three months? So don't get me started on all the shit that happened to me in a year. (Respondent 729, 20 years old, black, gay, transgender female)

This youth echoed similar sentiments: more oversight, specifically investigations, is needed. She had experienced abuse from her mother since she was 13 years old, but child welfare officials did not believe her assertions because of her mother's status as a previous foster parent.

Interviewee: If they investigated more.

Interviewer: Investigated more? Could you give some examples of what you feel like they should have done and they didn't do?

Interviewee: They were based off . . . because my mother is a foster parent [to other children], and my sister, the three year old, she is a foster child. So they were going off that and because she's been a foster parent since '06, [the ACS case worker] said if there was any signs of abuse why is it coming out now? It's coming out now because I'm just coming out and this has been going on since I was like 13, when I came out.

Interviewer: Has she abused you like physically, verbally?

Interviewee: Yeah both, more so verbally. (Respondent 5248, 15 years old, Trinidadian and black, lesbian, female)

Perspectives on Child Welfare Experiences

Child Welfare Was Ineffective at Addressing Youths' Needs

The youth who had negative experiences with child welfare spoke strongly about how the child welfare system didn't "work" for them—namely, provide a solution to their unstable and often abusive family situations. They also criticized what they perceived as the system's disorganization and lack of accountability when it came to more technical aspects of their experience, such as making sure that they received their money and that their transition out of child welfare went smoothly.

This youth thought that ACS made her situation worse instead of providing a solution.

I think ACS, they make matters worse. Honestly I don't know. I don't know but ACS never helped me. I feel like their approach is too aggressive and that then like then the child turns into the freaking scapegoat of the family and it's just like unfortunate because ACS- don't get me wrong they do help people but like from my experience and other people's experience that I have heard about they weren't very pleasant. (Respondent 1334, 18 years old, mixed race, queer, female)

This youth, like others, acknowledged the efforts made by those within the child welfare system in trying to improve their family lives. However, technical aspects—such as getting paid on time and smoothly aging out of the system—were poorly executed by child welfare:

Interviewee: I know it's a lot of good services, but they wasn't like working with me.

Interviewer: And how were they treating you?

Interviewee: Well I guess it was the workers I had- it was good. But I guess it was the workers I had, like my money came late, and it's a lot of stuff. My foster mom was getting agitated. Not with me, she loved me, but with the workers. Like, what are you all doing?

Interviewer: So like the money wasn't coming in and you just didn't feel like?

Interviewee: It's just that they were supposed to start me on my papers to get my apartment. At least the application and stuff. And I just said no. Because I'm like the longer they are taking like this, I could just be on my own and do it, like I'm doing right now.

Interviewer: And you're waiting for what right now?

Interviewee: Well I was going to start doing my application but I just find out they didn't give me all my rights when I left out of foster care. (Respondent 1010, 19 years old, black, bisexual, female)

Family Court Was Ineffective at Addressing Youths' Needs

Another key aspect of youths' experiences with the child welfare system is the role that family court and family court judges played in their dissatisfaction with how the system addressed their needs. A

common sentiment among the youth was that family court didn't help them in their abusive situations, or that going through the court system did not provide any solution to their needs. This youth stated the following:

Interviewee: I hate [the courts] too.

Interviewer: Do you feel like? Can you describe a little bit about your experience like?

Interviewee: They wasn't helping me when I was in the foster care, when I was getting abused, they were still not trying to help me. So I don't like them either. (Respondent 575, 20 years old, black, lesbian, female)

Another youth shared a similar story of the perceived ineffectiveness of family court:

Interviewer: Could you tell me how like the interactions with the court system was like down there?

Interviewee: I mean at that age I don't really know what's going on, I just kind of told my side of the story and then my lawyer did the rest.

Interviewer: Did you find that it was supportive I mean did you feel like they helped?

Interviewee: No, I had to leave and come [to New York City from another state]. (Respondent 99, 17 years old, black, lesbian, female)

Other youth reported being viewed as a criminal by family court, or having experiences through family court that resulted in their criminalization. This was seen as particularly unjust, considering their family court involvement was a result of problematic and abusive home environments, instead of criminal activity on the youths' parts. This youth started trading sex to support herself when she was living with her parents, because her parents were taking the money she made at other jobs. ACS and family court played a role in criminalizing her attempts at survival. She reported ending up in juvenile detention at the culmination of her family court case:

Interviewee: Back when I ran away in March, I was in [shelter] and they took me to court so I was arrested there in the courtroom, but other than that?

Interviewer: [Shelter] took you to court?

Interviewee: Yeah.

Interviewer: Because- can I ask why?

Interviewee: I was 17 and I ran away.

Interviewer: So they were trying to put you in a family court or?

Interviewee: Family court, yeah.

Interviewer: Okay. And can you tell me like kind of what happened in that case or?

Interviewee: I was in the Bronx's Juvie for a week then they shipped me right back on the plane back to my old situation. They didn't do anything about it.

Interviewer: Okay. Would you mind, if you don't want to talk about it, its fine but do you mind talking a little bit about what situation that was in or you were in?

Interviewee: My parents did a lot of drugs, pills. They made meth. They used syringes and they— whenever I had a job they took all my money so I had to resort to the dating.

Interviewer: And this was something that was made clear to [service provider] and the court case and all of that and you were still sent back?

Interviewee: Yes.

Interviewer: And was ACS ever contacted or was ACS a part of all of that?

Interviewee: Yeah, but I was viewed as the criminal.

Interviewer: Can you, can describe how—you felt treated, how—what you felt they should have done?

Interviewee: I felt very angry. I still I'm angry to this day. I want justice for all, for myself and all those other kids that are in ACS's hands and yet they get killed. They left to the bad people. I would just like to see them reformed, I guess. (Respondent 757, 18 years old, white, queer, female)

Another youth expressed frustration at what she perceived as family court's inability to recognize her progress and instead treat her as a criminal for minor altercations:

Interviewer: Okay. Can you tell me a little bit about those situations in family court?

Interviewee: Um, like in the beginning, just being profiled as being in ACS . . . I'm a badass. I'm there for, you know, I'm not a, you know, I'm not a good kid. And I was doing so much better around that time like I was doing what I had to do. Like I was still getting involved in certain things but when it came to in the house, and that was when I was in the group home, I was doing what I had to do, cleaning after myself, doing my chores, going to school. I was always in school as long as I was in the system. In court, for me to hear that like, there was like a few altercations I got into, I knew I wasn't innocent but it was all just trying to get my voice heard . . . I was acting out because I was trying to voice it and I wasn't heard. I got frustrated and then it just built into so much anger. When you going to court, they don't look at the good stuff and how long you've been doing good. They just look at, why you did that? It was just sad. I was so disappointed. I was hurt. I was like, I'm doing good. Just changing the lifestyle is hard. (Respondent 126, 19 years old, Puerto Rican, bisexual, female)

Another youth felt that family court's decisions were not in her best interest. In this story, she explained that she was ordered to family court after running away from home at age 15. She ran away because her mother disagreed with her sexual orientation and had been emotionally and verbally abusing her since she had come out as a lesbian at age 13. She had been staying in a homeless youth shelter until shelter staff discovered her age and were forced to call child welfare. However, the judge simply ordered her to return home after her mother hid her feelings in court:

Interviewer: What about your interactions with the court system. I mean, ACS got a little bit involved. Did you to go family court?

Interviewee: Yeah.

Interviewer: And how was that?

Interviewee: The judge ordered me back home, because he asked my mother, "do you want to take her back home?" And she said she doesn't have a problem with [my sexuality], which I knew she did, but he ordered me back home because of my age I guess.

Interviewer: Your age? Did it come up your sexuality come up at all and?

Interviewee: Yeah because of the way I was dressed in the court it was kind of obvious.

Interviewer: It was obvious?

Interviewee: Yeah.

Interviewer: And your mom like, played poker face the whole time?

Interviewee: Yeah, she did. (Respondent 5248, 15 years old, Trinidadian and black, lesbian, female)

At the time this interview was conducted, this young woman had been counting down the days until she turned 16 so she could return to the homeless youth shelter system where she felt more accepted and free to be herself.

Concluding Thoughts

LGBTQ youth who trade sex for survival touch the child welfare system and its various components and locations in many ways. Youth who come to New York City after leaving their original hometowns and youth who are born and raised in the city or become involved in the system in New York tell similar stories: child welfare, while attempting to address harmful and abusive home environments, can often continue to perpetrate levels of violence, neglect, and abuse. The service providers that attempt to address the needs of runaway and homeless youth corroborate this treatment by child welfare practitioners, whether family court officials, foster care parents, or group home staff. While child welfare systems, particularly New York City's Administration for Children's Services, have made substantial progress in addressing the needs of LGBTQ youth, there are many more areas in need of improvement.

Discussion and Summary

A disproportionate number of LGBTQ youth, YMSM, and YWSW interviewed for this study were locked into a system, whether it be the criminal justice system, the child welfare system, or both. Their experiences cycling in and out of these systems shaped their perceptions of police officers, judges, prosecutors, defense attorneys, probation officers, child welfare workers, and more generally, adults. As this report illustrates, almost all of the 283 young people who shared their stories with us had interactions with one of these systems, and for some youth these interactions were directly related to how they became involved in the commercial sex trade.

What we found is similar to past research findings: LGBTQ youth of color are often targeted by the police because of their actual or perceived race, sexual orientation, and gender nonconformity, which leads to an overall mistrust of and negative attitudes toward law enforcement (Amnesty International 2005; Griffiths and Winfree 1982; Hurst 2007; Hurst and Frank 2000; Majd, Marksamer, and Reyes 2009; NYCAHSIYO 2010; Stoudt, Fine, and Fox 2011; Taylor et al. 2001). Over two-thirds of respondents reported having been stopped, frisked, and questioned at some point in their life, with some citing their first experience as young as 8 years old. As noted in the findings, even this startlingly high incidence of police encounters may be underreported, as some youth initially sought to clarify whether the question concerned encounters that did not end with an arrest. Although the main reasons the police gave the youth for stopping them was that they either fit a description¹⁰ or looked suspicious, most of the young people felt that the real reasons for stopping them were those cited above—profiling on the basis of actual or perceived race, sexuality, and gender nonconformity. Such profiling is in direct violation of New York City’s End Discriminatory Profiling Act.

One-third of the study participants reported that they had some of, and in some cases all of, their personal property seized by law enforcement. Property seized by police included a range of items, such as money, cell phones, book bags, identification forms, benefits cards, and clothing. Fifteen percent of youth also reported having condoms confiscated by the police, which in some instances led to their arrest on a prostitution-related charge. As previous research has also indicated (Grant et al. 2011; Majd, Marksamer, and Reyes 2009; NYCAHSIYO 2010), young transgender women were especially profiled as being engaged in prostitution by the police, and some reported being arrested for a prostitution-related offense when the only “evidence” was one condom on them. The confiscation of condoms by the police as evidence of an offense led to confusion among the youth, who were taught to practice safe sex, as well as fear that carrying condoms would give the police probable cause to arrest them. Although the law around using condoms as evidence of engaging in prostitution was changed in 2015 to prohibit

introduction of condoms as evidence in prostitution and loitering for the purposes of prostitution cases, further research is required to determine if the changes in the law are being enforced.

Similar to previous research (Feinstein et al. 2001; Freeman and Hamilton 2013; Majd, Marksamer, and Reyes 2009; Rosenthal and Moore 1994; Sullivan 2006), many youth reported frequent arrest for a variety of “quality-of-life” and misdemeanor crimes other than prostitution offenses, creating further instability and perpetuating the need to engage in survival sex. Youth described being locked in a constant vicious cycle of involvement in the criminal justice system with far-reaching collateral consequences ranging from instability in the home and school to inability to pay fines and surcharges, active warrants, incarceration, and consequences for future employment.

Past research has found that justice system involvement has been shown to be associated with exposure to lower high school graduation rates, a higher risk of unemployment, and increased future delinquency (Bernburg, Krohn, and Rivera 2006; Hjalmarsson 2008; Kirk and Sampson 2013; Petrosino, Turpin-Petrosino, and Guckenburg 2010). Our findings are similar. Seventy percent of the young people had been arrested at least once, and of those youth, 20 percent had been arrested five or more times. As was cited in the first report of this series (Dank et al. 2015), most youth (76 percent) were not currently enrolled in school, although almost half (48 percent) had neither graduated from high school nor obtained a general equivalency diploma, and only 23 percent were employed. Many of the youth interviewed for this study reported trying to find legal employment, but were unsuccessful because of their criminal record, thus driving them into engaging in survival economies, particularly survival sex.

The offenses youth reported being arrested for ranged from assault (38 percent of those arrested) to disorderly conduct (19 percent of those arrested). The vast majority of offenses that the youth were arrested and charged with were quality-of-life crimes (e.g., jumping the turnstile, carrying open containers, and trespassing) and other misdemeanors (e.g., marijuana possession, shoplifting, and violating a court order). More often than not, these crimes were associated with the young person being homeless or impoverished, and not having the resources to, for example, pay for subway fare or access stable and safe housing.

Despite the fact that all the youth interviewed for this study had engaged or were engaging in survival sex, only 9 percent had been arrested on a prostitution-related charge. Most law enforcement personnel are trained to look into potential cases of trafficking only when young people are picked up on prostitution-related charges. As a result, youth who are being trafficked according to the Trafficking Victims Protection Act, which includes individuals of all ages who are in exploitative situations where they are forced or coerced into the commercial sex market and all youth under the age of 18 engaging in

the commercial sex market, are more often than not overlooked by the criminal justice system as victims of trafficking. This was confirmed by the law enforcement officers interviewed for this study; they did not consider LGBTQ youth to be trafficking victims since they perceived them to be engaging in the commercial sex trade of their own free will, regardless of their age.

Throughout the process of arrest, booking and prearrest detention, at least one-third of youth reported feeling unsafe at some point, with almost half of young people feeling particularly unsafe during the arrest and transportation to the precinct. As past research has also found (Hunt and Moodie-Mills 2012; Office of the Juvenile Defender 2011), transgender and gender-nonconforming arrestees were often subjected to discrimination and abuse by law enforcement. Some youth reported a high degree of violence and abuse by police, including impermissible and unconstitutional searches to assign youth a gender based on anatomy; strip searches in public areas, including in front of other arrestees and multiple officers; restraint by handcuffs leading to bleeding and neuropathy and for excessive periods; refusal to refer to youth using appropriate names and pronouns; and disrespectful remarks about youths' gender identity, gender expression, or sexual orientation.

Youth also reported police refusal to hold them in sex-segregated police facilities according to their gender identity, and those assigned to "special category" cells reported extensive delay in arraignment time and dangerous conditions of confinement including overcrowding, infestation, freezing temperatures, and denial of toilet access. In addition to physical injury, youth also identified police violence as leading to psychological injury including posttraumatic stress disorder. These reports included blatant violations of NYPD Patrol Guide policy, particularly the reforms announced on June 12, 2012, specific to transgender and gender-nonconforming arrestees. Though the reforms were announced right before our interviews commenced, it is difficult to say whether the violations reported occurred before these reforms.

Many youth recounted stories of verbal and physical harassment and abuse, but in some cases reported positive interactions with police as well. Some youth reported positive interactions with law enforcement during the arrest and booking process, especially when the officers handling the arrest and processing also identified as LGBTQ. Some youth with both good and bad experiences felt that the quality of experiences with police came down to the personality and mood of the officer, in addition to the youths' own attitudes toward the police. Several youth stated that as they got older, they found that it was easier to comply with the officers rather than object to the stop or arrest, since objecting only made the situation worse. With that said, the majority of youth we interviewed described a daily reality of policing that suggests that police encounters had become normalized. These reports are consistent

with other research that has shown that certain youth internalize the notion that they are perpetual suspects because of their age or skin color, or where they live (Stoudt, Fine, and Fox 2011).

All youth in the sample were asked how they would describe their interactions with police, and almost two-thirds (63 percent) described their interactions as at least occasionally negative, 20 percent as neutral, and 18 percent as at least occasionally positive. Youths' perceptions of the court system, including family court, were somewhat less negative; of the 183 youths who responded to the question, 31 percent described interactions with the courts as positive, 25 percent as neutral, and 44 percent as negative.

Youths' perceptions of the police and courts, based on either first-hand experiences or experiences of their friends and family, brought out a lot of complicated feelings, including respect, fear, frustration, and anger. Many claimed that although they respected law enforcement's role of enforcing and upholding the law, they felt that officers often abused their authority and power and targeted them based on their perceived and actual race, sexual orientation, and gender identity, in addition to socioeconomic class and age. Although they didn't view the court system as abusive, some felt that their lives were in the hands of judges, prosecutors, and defense attorneys who did not always bother to get all the facts or take mitigating factors into account when deciding the fate of their case.

Over 90 percent of young people reported employing some tactic or tactics to avoid the police. Most kept to themselves or walked the other way if they spotted an officer, and 10 percent chose to stay inside or avoid certain areas where they knew police often patrolled or conducted surveillance. Some youth even went as far as changing their appearance when they went out in public so they did not raise the attention of law enforcement. Less than half of the young people reported having a safety plan in place if they were arrested; such plans often included calling their family or friends for assistance. Those without a safety plan in place stated that they would serve whatever time they were given or try to talk their way out of the arrest.

If they found themselves in trouble—whether financial, health, or legal—most youth reported turning to a family member (34 percent) or friend or peer (28 percent) for help. Over 20 percent said they had no one and would instead rely on themselves alone. For those youth who claimed they had no one they could turn to for help, this was often because of deep-seated mistrust of adults based on neglect, abuse, and discrimination they had experienced at the hands of family members, friends, police, child welfare workers, and service providers, in addition to a lack of social support from friends, family, and the community at large.

Many of the 68 stakeholders interviewed for this study felt that while formal agency-specific LGBTQ policies were effective to an extent, they wouldn't change the true way organization staff viewed LGBTQ clients. Policies could "force compliance from those who are biased" but wouldn't actually change how an officer felt. Criminal justice stakeholders and practitioners widely acknowledged the challenges they faced in trying to address their LGBTQ clients in an appropriate and affirming way. Most of these challenges involved resources, including the lack of gender-appropriate staffing; affirming resources, service providers, or service referrals; and financial resources to address the unique needs of LGBTQ clients. However, some stakeholders also reported a perceived distrust of law enforcement among LGBTQ communities—even if they only knew of police harassment, discrimination, and abuse through their family, peers, and community—as a barrier.

Those tasked with finding appropriate services for LGBTQ youth, whether a diversion program mandated by a judge or other services as a condition of their probation, expressed concern about sending LGBTQ clients to shelters or service providers that had hostile clients, where they may experience physical and sexual assault, homicide, or other forms of physical harm. When attempting to find appropriate resources and service referrals, stakeholders described trying to consult their official policy guidelines or resources manuals but ultimately finding them lacking in useful information. Often the only information provided in policy guidance to stakeholders was to respect their clients' sexual orientation and gender identity, but the guidance included nothing about how to meet the specific needs of LGBTQ youth.

Probation officers, prosecutors, police officers, and judges interviewed for this study all discussed how simply *knowing* a youth's sexual orientation and gender identity would help them significantly in addressing any potential needs and creating LGBTQ-affirming services and spaces. That said, these stakeholders have an affirmative responsibility to create a safe environment for disclosure; self-reports on sexual orientation and gender identity must be voluntary and include full and informed consent.

The youth in our study reported that harassment by law enforcement officers and court personnel often included inappropriate questioning and comments about their gender identity or expression, anatomy, medical procedures, and names or sex assigned at birth, as well as sexual practices and conduct. Additionally, they reported being subjected to increased profiling, scrutiny, and violence or threats of violence when their gender identity or sexual orientation was revealed or became apparent. These reports confirm the findings of past research (Amnesty International 2005; Hasenbush and Sears 2015; Himmelstein and Brückner 2011; Lambda Legal 2014; Mallory, Mogul, Ritchie and Whitlock 2011; NAACP 2014; NCTE and NGLTF 2011; Soudt, Fine, and Fox 2011). In order for data of this kind to be properly collected, individuals must be offered the option of self-identifying as LGBTQ only if they

choose to do so, and must also be offered an opportunity to indicate whether they believe that any police actions that are the subject of a complaint were motivated by their actual or perceived sexual orientation or gender identity (LGBT and HIV Criminal Justice Working Group 2015).

When asked to describe LGBTQ youths' involvement in criminal activity and their resulting involvement into the justice system, stakeholders reported that LGBTQ youth are engaged in a variety of crimes related to their lack of financial resources. Additionally, law enforcement officers believed that LGBTQ youth networks were negative influences on youth who may not have otherwise committed crimes for survival. Consistent with research that law enforcement officers view "nonnormative" sexual orientation or gender identity as inherently criminal (Hunt and Moodie-Mills 2012; Mogul, Ritchie, and Whitlock 2011), one law enforcement officer went as far as to describe these networks, particularly gay families and ball culture, not only as a negative influence on younger LGBTQ youth, but also as similar to a criminal syndicate. Related to their views on LGBTQ youths' criminal activities, law enforcement officers also saw LGBTQ youths' involvement in survival sex as a continuation of their criminal behavior, and identified the criminal in a commercial sex exchange to always be the youth instead of the client.

That said, law enforcement and other stakeholders understood the inherent contradictions in law enforcement simultaneously arresting LGBTQ youth and attempting to help them stay out of criminal behavior and not resort to survival sex. However, there was also the perception that LGBTQ youth, despite whether they were under the age of 18, were engaging in survival sex of their own volition and were thus not eligible for any of the trafficking resources provided to the police department.

Law enforcement also felt that service providers encouraged youth to distrust the police and provided them with false information, although stakeholders did not specify what this misinformation concerned. Police felt that this misinformation prevented them from doing their jobs and addressing the needs of the youth. Other officers stated that they were not a popular presence at community forums on LGBTQ-related issues, despite having formal policies and even an officer serving as a liaison to the community.

While this study did not explicitly set out to gauge LGBTQ youths' experiences and stories of interacting with the child welfare system, many youth chose to disclose information about their time in foster care, group homes, and appearing in family court. This information often emerged when the youth recounted their family and residential situations; their experiences of physical, emotional, and sexual abuse; what drove them to engage in survival sex; and their involvement in the justice system. It is clear that for many youth, involvement in the child welfare system was closely intertwined with the

situations that left them—either voluntarily or as a means of survival—on the streets and ultimately trading sex.

The youth who self-reported experience with the child welfare system discussed the need for smoother transitions out of the system once they were of age. Stakeholders also echoed this challenge and need—it is difficult for youth to age out of the child welfare system and suddenly be on their own if they do not have access to any resources, such as housing. The youth who mentioned their child welfare involvement did not speak positively about their placements. Because their placements—either in foster families or group homes—and the adults and peers in them were negative, they were usually tied to the reasons youth frequently ran away. In light of their negative experiences with their child welfare placements, youth frequently spoke about the need for New York City’s Administration for Children’s Services and other child welfare systems to make more appropriate placements, ensure greater accountability of the placements, and provide effective oversight of placements because of the potential for abuse.

The youth who had negative experiences with child welfare spoke strongly about how the child welfare system didn’t “work” for them—namely, it didn’t provide a solution to their unstable and often abusive family situations. They also criticized what they perceived as the system’s disorganization and lack of accountability when it came to more technical aspects of their involvement, such as making sure that they received their money and that their transition out of state custody was properly planned for and supported. Other youth reported being viewed as a criminal by family court, or having family court experiences that resulted in a criminal charge. This was seen as particularly unjust, considering their family court involvement was initiated as a result of problematic and abusive home environments instead of criminal activity on the youths’ parts.

When speaking to ACS’s LGBTQ-affirming practices, ACS stakeholders also reported progress in the ways their home and detention facilities treat LGBTQ youth. According to the stakeholders, who had backgrounds in program services and detention, “LGBTQ youth are treated as any other youth.” They emphasized that gender-nonconforming and transgender youth are provided placements according to their preference, and are also provided clothing and other gender-specific hygiene items according to their preference. One service provider affirmed that ACS was progressive in many of its practices. ACS and other agencies have done diligent work creating affirming foster homes.

LGBTQ youth who engage in survival sex come into frequent contact with the justice system. At every point, they risk experiencing violence, abuse, and disrespect from stakeholders, peers, and other individuals facing criminalization. The justice stakeholders they face range from those genuinely

concerned with their well-being but struggling to find ways to meet their needs, to those who actively pursue them as targets for the justice system because of their perceived criminality or treat them and their nonconforming gender identity and sexual orientation with disparagement and abuse. Many stakeholders stated that they attempted to treat LGBTQ youth fairly and in a manner that affirms their struggles and identity, but face difficulties because of the lack of appropriate training, resources, and infrastructure. But while some stakeholders acknowledge that it is inappropriate and unfair to criminalize a large number of LGBTQ youth who trade sex because they lack basic necessities, others seek to further criminalize their activities because they perceive LGBTQ youth to be particularly criminogenic.

LGBTQ youth who trade sex for survival also touch the child welfare system and its various components and locations in many ways. Youth who come to New York City after leaving their original hometowns report stories similar to those of youth who are born and raised in the city or become involved in the system in New York: the child welfare system, while attempting to address their harmful and abusive home environments, can often continue to perpetrate levels of violence, neglect, and abuse. The service providers that attempt to address their needs as runaway and homeless youth corroborate this treatment by child welfare practitioners, whether by family court officials, foster care parents, or group home staff. While child welfare systems, particularly New York City's Administration for Children's Services, have made substantial progress in addressing the needs of LGBTQ youth, there are many more areas in need of improvement.

Policy and Practice Recommendations

This report documents the vicious cycle of involvement in the criminal justice and child welfare systems affecting LGBTQ youth, YMSM, and YWSW engaged in survival sex. Seven out of ten youth respondents said they had been previously arrested (70 percent), with most of those 197 youths (80 percent) reporting five or fewer arrests. Frequent arrests for a variety of “quality-of-life” and misdemeanor crimes create instability and perpetuate youths’ need to engage in survival sex as a result of far-reaching collateral consequences. The arrest-based approach to these young people is the first step in an escalating sequence of cause and effect: instability in home and school, inability to pay fines and surcharges, active warrants, incarceration, disqualification from certain public benefits, deportation, and consequences for future employment.

These data—collected through interviews initiated four to six years after the first state “safe harbor” law for commercially sexually exploited children was signed into law—raise serious questions as to the true impact of safe harbor laws, ostensibly designed to end prosecution of youth for acts of prostitution and to “meet the needs of these youth outside of the justice system.”¹¹ Further study is needed as to whether New York’s safe harbor law may have actually *increased* court involvement through intensified compliance monitoring and program requirements, indeterminate sentencing, and institutionalization.

This study did not seek to quantify data on youths’ involvement in the child welfare system, but some youth did chose to disclose their experiences in the context of questioning about their criminal justice involvement. The prevalence of child welfare involvement among LGBTQ youth, YMSM, and YWSW engaged in survival sex is a question in need of further study; there are indicators that a significant portion of these youth have had such involvement. The authors of one New York City–based study found that 75 percent of sex trafficking survivors had prior child welfare involvement and/or foster care placement, and that 61 percent of female runaway and homeless youth reported having engaged in survival sex (Gragg et al. 2007).

This section of our report articulates recommendations for statutory and regulatory changes that would repurpose the law enforcement–based response to youth engaged in survival sex, and instead fully resource voluntary and low-threshold services that meet youths’ basic needs without the necessity of system involvement. This report’s recommendations should be read alongside the policy and practice

recommendations of *Surviving the Streets of New York*, which focused on the safety net of comprehensive services and safe and supportive housing options, gender-affirming health care, and living wage employment opportunities (Dank et al. 2015). Our earlier recommendations hold special relevance for child welfare stakeholders and youth-serving professionals, who should meet these minimum standards for youth placed in their care or receiving their services regardless of whether those services are court-mandated or voluntary.

End the Arrest-Based Response to Youth Engaged in Survival Sex, at the Federal, State, and Local Levels

Our findings detail the many abuses youth experience at the hands of the arrest-based response to youth engaged in survival sex. The violence they experience is not limited to the legal or social consequences of the arrest. Youth reported that many police encounters themselves were initiated because of profiling on the basis of actual or perceived race, sexuality, and gender nonconformity. Throughout the process of arrest, booking, and prearrest detention, many youth reported violence and abuse by police, including verbal harassment; physical assault such as beating, choking, and “rough rides”; sexual assault, including extortion of sex in exchange for release from custody and rape; denial of help when reporting a crime against the police; and destruction or theft of personal property.

In addition to physical injury, youth also identified police violence as leading to psychological injury including posttraumatic stress disorder. The health consequences of the arrest-first approach to these young people remain understudied, but negative outcomes are easy to infer. For instance, youth reported that condoms found during a stop, question, or frisk might be used as a justification for sustained questioning and even arrest for prostitution-related offenses. They linked this knowledge to the outcome of engaging in less safe sex practices.

One law enforcement stakeholder expressed frustration that officers were mandated to police survival sex behavior, when they did not have any ability to help with “basic survival needs . . . [We are] not in a social worker position.” There are obvious resource-based limitations to the efforts of local police departments to solve this contradiction. While local departments can and should engage in internal reform—such as NYPD Patrol Guide changes governing encounters with transgender and gender-nonconforming arrestees—as well as training and education initiatives to address the issues identified by this study (discussed in further detail below), it is clear that the impact of these efforts will remain limited without larger, structural reform.

There is an urgent need for a dramatic shift in federal policy to guide local law enforcement's approaches to these issues, specifically in the federal government's many grant incentives to states. These grant incentives have the power to influence states' statutory framework for youth offenders, as well as resource allocations to low-threshold and voluntary services. In a small step toward this goal, on May 21, 2015, President Obama signed the Stop Exploitation through Trafficking Act, giving preferential consideration for federal Community Oriented Policing Services grants to states that have enacted a safe harbor law.¹² Nonetheless, the bill in its current version ignores the warnings of antitrafficking advocates, such as the Freedom Network, that the legislation will criminalize victims by allowing states to mandate arrest and court involvement as a pathway to "services" (Freedom Network 2014).

Additionally, the Uniform Law Commission's Prevention of and Remedies for Human Trafficking Act strongly endorses immunity from prosecution for prostitution-related offenses in both criminal and juvenile delinquency proceedings and recommends the extension of immunity to other "nonviolent offenses" (National Conference of Commissioners on Uniform State Laws 2013). The Stop Exploitation through Trafficking Act enacts a narrow definition of which offenses qualify for the diversion remedy, leaving out "proxy" offenses commonly used to arrest and detain youth engaged in survival sex—such as loitering, criminal nuisance, trespassing, weapons charges, and false personation—where a youth could instead be charged with prostitution. This limitation is relevant in light of our finding of a high frequency of arrests for various quality-of-life and misdemeanor crimes that are not traditionally associated with prostitution offenses but involve survival needs, such as farebeating and petit larceny.

For these reasons, at a minimum, federal and state safe harbor legislation should be amended to adopt a ban on arrest and court proceedings for youth ages 17 and under arrested on all prostitution-related charges, including proxy and quality-of-life offenses. Though the federal government can create incentives for changes in state law, the ultimate responsibility for enacting these changes lies with state governments. As many as 24 states have adopted some form of safe harbor protection through the legislature or courts, but none provide youth engaged in survival sex with full immunity from arrest or prosecution for all prostitution-related charges, let alone proxy and survival offenses (Conner 2016).

In addition, no state has yet adopted a comprehensive affirmative defense for youth charged with felony-level prostitution or sex trafficking offenses that is based on the fact that they were engaged in the commercial sex trade as minors at the time the offense occurred (Conner 2016). For example, while Tennessee's safe harbor law has a robust immunity provision for simple prostitution, that provision does not extend to promoting prostitution, a class E felony,¹³ or aggravated prostitution, a class C felony that applies to a person knowingly living with HIV who engages in prostitution.¹⁴ A minor could easily be

charged with either of these offenses, particularly given the ways youth engaged in survival sex often share clients and resources to survive and stay safe. Similarly, Illinois's law applies only to offenses of simple prostitution; solicitation of a sexual act; and, in limited circumstances, promoting prostitution.¹⁵

The majority of states that have adopted safe harbor protections require arrest, booking, and prearrest detention before the detained person can bring a petition to divert the charge or raise an affirmative defense (Conner 2016). Even should the arrest petition be converted to a status-offense proceeding, there is wide divergence in state laws' treatment of status offenses, including preadjudication diversion, classification as dependency or delinquency cases, and widely variable dispositional outcomes (Coalition for Juvenile Justice 2014). Status offenders are routinely afforded lesser procedural due process than delinquent youth, including a lesser burden of proof, right to counsel, allocution standards, and privilege against self-incrimination (Coalition for Juvenile Justice 2014).

Our study's findings echo the recommendations of the Coalition for Juvenile Justice; specifically, the repeal of the Valid Court Order exception of the Juvenile Justice and Delinquency Prevention Act; elimination of the ability of a family member, school representative, or other stakeholder to petition status behaviors to the juvenile court; and adoption of the least restrictive placement options for status-offending youth (Coalition for Juvenile Justice 2014). Yet youth engaged in survival sex also present needs beyond those of status offenders in general, as status-offense proceedings against youth engaged in survival sex are more likely to be predicated on an arrest-based petition. For this reason, it is also important to prohibit arrest, temporary protective custody, and law enforcement and guardian-initiated petitions for status-offense proceedings based on engagement in survival sex. Moreover, our study demonstrates that in dependency, status-offense, and abuse or neglect proceedings, states should adopt equalization of procedural due process rights and limit or end involuntary treatment or institutional placement in staff-secure facilities.

These recommendations are intended to reduce the number of police encounters youth engaged in survival sex experience. However, one emergent prebooking diversion model, popularly known as *law enforcement-assisted diversion* (LEAD), based on a Seattle pilot program, is worth noting. LEAD allows law enforcement officers to redirect low-level offenders engaged in drug or prostitution activity to community-based services, instead of jail and prosecution (Beckett 2014). Detainees are given 30 minutes to decide whether they want to be arrested or referred to a program. If a person chooses the LEAD referral, the police contact the project lead at their partner organization. If the person does not complete the assessments or show up for his or her appointment, partner staff are required to report

the noncompletion to the police department immediately; the police must then make a determination as to whether to subject the person to rearrest (Beckett 2014; Nelson 2012).

Prebooking diversion programs have been criticized as coercive in that they act as an equivalent to custodial placement without the benefit of counsel or due process of law, under circumstances in which a detainee is impaired and there is no opportunity for a court to evaluate whether the arresting officer even had probable cause to stop, search, or arrest the person for the offense (Conner 2016).

Prostitution-diversion programs have also been criticized for the lack of empirical evidence that such programs help people who engage in trading sex or address the circumstances driving involvement in the commercial sex market. Participants report that court mandates interfere with treatment because the threat of reporting for noncompliance introduces an inappropriate influence in the therapeutic process and breaches confidentiality protocols (Quinn 2006; Wahab and Panichelli 2013).

The modification of the safe harbor approach to an “arrest-referral” and problem-solving court model should also be met with caution by legislators because the practice may increase criminalization of youth engaged in survival sex. In cities where drug courts have been implemented, a phenomenon known as “net widening” has occurred, in which police arrest more people and prosecutors file more charges to include more low-level offenders that would have otherwise been released (NACDL 2009). These courts have also been critiqued for removing the adversarial nature of judicial proceedings and lending the judge an unprecedented range of discretion (Drug Policy Alliance 2011). Problem-solving courts have also been charged with reinforcing systemic racial biases by excluding certain offenders based on prior convictions, and as a result of systemic differences in plea bargaining, charging, or sentencing practices (Huddleston and Marlowe 2011).

Resource Low-Threshold and Voluntary Services

The current arrest- and court-based approach to LGBTQ youth, YMSM, and YWSW engaged in survival sex effectively makes access to certain programs and services conditional on being arrested. This formula must be reversed. States have the responsibility to replace court-mandated programs requiring arrest for access to services by increasing appropriations for voluntary and low-threshold service programs that provide what youth engaged in survival sex have identified as their basic needs. Low-threshold programs make minimal demands on the client and provide counseling and other services only if requested. Crucial services, described in more detail in our earlier report *Surviving the Streets of New York*, include food security, supportive housing, lockers, showers, gender-affirming health care,

living-wage employment options, assistance with Temporary Assistance for Needy Families and Social Security benefits, and legal services to address the consequences of conviction.

In contrast to the fast-track passage of the Stop Exploitation through Trafficking Act discussed in the previous recommendation, legislation to meet the basic, material needs of youth engaged in survival sex has stalled in the Senate Judiciary Committee. On January 27, 2015, the Runaway and Homeless Youth and Trafficking Prevention Act was referred to the committee, but the committee has yet to take a vote as a result of some senators' opposition to a nondiscrimination clause that would guarantee that grant recipients could not discriminate against youth on the basis of gender identity or sexual orientation. This critical legislation would also expand the maximum stay in Basic Center Program shelters from 21 to 30 days and fund street-based services for runaway and homeless youth.

Design Law Enforcement Policies, Training, and Oversight and Accountability Measures to Improve Relationships with LGBTQ Youth, YMSM, and YWSW Engaged in Survival Sex and Decrease Police Misconduct

Although the City of New York has taken steps to strengthen relationships with the LGBTQ community, including establishing an LGBT advisory panel to the police commissioner, creating LGBTQ liaison positions within the agency, and adopting its June 12, 2012, changes to the NYPD Patrol Guide specific to transgender and gender nonconforming arrestees, these efforts have not been enough. Youths' experiences of police harassment and profiling highlight the importance of continuing these efforts to increase safety for LGBTQ youth. Twenty-three percent of youth who reported being profiled for engaging in the commercial sex market were profiled by law enforcement. Further, for the 17 youth who were arrested for a prostitution-related crime, over half were charged with prostitution (53 percent), 18 percent were charged with soliciting, 12 percent were charged with loitering, and 18 percent had no charges were formally filed.

When interacting with law enforcement, youth reported experiencing violence as a result of their perceived sexual orientation and gender identity. These included blatant violations of NYPD Patrol Guide policy specific to transgender and gender-nonconforming arrestees. Though the reforms were announced in June 12, 2012, before our interviews commenced, it is difficult to say whether the reported violations occurred before these reforms. Nonetheless, the youth experiences documented in

Locked In should spur increased monitoring and efforts of departmental implementation of the reforms. Youth reported conduct including impermissible and unconstitutional searches to assign gender based on anatomy; strip searches in public areas, including in front of other arrestees and multiple officers; restraint by handcuffs leading to bleeding and neuropathy and for excessive periods; refusal to refer to youth using appropriate names and pronouns; and disrespectful remarks about youths' gender identity, gender expression, or sexual orientation. Youth also reported police refusal to hold them in sex-segregated police facilities according to their gender identity, and those assigned to special category cells reported extensive delay in arraignment time and dangerous conditions of confinement including overcrowding, infestation, freezing temperatures, and denial of toilet access.

Against this backdrop, New York City law enforcement stakeholders exhibited bias despite the existence of official antidiscrimination policies. Some of these respondents portrayed youths' nonconforming sexual orientation or gender identity as inherently criminal. The offenses for which youth reported being arrested—ranging from assault (38 percent of those arrested) to disorderly conduct (19 percent of those arrested)—are also consistent with law enforcement respondents' characterization of LGBTQ youth as perpetrators of crime and of clients of LGBTQ youth, YMSM, and YWSW engaged in survival sex as “victims” of assaults and robberies by youth. These findings challenge the efficacy of law enforcement training in combating bias and abuse without larger, structural reforms.

It is crucial that police departments adopt policies to reduce or eliminate the incidence of misconduct affecting these young people. The President's Task Force on 21st Century Policing (2015) has recommended that law enforcement agencies establish search and seizure procedures related to LGBTQ and transgender populations and adopt the recommendation of the President's Advisory Council on HIV/AIDS to cease using possession of condoms as evidence of prostitution-related offenses. The President's Task Force also recommended that law enforcement agencies implement training for officers covering policies for interactions with the LGBTQ population, especially transgender and gender-nonconforming youth. Such training would include issues such as determining gender identity for arrest placement, and would also reinforce policies for prevention, tracking, and accountability for officer-involved sexual misconduct and harassment.

Create Transparency, Oversight, and Accountability in Law Enforcement Policies, Practices, and Operations Targeting Youth Engaged in Survival Sex

The federal government not only influences state law enforcement and detention policies and practices, but also plays a central role in state and local enforcement actions affecting youth engaged in survival sex. It influences enforcement actions through enforcement programs assisted by the Bureau of Justice Assistance and the Federal Bureau of Investigations, such as the Anti-Trafficking Task Force Initiative, Operation Cross Country, and Innocence Lost. In 2012, the Innocence Lost Initiative alone resulted in 547 child victims being identified or located, out of 1,769 arrests (DOJ 2013). Currently, no arrest data collected pursuant to federally assisted enforcement actions are released, let alone disaggregated by key demographic information such as arrest charge, age, or gender identity or sexual orientation. These data can easily be collected and released without identifying information that would compromise the safety or privacy of victims.

Given our study's high incidence of negative and even abusive police encounters among youth engaged in survival sex, it is especially critical that the Department of Justice exercise more oversight of federally assisted enforcement actions and increase transparency in operations and outcomes. The department must also develop clear protocols for classification and processing of people designated as *victims* of trafficking and those charged as *offenders*. For those designated as victims, arrests should be prohibited and safe, supportive, and unrestrictive shelter options must be provided regardless of cooperation with law enforcement or prosecutors.

It is advisable that federal, state, and local law enforcement agencies establish an independent ombudsperson or oversight program for enforcement actions. The program should be independent and not administered by the same agency that oversees the actions. It is also critical that these agencies create whistleblower policies and complaint procedures for victims of police misconduct to enhance prosecution and discipline of law enforcement officers engaging in misconduct.

End Secure Confinement and Institutional Placements of Youth Arrested on Prostitution-Related Charges

Several youth reported frequent commitment to secure or nonsecure facilities, and even incarceration as an adult, for offenses connected to their involvement in survival sex. There is an urgent need for

legislation and agency action to discourage the detention and institutional placement of youth engaged in survival sex.

Not only do these facilities expose young people to a risk of assault from their peers and facility staff; they also fail to address the basic, material needs of youth who turn to sex for survival. They also represent a first step into a prison pipeline. In many jurisdictions, the potential consequences for attempts to leave even limited-security or nonsecure facilities can be severe and escalating in nature: physical restraint by staff, contempt proceedings, restoration of criminal charges or delinquency proceedings, secure detention, and even the addition of misdemeanor and felony charges for attempted escape.

The federal government exerts an outsize influence on state juvenile justice policy, but has yet to use this influence to minimize the use and restrictive conditions of institutional placement for status offenders. Congress has repeatedly postponed reauthorization of the Juvenile Justice and Delinquency Prevention Act (S. 1169). On April 30, 2015, the reauthorization S. 1169 was introduced again and is now before the Senate Judiciary Committee. This important bill includes four requirements, including that state grant recipients not detain status offenders unless pursuant to a valid court order. The reauthorization bill would phase out the VCO exception over a period of three years; this change is estimated to place a large number of young people in secure detention for status offenses such as running away and truancy. Such status-offense charges are commonly applied to LGBTQ youth, YMSM, and YWSW engaged in survival sex.

Congressional intransigence has obscured the Department of Justice's failure to exert its discretionary power to adjust rules that might save youth from being placed in secure detention for status offenses. Should Congress fail to move on this important issue, the Code of Federal Regulations' definitions of status offender and nonoffender should be altered to include youth subjected to an arrest on prostitution-related charges, as consistent with the recently passed Stop Exploitation Through Trafficking Act.¹⁶

Limit Restrictive Conditions of Child Welfare Placements in Semisecure and Nonsecure Facilities for Youth Engaged in Survival Sex

Even if Congress reauthorizes the Juvenile Justice and Delinquency Prevention (JJDP) Act as discussed in the previous recommendation, there are several flaws to the law's framework with respect to nonsecure and semisecure placement standards for youth charged with prostitution-related offenses as status offenders or juvenile delinquents. The JJDP Act defines "secure detention" and "secure correctional" facilities as "any public or private residential facility which . . . includes construction fixtures designed to physically restrict the movements and activities of juveniles" held in the facility.¹⁷ Shortly after the JJDP Act's initial passage in 1974, advocates decried the use of so-called semisecure facilities, which are commonly used to confine status offenders and young people adjudicated as dependents or abused or neglected children. To prevent the "use of locked rooms or staff control from transforming "semi-secure" facilities . . . into secure facilities," advocates insisted that the Department of Justice adopt "a narrow legislative definition which prohibits the complete control by staff of entrances and exits to any facility in which status offenders are placed" (Costello and Worthington 1981).

Unfortunately, subsequent department regulations adopted the opposite interpretation, instead affirming that status offenders and nonoffenders can be held in so-called *staff-secure* facilities where any physical restriction of movement or activity is provided solely through staff.¹⁸ This exception to the deinstitutionalization requirement also applies to juveniles placed in runaway shelters "but prevented from leaving due to staff restricting access to exits."¹⁹

Youth in our study reported that their placements in group homes and other Administration for Children's Services congregate-care placements often "felt like jail" because of overcrowding, lack of privacy, and the inability to do everyday tasks like make phone calls and choose how to spend their time. The Department of Justice should therefore exercise its power to expand 28 CFR regulations beyond construction features designed to physically restrict movement. The department could extend these principles to curb surveillance and mobility restrictions in staff-secure placement and limit such restrictions to reasonable rules restricting entrance to, but not departure from, facilities.

In the context of youth engaged in survival sex in particular, nonsecure and semisecure facilities are frequently designed with even more restrictive policies than those faced by other youth, ostensibly to ensure distance from potential exploiters—whether or not the youth detained has an exploiter (Muslim

et al. 2009; Shared Hope 2009). The geographical isolation of “safe houses” to protect youth from assumed exploiters can be counterproductive and excessive for youth who have not experienced physical coercion and for whom local peer networks represent sources of care and validation (Rees 2009).

These facilities are also by and large not equipped to provide transition-related and gender-affirming care to transgender youth (Rees 2009). While the New York City Administration for Children’s Services has recently adopted policies to remedy this fact, at the federal level there is currently no requirement that programs create safe and supportive housing and placement protocols specific to transgender and gender-nonconforming youth in these custodial settings. The Department of Justice should issue regulations to require the accommodation of youths’ gender identity, sexual orientation, and preferences in regard to gender-based detention and institutional placements,

Guarantee Quality of Care and Periodic Review of Secure Confinement and Out-of-Home Placements

Youth reported that foster parents and congregate-care staff were often restrictive, cruel or abusive. Youth also reported inappropriate placement decisions by the Administration for Children’s Services, and a lack of accountability and oversight of both congregate-care and family-based placements. Youth described the child welfare system as ineffective at meeting their needs, citing such examples as late payments to foster parents and failure to support youth “aging out” of the foster care system.

When youth are adjudicated to state custody in whatever form, they must be guaranteed quality of care and periodic review of their placement in secure confinement or child welfare facilities (Conner, Mago, and Middleton-Lee 2014). State child protection and juvenile justice agencies must establish an independent ombudsperson or similar oversight program, which is not administered by the same agency that oversees the institutions, for all placements, particularly those in secure, limited-security, and nonsecure facilities. The American Bar Association has advanced useful guidance concerning the establishment of comprehensive oversight plans that include monitoring by independent and public entities and enumerate key requirements for effective monitoring. These guidelines emphasize a monitoring body’s independence, transparency, regular and thorough inspection and reporting on all aspects of a facility’s operations and conditions (both scheduled and unscheduled), and an annual public accounting of the body’s findings (ABA 2008).

Ensure That Youth Engaged in Survival Sex Meaningfully Participate in the Policies and Programs that Affect Their Lives

In the past few years, several federal agencies have developed portfolios to address human trafficking. These agencies are increasingly encouraged to convene advisory committees to inform their operations, but often with little to no resourcing for survivors to participate in oversight. For example, the Department of Health and Human Services is in the process of establishing a National Advisory Committee on the Sex Trafficking of Children and Youth in the United States to inform the secretary of health and human services and the US attorney general.²⁰ However only one member of the 21-person committee is mandated by law to be a former victim of sex trafficking.²¹ It is essential to the success of such initiatives that membership includes several survivors and youth engaged in survival sex.

Create Noncustodial Alternatives for Youth outside the Juvenile Justice and Child Welfare Systems

Some youth reported great frustration that ACS custody and living on the streets are the only options for those under 16 years old leaving abusive home environments. This conflict originates in the New York City-based policy that youth shelters may only serve people age 16 and above, and that youth under the age of 16 must be brought into ACS custody.

Some youth reported lying to youth shelters to gain access as an alternative to court involvement, but then being returned to the custody of an abusive family upon discovery. Others reported that they instead chose to become homeless on the streets or endure abuse at, counting down the days until they could enroll in a youth shelter program.

Create Safe and Supportive Protocols Specific to LGBTQ Youth Engaged in Survival Sex for Child Welfare, Court System, and Probation Personnel

Our study participants reported problematic encounters not just with law enforcement, but also through court involvement in child welfare and probation systems. State and local child protection

agencies, court systems, and probation departments should adopt policies, practices, and training that address the needs and protect the rights of LGBTQ youth engaged in survival sex.

While youth perceptions of the court system, including criminal court and family court, were somewhat less negative than their perceptions of law enforcement, youth also reported that judges, prosecutors, and court officers refused to refer to them by names and pronouns that reflected their gender identity and made disrespectful remarks about their gender identity, gender expression, or sexual orientation. Most youth who disclosed their child welfare involvement reported negative experiences, which they often mentioned as justifications for running away from placements. Some youth described their foster home or group home placements as unsafe, overcrowded, and highly restrictive.

Nearly a decade ago, the Child Welfare League of America recognized as best practice the adoption and dissemination of a written nondiscrimination, grievance, and antiharassment policy prohibiting discrimination based on sexual orientation and gender identity (Lambda Legal et al. 2009; Wilber et al. 2006). It is critical that state and local child protection agencies, court systems, and probation departments train personnel in competency with LGBTQ youth, establish sound recruitment and hiring practices, collect and evaluate data, and monitor personnel in charge of institutionalized children and those who come in contact with them (Conner, Mago, and Middleton-Lee 2014; Lambda Legal et al. 2009). These agencies should establish an independent ombudsperson or similar oversight program that is not administered by the same agency that oversees the institution.

Shortly before our study's publication, the New York City Department of Probation released an LGBTQI antidiscrimination policy that may serve as a useful model (NYC DOP 2015). The policy requires that Department of Probation staff respect clients' preferred name and pronouns; make disclosure of sexual orientation and gender identity voluntary; maintain confidentiality, including with respect to clients' families; assess and address family issues for clients when framing interventions; and affirm and support clients who wear clothing and/or groom themselves in a manner consistent with their gender identity or expression (NYC DOP 2015). The policy also requires searches be conducted by a probation officer of the same gender as the gender identity of the client, and it prohibits searches for the purpose of determining gender (NYC DOP 2015). The policy requires requiring training with respect to department guidelines, and also requires the reporting of harassment and discrimination by Department of Probation staff (NYC DOP 2015). Finally, it states that personnel must provide LGBTQI resources to all clients and families and make clients aware of available services from affirming outside service providers (NYC DOP 2015).

Probation and Child Welfare Agencies Should Adopt Safe and Supportive Housing and Classification Protocols for Transgender and Gender-Nonconforming Youth

Social service programs and court-mandated placements in jail or residential facilities were primary sites for the incidents of violence reported in this study. In particular, transgender youth in our study frequently shared anecdotes about being forced into spaces that were incongruent with their gender identity. In congregate care such as group homes, shelters, and residential treatment, it is especially necessary to create safe space for transgender and gender-nonconforming youth. Staff must appropriately address LGBTQ identity during the intake process and ensure that LGBTQ youth are not discriminated against in such determinations (Lambda Legal et al. 2009; Wilber et al. 2006). In making housing or classification decisions, personnel must not isolate or segregate LGBTQ youth from other participants. They must not automatically place youth based on their assigned sex at birth, but rather in accordance with an individualized assessment that takes into account their safety, gender identity, and preference (Lambda Legal et al. 2009; Wilber et al. 2006).

Proactive steps should be taken to accommodate transgender youth, including (1) arranging for youth to sleep in a private area if they do not feel comfortable in a male or female dormitory or room, (2) offering private rooms to all youth, and (3) establishing policy specifying that youth are to be assigned to dormitories based on their gender identification or offered the option of a private room if safety is a concern (Burwick et al. 2014).

Create Safe and Confidential Monitoring, Reporting, and Youth-Initiated Complaint Protocols for Violations of LGBTQ Antidiscrimination Policies

Overall, child welfare stakeholders—including ACS representatives and service providers with experience with youth in the agency's care—identified ACS policy as affirming but reported that implementation was lacking. ACS policy requires its placement and detention personnel—including foster parents, group home staff, correctional personnel, and personnel in other contracted services working with youth in care—to respect preferred pronouns; provide gender-appropriate placement, clothing, and sanitary devices; and maintain confidentiality of youths' gender identity and sexual orientation (ACS 2012).

Most service providers recognized ACS' efforts at reform, although they noted its glacial pace and its largely reactive adoption of these policies as a result of litigation. These respondents also identified significant areas for further improvement. In particular, providers described a need for training, education, and discipline for ACS personnel who violate policy. Service providers also noted a need to fill structural gaps, including the lack of placements with affirming policies toward LGBTQ youth and the great reluctance of child protective services to intervene in abuse or neglect of older LGBTQ adolescents.

Some youth singled out family court as a site of violence and criminalization. Youth noted that survival behaviors, such as engaging in survival sex, resulted in arrests or detention on criminal charges before family court judges. Judges also reportedly referred youth back to abusive home environments, including in cases where youth had identified family rejection and abuse based on sexual orientation and gender identity. For this reason, local court rules or state judicial ethical rules should be established and enforced with respect to anti-LGBTQ discrimination by court personnel.

Minimize Consequences of Noncompliance with Court Mandates

Where state and local child protection agencies, court systems, and probation departments operate under a state framework that encourages diversion programs predicated on arrest and court involvement, these agencies bear a special obligation to minimize the harm experienced by youth engaged in survival sex. These agencies should mandate that diversion programs develop case-by-case service plans collaboratively with youth, relying on the basic needs identified by youth, and with minimal probation or program conditions. Youth should be meaningfully involved in creating a service plan that is helpful, reasonable, and tailored to their specific needs. Our previous report in this series, *Surviving the Street of New York*, identified various basic service needs, including food; supportive housing; lockers; showers; gender-affirming health care; baby care items such as diapers, formula, and clothing; living-wage employment options; assistance with Temporary Assistance for Needy Families and Social Security benefits; and legal services to address collateral consequences of conviction.

Probation agencies, court personnel, and service providers that accept court referrals also bear a responsibility for minimizing warrant issuance, reinstatement of charges, and incarceration for youths' failure to comply. Such reductions can be accomplished by requiring fewer, if any, court appearances for monitoring compliance, providing advance transportation fare for court appearances and program

meetings, establishing grace periods for noncompliance, and providing an affirmative defense for noncompliance, based on extenuating circumstances.

In particular it is important to weigh a young person's noncompliance with designated services against the appropriateness of those services based on the youth's gender identity and sexual orientation. Given our study's findings with regard to the general lack of available affirming services for youth, the New York City Department of Probation LGBTQI antidiscrimination policy discussed above and other similar policies should be amended to account for such considerations (NYC DOP 2015).

How These Agencies Can Be Improved According to Young People

The above policy and practice recommendations reflect what the research team considers the most urgent and necessary changes based on the study findings. However, one of the questions we asked the study participants was how they thought these agencies (law enforcement, courts, and child welfare) could be improved. Below are some of the recommendations suggested by the youth, in their own voices. We believe their recommendations speak for themselves and do not require additional analysis or context.

Don't Judge Us, Listen to Us

Listen, use your ears that is it. They don't know what anyone goes through . . . at all. And a lot of the youth have trust issues. You just have to listen; they have trust issues. You come from a broken home . . . and what I want is somebody to hear me out. (Respondent 9, 18 years old, black, bisexual, male)

Don't judge us. We're human. We have feelings. We are not perfect. We may have attitudes and all that, but as a professional, you should be able to understand that and see well, this person may not be heard. But, you know, I'm going to be able to deal with that individual, 'cause that's my job. I'm not gonna just like take that one incident and, you know, like have it affect my job and me working with this person when I'm here just to help. (Respondent 126, 19 years old, Puerto Rican, bisexual, female)

If they wouldn't judge so much before they react or anything. Sometimes you can make other people react by your reaction. If your reaction is crazy, then the other person might lose self-control. Just remain calm in all situations and don't judge based on people. (Respondent 127, 18 years old, Uzbeki, gay, female)

You know they can actually listen to people when they have something to say instead of, you know, cutting them [off] halfway, which is what they do often. Stopping people in the middle of the street and searching them, just because they have condoms on them doesn't mean that they are prostituting themselves or they are trading sex for money. I mean my mum carries condoms in her purse and she's 46 years old and she's married. But I don't see them stopping her. (Respondent 146, 18 years old, European, bisexual, female)

Stop thinking niggas is guilty all the time. Listen to the person. Stop putting your emotion into your job because every time you put your emotion into your job, you put someone else's life in jeopardy. (Respondent 591, 19 years old, multiracial, bisexual, male)

Improve Screening for Police Officer Recruitment and Hiring

I think they need better training . . . or like they have a test for you to get in, but I think they need to have another test to see if they understand what's going on. Because it seems like they did the training, they did the test, they passed it and that's it. And they got their little badge and they think they 'Captain Save a Whore'. But to me I think they need to take a test, do the training, take another test to make sure they understand and comprehend what's going on and what they should and should not be doing and what is right and wrong. (Respondent 5044, 18 years old, multiracial, queer, female)

They shouldn't hire cops unless they have the right temperament for the job. And as for the court system, I think that they should make a law, stating that they will give them an option to go to counseling, therapy, rather than just throw them in jail. Or maybe give them services in jail or prison you know. (Respondent 5066, 20 years old, white, bisexual, female)

They have to first of all they have to stop being hypocrites, they have to actually want to help and stop trying just make their quotas every first and end of the month. They have to actually investigate things. (Respondent 5015, 21 years old, black, bisexual, male)

They could be more strict on the kinds of characters they allow to become police officers, because any poor crooked person hateful person nowadays can get a badge. And it makes them an officer of the law. They could be more stricter on their entrance policies, on their qualifications to be a police officer, and be more strict on character. (Respondent 334, 20 years old, multiracial, gay, male)

Require LGBTQ Sensitivity and Cultural Competency Training

I think if they made police understand that there are gay communities out there . . . I know a lot of gay police, but if they [the gay police] were to be more known to our community, especially the youth, they'll probably interact with us more. Not, you know, oh you're just a little faggot type of shit. I've been called a faggot plenty of times by police in [place in Manhattan] and stuff like that. I'm like, 'Hold on, you know, am I talking to offend you or something? What's going on? Don't call me a faggot based on people I'm around, you know what I'm saying. That's like me calling you a pig because you are in blue.' What I'm saying is, if I'm having respect for you, respect others. If all the agencies were like an umbrella, then incorporate LGBT into NYPD and I think we'll get somewhere. (Respondent 196, 20 years old, Puerto Rican and black, open, male)

The police need LGBTQ sensitivity workshops. That's what they need. That should be a requirement. There shouldn't be cops that don't know how to deal with them [the LGBTQ community]. I've heard a couple of friends that said they've been abused by cops because of their sexuality. They just need to understand that we are still human beings. We are not animals, we are not faggots, we are nothing but human beings. So I think that's what they need to do. (Respondent 262, 19 years old, multiracial, bisexual, male)

Improve Police Response Time and Assistance

Response time could be improved because there have been situations where I've called for an ambulance and we had to call again for an ambulance for someone having a seizure in a park. They could take up to an hour to two hours to actually come and it's just really ridiculous. It's really lame. (Respondent 147, 19 years old, German and Cherokee, bisexual, male)

Interviewee: Some of them don't want to be police officers; they just do the job to make money. A lot of them don't have that helping heart in people because I used to go up there and try to get them to take me to my mother's to get my clothes and stuff. They had an attitude, like they only going to do it once: 'Oh she's not here so you got to come back another day.' And they took forever to come to the house one time; I was calling them so I can try to get clothes or whatever. They are just so slow; they need a better system of who's going to help people with this . . .

Interviewer: What about the court system, do [you] feel particularly like what you're experiencing now in the family court do you feel like they could be a little bit more open-minded or a little bit more helpful?

Interviewee: They should be more helpful and open-minded because they are looking at one side of the story and of course they are going to listen to the adult more as a solution. Because at the end of the day that persons older and everything. But they not listening. They did not listen to the young person who is actually going through the situation. (Respondent 1012, 18 years old, Jamaican, lesbian, female)

Repeal Laws around Quality-of-Life Crimes and Misdemeanors Associated with Being Homeless

As far as the sleeping on the train, you should not get a ticket for that because there are a lot of kids out here homeless and their only option is to go and sleep on the train or sleep on the subway or whatever, you know. Why would you give somebody a ticket? I would understand if you gave me a ticket for taking up the extra seat and there are people standing up on the train and everybody else is sitting down and taking up all the other seats. I will understand you giving me a ticket [for that], but for you to give me a ticket late in the night when there's only five people on the train and there is 50 seats and nobody is standing up? That's redundant because you are giving me a ticket for nothing. It's not like I'm keeping somebody from sitting down. Everybody has a seat and there is plenty more seats if they want to lay down, so where is the problem? That's shelter from the outside or if it rains. You have no place to go if there are no shelters [available]. (Respondent 221, 19 years old, black, heterosexual, transgender female)

Interviewee: Because shoplifting is on my record, like that's something serious. And that goes into jobs and stuff like that. If [the courts] could say okay, it was under these circumstances, this person cannot provide for themselves properly, listen, let's give her a dismissal, or something like that. Don't put that on my record. That's going to hurt in the long run and it's mistakes that we make when we young, you know what I'm saying?

Interviewer: Do you feel like that's the charge that really hurt you the most—the shoplifting charge?

Interviewee: Yeah, even the drug charges wasn't as bad. I have been arrested for cocaine possession at one point and even that doesn't like you know . . . okay you have a habit and you

can fix that, as far as what you do to your body, but when you take from other people, it's like she's is going to take from me. Nobody wants to let you behind the register in a store. (Respondent 341, 21 years old, Jamaican, lesbian, female)

I understand that there are laws and there are people who don't always try to follow the laws. But when somebody is trying and you can see that it's a need, they just need to have some humanity. If you must arrest me for panhandling then understand that I didn't eat in three days. If something is against the law then it's against the law, but you know, if it's a victimless crime then ... (Respondent 470, 20 years old, multiracial, pansexual, female)

I feel like if cops gave more people warnings, it would kind of help out the system, instead of always arresting people or putting them in central bookings or giving them tickets for things that sometimes may not even be in their control. (Respondent 531, 19 years old, black, gay, male)

It can be improved if we actually try to focus on more on the people who try to eff up people's lives like the cocaine dealers and like people who are actually out there and really trafficking human bodies. Instead of actually taking down a 16-year-old boy for having like two bags of weed in his pocket and bringing him through the system. You are wasting more money doing that. (Respondent 654, 22 years old, multiracial, bisexual, male)

They sometime they charge you and they send you away for no reason. It's a little charge and maybe they should put people in programs or stuff sometimes, to try to help somebody instead of locking them up all the time. Because maybe somebody just needs somebody to talk to and not to be put behind the jail cell every time, people just need help. (Respondent 5305, 20 years old, black, lesbian, female)

Repeal Prostitution Laws

They need to stop locking up people for petty things. I mean, I think if they do catch somebody, whatever the case may be, I feel like you should get a better understanding of that person before you actually judge that person on what he does, and how much time you give him. I feel if you find out that this person is homeless, help him. Find a place instead of locking him up because he is selling his ass. That's how I feel about the situation. (Respondent 456, 19 years old, black, heterosexual, male)

Like I really don't think prostitution is a big deal because that's how some people have to make their money because otherwise people will resort to stealing and all that stuff. Leave prostitutes alone. (Respondent 5104, 20 years old, Indian, bisexual, transgender female)

Interviewee: They need to keep more watch so you know people don't have situations like I have.

Interviewer: You mean like being 12 or 13 years old being charged with prostitution?

Interviewee: When I had got arrested that was before the Safe Harbor Act was passed, so it's like they are prosecuting me like I'm a criminal. You don't even know my circumstances, my situation, instead of trying to help me you guys are trying to make me out to be a criminal. (Respondent 450, 17 years old, black, bisexual, female)

Glossary

It is important to address and define the terms we use throughout this report. Some of the terms we chose to use reflect the word choices of the young people we interviewed, and describe their behaviors and experiences as opposed to labeling them based on these behaviors and experiences.

Ball scene/house culture: A community consisting primarily of black and Latino/a LGBTQ people organized around anchoring family-like structures, called houses, and competitive balls. Led by house mothers and fathers, houses function as families whose main purpose is to organize the balls and to provide support for their children to compete in balls and survive in society as marginalized members of their communities of origin. Houses offer their children multiple forms of social support, a network of friends, and a social setting that allows free gender and sexual expression. Ultimately, houses within the ballroom community constitute figurative, and sometimes literal, “homes” for the diverse range of members involved in them (Arnold and Bailey 2009).

Cisgender: Individuals whose experiences of their gender match the sex they were assigned at birth.

Detention: Temporary custody of a juvenile before trial in a secure confinement facility. Detention is imposed after a judge determines that a youth must remain in custody before a delinquency proceeding for his or her own protection or the protection of society, or to ensure his or her appearance at the proceeding (Juvenile Law Center 2015).

Disposition: Definite action taken or treatment plan decided on or initiated regarding a particular case after a judicial decision is made. In the juvenile delinquency context, a disposition may include transfer to criminal court, placement in a residential facility for delinquents or other out-of-home care, probation or supervision, or dismissal (including dismissal with no further action anticipated). A disposition may also include other actions such as fines, restitution and community service, or referrals outside the court for services with minimal or no further court involvement anticipated (OJJDP 2015).

Diversion: A system of procedures and programs designed to channel certain youth away from the formal juvenile court process. States and localities have created various ways for first-time offenders, nonviolent offenders, and youth whose delinquent behavior stems from mental health or substance abuse needs to receive appropriate treatment and services from community-based programs (Juvenile Law Center 2015).

Dual system/crossover youth: Youth who are involved in both the child welfare and juvenile justice systems, also known as crossover youth, joint cases, dual-system served, or multisystem-involved youth (HHS 2015).

Exploiter: An individual who uses tactics involving force, fraud, and coercion to control a young person's involvement in the commercial sex market.

Foster care: A service for children who cannot live with their custodial parent(s) or guardian(s) for some period of time. Children in foster care may live with relatives, unrelated foster parents, or families who plan to adopt them. The term also includes nonfamilial placement settings including group homes, residential care facilities, and supervised independent living (HHS 2015).

Gay family: An alternative familial network of LGBTQ people that may act as an alternative to the family of origin from which many LGBTQ people, particularly youth, have been excluded. The term may also be used to refer to drag houses in the ball scene.

Gender expression: The aspects of behavior and outward presentation that may (intentionally or unintentionally) communicate gender to others in a given culture or society. These aspects include clothing, body language, speech, hairstyles, socialization, interests, and presence in gendered spaces (e.g., restrooms, places of worship, etc.), among others. A person's gender expression may vary from the gender norms traditionally associated with the person's sex assigned at birth. Gender expression is separate from gender identity and sexual orientation (Perry and Green 2014).

Gender nonconforming: People who have or are perceived to have gender characteristics or behaviors that do not conform to traditional or societal expectations. Gender nonconforming people may or may not identify as transgender. While gender nonconforming people are often assumed to be lesbian, gay, or bisexual, sexual orientation cannot be determined by a person's appearance or degree of gender conformity (Perry and Green 2014).

Group home: Residence intended to meet the needs of children who are unable to live in a family setting and do not need a more intensive residential service. Homes normally house 4 to 12 children. Desired outcomes of group home programs include full incorporation of the child into the community, return of the child to his or her family or other permanent family, and the child's acquisition of skills needed for independent living (HHS 2015).

Independent living program: A program that provides older children and eligible youth in out-of-home care with independent living services to help prepare them for self-sufficiency in adulthood. Youth can receive these services while they are living in any type of out-of-home care placement (such

as kinship care, family foster care, or residential or group care). Youth receiving independent living services can be working toward achieving permanency goals (such as reunification, adoption, or guardianship), or they may be heading toward emancipation from (aging out of) foster care to adulthood on their own. Independent living services generally include assistance with money management skills, educational assistance, household management skills, employment preparation, and other services (HHS 2015).

Out-of-home care: An array of services, including family foster care, kinship care, and residential group care provided for youth who have been placed in the custody of the state and who must reside temporarily away from their families, usually under the jurisdiction of juvenile or family court (Casey Family Programs 2007; HHS 2015).

Peer facilitator: A peer, who may or may not be engaged in survival sex, who provides nonexploitative support to someone engaging in survival sex, such that the person engaging in survival sex does not have limited mobility; decides what they do and what they trade sex for; and is not subject to force, fraud, or coercion.

Placement status: The categorization of youth held in facilities. *Committed* youth are juveniles in placement in a facility as part of a court-ordered disposition, including those whose cases have been adjudicated and disposed in juvenile court and those who have been convicted and sentenced in criminal court. *Detained* youth are juveniles being held while awaiting an adjudication hearing in juvenile court, as well as those held after adjudication while awaiting disposition or placement elsewhere. Detained youth also include juveniles awaiting transfer to adult criminal court and those awaiting a hearing or trial in adult criminal court. *Diversion* includes juveniles sent to the facility in lieu of adjudication as part of a diversion agreement (OJJDP 2015).

Sexual orientation: Whom a person is physically and emotionally attracted to. Sexual orientation is distinct from gender identity; transgender people may identify as heterosexual, bisexual, gay, lesbian, or any other sexual orientation.

Transgender: People whose gender identity (internal sense of being female, male, or another gender) is incongruent with their sex assigned at birth (physical body). Transgender is also used as an umbrella term to refer to communities of people that include all whose gender identity or gender expression do not match society's expectations of how they should behave in relation to their gender (e.g., transsexual, transgender, genderqueer, gender nonconforming, and other people whose gender expressions vary from traditional gender norms) (Perry and Green 2014).

Young men who have sex with men (YMSM): Young men who may identify as heterosexual but have sex with members of the same sex, often in exchange for money and/or material goods.

Young women who have sex with women (YWSW): Young women who may identify as heterosexual but have sex with members of the same sex, often in exchange for money and/or material goods.

Youth engaged in survival sex: The terms “youth engaged in survival sex” and “youth who exchange sex for money and/or material goods (e.g., shelter, food, and drugs)” are used here to reflect young people’s experiences of involvement in the commercial sex market in their own terms. These terms describe a behavior as opposed to labeling the youth themselves.

Notes

1. NY Crim. Proc. Law §170.80(1).
2. Ultimately, over 700 variables of quantitative data and over 200 variables of qualitative quotes were extracted from the youth interviews. Quantitative data were transferred to and analyzed in the SPSS statistical software program. Qualitative data were examined thoroughly and individually using Microsoft Word; quotations were codified into a series of different themes so that relevant quotes could be easily identified for inclusion in this and other study deliverables. Quantitative analyses were primarily descriptive (e.g., frequencies, means, proportions), but also consisted of chi-squared cross-tabulations and *t*-tests to identify significant differences based on participants' gender, sexual orientation, race, and LGBTQ versus YMSM/YWSW status. Qualitative data for both the youth and stakeholder interviews were analyzed separately, as described above, and the two types of information were subsequently integrated to present findings.
3. The End Criminalization of Condoms Act, S.B. 5638, A.B. 7671, 238th Leg. (N.Y. 2015).
4. The highest number of arrests reported was 75, but the median number was 2.
5. Given that the focus of this study was on youth who were engaged in trading sex for money and/or material goods, researchers only asked youth who had been arrested on prostitution-related charges for further information about court processing and sentencing.
6. Under New York law, prostitution is a class B misdemeanor, which carries a maximum of three months in jail and not more than \$500 in fines. The offense of loitering for the purposes of prostitution is a violation upon a first offense, which carries a maximum of 15 days of jail time. However, if the person charged for the loitering offense has a previous conviction for prostitution or loitering for the purposes of prostitution, the punishment is upgraded to a class B misdemeanor.
7. Percentages are based on valid responses; 37 youth with missing responses are excluded.
8. New York is one of two states in the nation—the other being North Carolina—that prosecutes all 16- and 17 year-olds in adult criminal court regardless of the offense. Nearly 50,000 16- and 17-year-olds are arrested and face the possibility of prosecution as adults in criminal court each year; the vast majority for minor crimes (75.3 percent are misdemeanors). See *Criminal Justice Case Processing of 16-17 Year Olds*, prepared by DCJS OJRP, January 4, 2013. Despite Governor Cuomo's public commitment during the most recent legislative session to pass the Raise the Age Act, the 2015 session closed without passage of the legislation. Upon failure to reach an agreement, the governor announced that he planned to instruct the State Department of Correction to transfer 16- and 17-year-olds out of state prison facilities to alternative facilities.
9. Since data were collected for this study (2012–13), ACS has made great strides in addressing the needs of LGBTQ youth, including those engaged in survival sex. For more information on its policies and action plan, please see *Promoting a Safe & Respectful Environment for LGBTQ Youth & their Families Involved in the Child Welfare, Detention & Juvenile Justice System*, by the New York City Administration for Children's Services.
10. Youths' self-reports as to being profiled despite officers claiming they fit a description are supported by evidence presented in the *Floyd* trial, in which Judge Sheindlin of the Southern District of New York ruled that New York City's use of stop, question, and frisk violated the Fourth Amendment through a pattern and practice of unreasonable searches and systematically conducting stops and frisks in a racially discriminatory manner in violation of the Fourteenth Amendment. The court found that in cases where police documented on UF 250 forms that a suspect "Fits Description," there was often no actual and ongoing investigation, or the area was so broad as to be meaningless, or the description so vague as to be meaningless (*Floyd v. City of New York et al.*, 959 F. Supp. 2d 540 (S.D.N.Y. 2013)).
11. Memorandum in Support of Legislation, N.Y. Bill Jacket, 2008 A.B. 5258-B, ch. 569.
12. Congress.gov, *S.178 - Justice for Victims of Trafficking Act of 2015 114th Congress (2015-2016)*, <https://www.congress.gov/bill/114th-congress/senate-bill/178/actions>.
13. *Ibid.*, § 39–13–515.

14. Tenn. Code Ann. § 39-13-516.
15. 720 Ill. Comp. Stat. Ann. §§ 5/11-14(d), 5/11-14.1(c) & 5/11-14.3(a)(2)(C).
16. 28 C.F.R. s. 31.304(h)-(i).
17. 42 U.S.C.A. § 5603(12)-(13).
18. OJJDP, *Guidance Manual for Monitoring Facilities under the JJDP of 2002*, p. 52-53. The term *residential facility* pertains to "facilities with the structural and operational capacity to securely detain individuals overnight, and may include sleeping, shower and toilet, and day room areas" (Final Revision of the Existing Formula Grants Regulation, 61 Fed. Reg. 65,132 [Dec. 10, 1996]).
19. *Ibid.*, p. 52.
20. 42 U.S.C.A. § 1314b.
21. *Ibid.* § 1314b(c)(2).

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