

THE  
**EQUITY**  
PROJECT

Ensuring Equity for LGBT Youth in  
Detention

JDAI Intersite Conference  
November 29, 2006

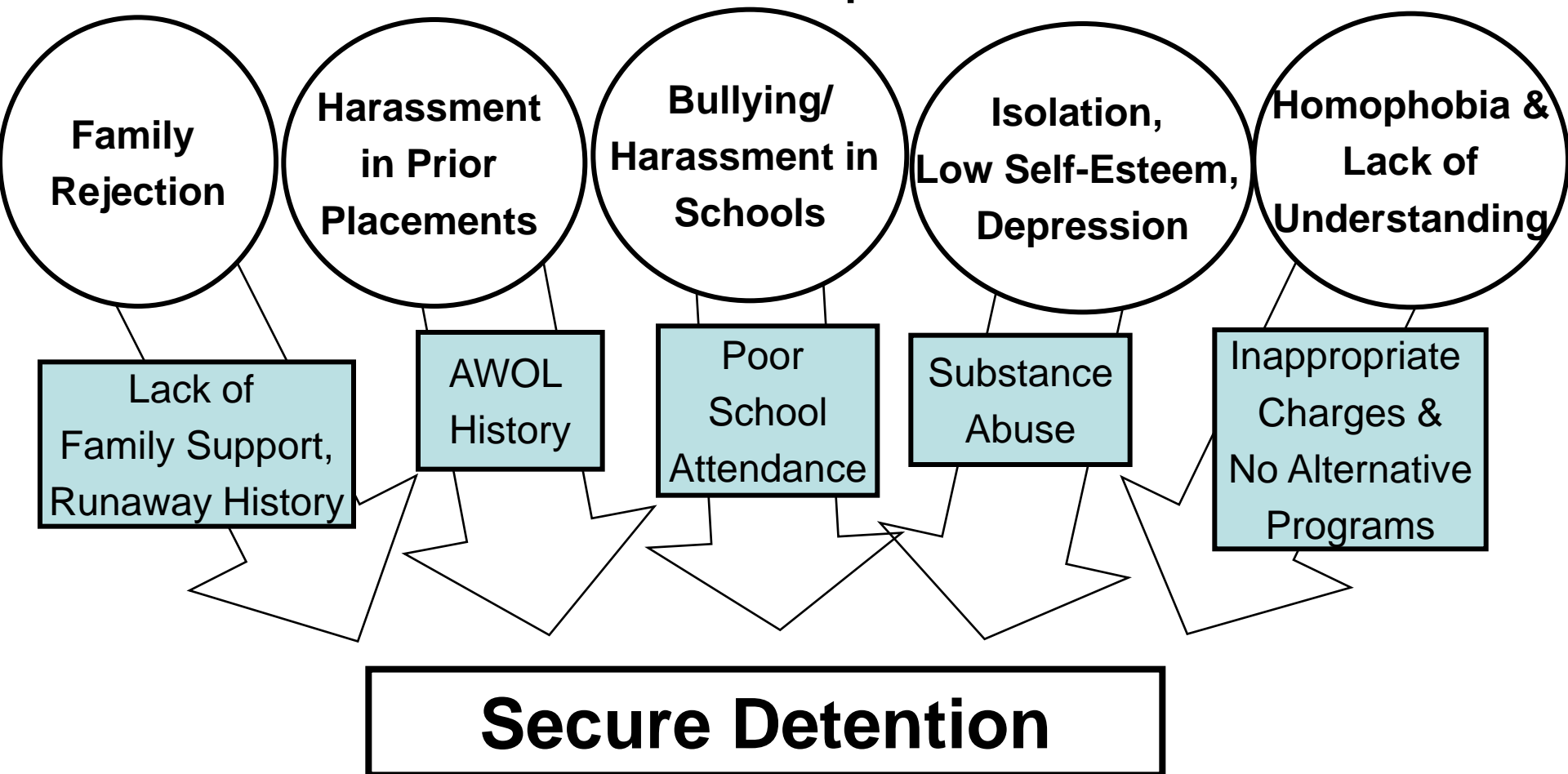


ensuring fairness & respect for LGBT youth in the justice system

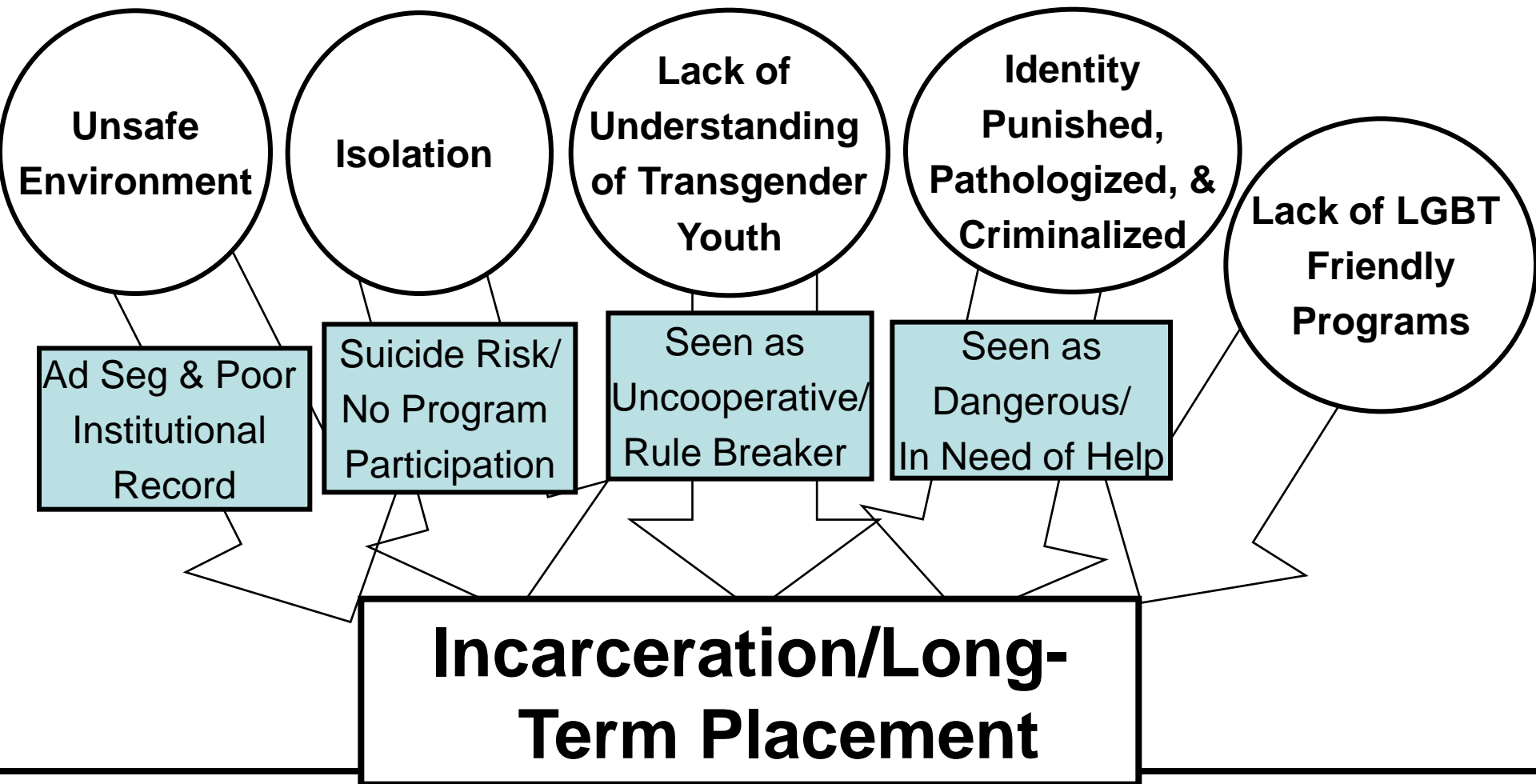
# Workshop Overview

- Experiences of LGBT Youth in Court
- Experiences of LGBT Youth in Detention
- Projects addressing overuse of detention and mistreatment of LGBT youth
- Legal Responsibilities
- Application to JDAI Work
  - Specific site examples
  - JDAI Assessment & LGBT youth
- What can you do
  - Ideas for implementation & addressing challenges

# Cumulative Disadvantages of LGBT Youth in the JJ System: Common Experiences in Court



# Cumulative Disadvantages of LGBT Youth in the JJ System: Common Experiences in Detention



# Breaking the Silence

- Remy
  - What worked for Remy?
- Kevin
  - What worked for Kevin?

# Equity Project Goals

- To ensure that LGBT youth in the juvenile delinquency courts are treated with dignity, respect and fairness
- Understand factors that factor into entrance to juvenile delinquency system
- Decrease overrepresentation in secure settings
- Ensure general reform efforts improve systems for all youth

# Project Approach

- Partnership
- Advisory Group
- Conferences
- Website

# Core Project Activities

The Equity Project looks at issues that impact LGBT youth during the entire delinquency process, ranging from arrest through post-disposition. Project activities will include:

- Gathering information from stakeholders about LGBT youth in delinquency courts
- Identifying obstacles to fair treatment
- Reporting findings
- Crafting recommendations for juvenile justice professionals
- Education

# Model Standards Project

- Conditions of confinement
- Develop standards regarding the care of LGBT youth
- Step-by-step outline for systemic change
- CWLA Best Practice Guidelines: Serving LGBT Youth in Out-of-Home Care

# Relevant Law: LGBT Youth in Detention

- Recent Litigation
- State Laws
- Due Process and Constitutional Protections

# RG v. Koller

- Federal court case alleging due process and other constitutional violations
- Names director of agency, director of facility and several individual staff members
- Requests injunction, monetary damages and punitive damages
- Court granted preliminary injunction and found constitutional violations
- Case settled for \$625,000 and policy changes

# Additional Recent Litigation

- Doe v. Bell
- Rodriguez
- Mariah L.

# Right to Safety

- Right to “reasonably safe conditions of confinement” and “freedom from punishment”
  - Physical and emotional safety
  - Adequate food, shelter, and clothing
- Professional judgment standard

# Best Practices: Safety

- Address climate of harassment
  - Institutional Change
- Universal precautions: grievance policy, training, adequate staff, youth-staff interaction, supervision, program and prompt intervention
- Do not rely on housing decision alone

# Right Not To Be Isolated

“Consistently placing juvenile wards in isolation, not to impose discipline for violating rules, but simply to separate LGBT wards from their abusers, cannot be viewed in any reasonable light as advancing a legitimate non-punitive governmental objective.”

R.G. v. Koller (2006)

# Rights Related to Classification

- Appropriate classification system

“Defendants' failure to classify wards and practice of placing aggressive youth with vulnerable youth,..., has resulted in and continues to threaten repeated physical and sexual assaults and pervasive verbal harassment. Based on the undisputed expert testimony and legal precedent before the court, the decision not to employ a classification system supports a finding of deliberate indifference.” R.G. v. Koller (2006)

- Right not to be classified as a sex offender

# Best Practices: Placement and Classification

- Develop and follow appropriate classification system
- Avoid assumptions about LGBT youth
- Make individualized decisions
- Separate vulnerable youth from aggressive youth
- Do not segregate or isolate

# Right to Medical Care

- Physical and mental health care
- Services unique to LGBT youth
  - Medically necessary care for transgender youth
  - Proper treatment for suicidal youth
- No services that cause emotional harm

# Best Practices: Health and Mental Health Services

- Nonjudgmental providers
- No “conversion therapies”
- Provide inclusive health guidance information
- Address the effects of rejection, violence, stigmatized identity
- Follow instructions of transgender youth’s physician

# Right To Be Treated Equally

- Equal application of rules and policies
- Respond to complaints of harassment
- Inclusive programming

“equal protection under the law”

# Right to Expression

- Limits the right of public systems to censor a young person's speech or expression
  - Right to be “out”
  - Display symbols of identity
  - Wear clothing consistent with gender

# Best Practices: Transgender youth

- Respect youth's stated identity
- Make individualized classification decisions
- Allow youth to dress, style their hair, and groom in accordance with preferred gender
- Encourage other youth to respect transgender youth's identity
- Be flexible
- Revisit gender-based programming
- Address privacy

# Need for Systemic Change

“First, in light of ongoing abuse and harassment directed at LGBT youth at HYCF, the supervisory defendants' **failure to adopt policies and procedures and to provide training regarding how to ensure the safety of LGBT wards** supports a finding of deliberate indifference to plaintiffs' safety. Most notable is the complete lack of training for staff about their obligations to refrain from harassment and discrimination, to intervene in ward-on-ward harassment, and to investigate claims of harassment.” R.G. v. Koller (2006)



# Changing Institutional Culture

Create an institutional culture in which the worth and human dignity of every person is respected, and in which everyone is accepted and treated fairly and equally.

- Prohibit slurs or jokes
- Nondiscrimination policy
- Use respectful and inclusive terminology
- Display inclusive symbols
- Encourage dialogue
- Promptly intervene in harassment
- Be fair and avoid double standards
- Training

# Application in JDAI Context

- New Orleans
- Santa Cruz
- New York

# JDAI Self-Assessment Instrument

- Classification System & Intake
  - Screening Process
  - Population Management
  - Classification Decisions
- Health Care
  - Admission Screening & Referrals
  - Full Health Assessment
  - Health Care Services & Education
  - Administration of Medications
- Access Issues
  - Mail, Books and Magazines
- Training & Supervision of Employees
  - Training on Policies and needs of specific populations
- Environmental Issues
  - Positive Institutional Atmosphere
  - Respect

# Work with Families

- Responsibility of court and institution to address issues with families
- Awareness of when case is dependency not delinquency
- Family rejection should not result in extended detention
- Knowledge of resources for support – for youth and care-givers

# Working with Judges and Lawyers

- Education to ensure due process
- Need to be aware of risks for LGBT youth
- Awareness of supportive services

# Working with Probation

- Who is at the “front gate?” Intake into secure detention or out of custody intake
- Probation staff **MUST** know legal responsibilities for working with GLBT youth
- Training, training, training
- Expectations and enforcement of appropriate treatment of all youth by leaders of organization
- Probation staff maintain the role of ensuring the Court has all pertinent information about youth and family
- Charged with creating successful alternatives to detention for all youth

# Conditions of Confinement

- Knowledge of legal responsibilities
- Implementation of appropriate practices
- Address safety
- Training

# Risk Assessment Instruments

- Review for adverse impact
  - Parent release
  - Truancy
  - AWOL from programs
  - Failure in Detention Alternatives
- How can instrument account for this?

# Alternatives to Detention

- Evaluate all alternative programs for cultural competency
- Identify LGBT supportive programs
- Develop model programs that meet needs of LGBT youth
  - Transgender sex workers

# Data Gathering

- How can you gather info about overuse of detention for this population?
- How can you gather info about effectiveness of efforts?
- How does a system truly attend to the needs of all youth?

# Next Steps

- Availability of additional materials
- Regional trainings
- Introduce issues to site
- Discuss the treatment of specific populations at all steps of JDAI implementation

# Presenters

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