



**Testimony of Allison W. Wright, Esq., Gay & Lesbian Advocates & Defenders,
Docket # 1178
Boston City Council's Committee on Healthy Women, Families and Communities
July 31, 2014**

My name is Allison Wright and I am a Staff Attorney at Gay & Lesbian Advocates & Defenders (GLAD), a New England-wide public interest legal organization dedicated to ending discrimination based on gender identity and expression, HIV status, and sexual orientation. I write today to support the Boston City Council's effort to address an epidemic impacting the health and safety of lesbian, gay, bisexual, transgender, and queer (LGBTQ) youth in Massachusetts. In order to address this epidemic, homeless shelters within the city of Boston must be held accountable under Massachusetts anti-discrimination laws as well as Boston City ordinances, and should adopt LGBTQ inclusive policies to ensure LGBTQ youth are receiving services at homeless shelters free of discrimination.

National studies estimate that up to 40% of youth who are homeless or are at-risk of becoming homeless identify as LGBTQ.¹ Family rejection on the basis of sexual orientation and gender identity is the primary factor contributing to homelessness amongst LGBTQ youth,² most of whom are youth of color.³

Once homeless, LGBTQ youth are at higher risk of physical and sexual violence and exposure to sexually transmitted diseases, including, but not limited to, HIV. Unaccompanied homeless LGBTQ youth are also at higher risk of developing substance abuse issues, mental health issues, and physical health issues. Finally, unaccompanied homeless LGBTQ youth are more likely to engage in survival crimes like sex work and petty theft. Thus, they are at higher risk of interacting with the criminal justice system.⁴

¹ Laura E. Durso & Gary J. Gates, *Serving Our Youth: Findings from a National Survey of Services Providers Working with Lesbian, Gay, Bisexual, and Transgender Youth Who Are Homeless or At Risk of Becoming Homeless*, 3 (2012), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Durso-Gates-LGBT-Homeless-Youth-Survey-July-2012.pdf>.

² *Id.* at 4.

³ Movement Advancement Project, Center for American Progress, Freedom to Work Human Rights Campaign, National Black Justice Coalition, *A Broken Bargain for LGBT Workers of Color*, i (2013), <http://nbjc.org/sites/default/files/a-broken-bargain-for-lgbt-workers-of-color.pdf>.

⁴ Nicholas Ray, *Lesbian, Gay, Bisexual and Transgender Youth: An Epidemic of Homelessness*, 2-3 (2006), <http://www.thetaskforce.org/downloads/HomelessYouth.pdf>; See also Andrew Cray, Katie Miller, and Laura E. Durso, *Seeking Shelter: The Experiences and Unmet Needs of LGBT Homeless Youth*, 15-16 (2013), <http://cdn.americanprogress.org/wp-content/uploads/2013/09/LGBTHomelessYouth.pdf>.

Massachusetts is not exempt from this crisis. The safety nets created to care for the health and safety of unaccompanied homeless LGBTQ youth in Massachusetts, like the homeless shelter system, are failing to meet the needs of LGBTQ youth.

I. LGBTQ Youth Experience Verbal and Sexual Harassment by Shelter Staff and/or Older Residents.

GLAD has received reports from unaccompanied homeless LGBTQ youth of verbal harassment in the form of homophobic and transphobic slurs perpetrated by shelter staff and by older residents at shelters. Some youth have described feeling preyed upon by older residents at homeless shelters who make unwanted sexual advances causing them to feel unsafe and unwelcome. Complaints of harassment are repeatedly met with apathy and impunity by shelter administration.

Shelters have a legal obligation to respond to and take meaningful and effective steps to end the harassment of their residents.⁵ It is imperative that Massachusetts homeless shelters are held accountable under Massachusetts housing and public accommodation anti-discrimination laws as well as Boston City Ordinances to ensure that unaccompanied homeless LGBTQ youth are able to access shelters free of harassment and discrimination.

II. Shelter Policies and Rules are Disproportionately Enforced Against LGBTQ Youth.

GLAD has also received reports that shelter policies disproportionately target physical affection toward same-sex partners, like kissing or holding hands.

GLAD is currently assisting a lesbian couple residing in a homeless shelter who were told by shelter staff and administration that they could not hold hands or kiss each other because such conduct violated the shelter's policy prohibiting sexually explicit behavior. Shelter staff and administration also told the lesbian couple they could not hold hands and kiss because such conduct was disrespectful to other residents at the shelter.

Singling out and targeting residents because of their sexual orientation and same-sex relationships constitutes sex and sexual orientation discrimination, which is unlawful pursuant to Massachusetts's housing and public accommodation anti-discrimination laws as well as Boston City Ordinances.⁶ Shelters that engage in these discriminatory practices must be held accountable under these anti-discrimination laws.

III. Transgender Youth Suffer Segregation and Isolation When Seeking Shelter.

GLAD has received persistent reports that unaccompanied homeless transgender youth are often segregated and isolated in shelters with sex-segregated facilities.

⁵ *Gnerre v. Mass. Com'n Against Discrimination*, 402 Mass. 502, 507 (1988).

⁶ Mass. Gen. Laws ch. 151B, § 4(6) and (7) (2014); Mass. Gen. Laws ch. 272, § 98 (2014); Boston, Massachusetts, Municipal Code §§ 10-3.3(a)(1) and 12-9.1 (2014).

GLAD recently assisted a transgender youth who at the age of 19 was homeless and was looking for a place to stay until she found permanent housing and employment. The shelter did not allow our client to sleep in the women's dormitory and, instead, our client slept on the floor on a mat in a room reserved for donated clothes. The shelter denied our client equal housing services because she is transgender.

Denying our client equal housing services because she is transgender is discrimination based on sex and gender identity. Gender identity is expressly covered by Massachusetts housing discrimination laws but is not expressly covered by Massachusetts public accommodation discrimination laws.⁷

The Commonwealth must strengthen its anti-discrimination laws by passing legislation prohibiting discrimination based on gender identity in places of public accommodation. Similarly, the city of Boston should encourage homeless shelters within the city to adopt transgender-inclusive policies that ensures the full inclusion and equal treatment of transgender people who reside at the shelter. We developed such a policy with a local shelter in Massachusetts in which transgender people must be provided access to dormitories and bathrooms consistent with their gender identity and must be referred to by names, titles, pronouns, and other terms consistent with their gender identity (See Gender Identity Policy, attached as Exhibit A).

Respectfully submitted,

Allison Wright
Staff Attorney
Gay & Lesbian Advocates & Defenders
30 Winter Street, Suite 800
Boston, MA 02108
awright@glad.org
(617) 426-1350 x. 6961

⁷ Mass. Gen. Laws ch. 151B, § 4(6) and (7) (2014); Mass. Gen. Laws ch. 272, § 98 (2014).

EXHIBIT

A

GENDER IDENTITY NON-DISCRIMINATION POLICY

Terminology:

- Gender Identity: a person’s gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person’s physiology or assigned sex at birth.
- Transgender: a word that refers to any person whose gender identity as male or female is different than the gender identity typically associated with the person’s assigned birth sex.
- Transgender man – a person whose gender identity is male but who was assigned female at birth.
- Transgender woman – a person whose gender identity is female but who was assigned male at birth.
- Gender transition – the medical process by which some transgender persons go from living in their assigned birth sex to living consistent with their gender identity.

Policy Provisions:

- The Shelter (“shelter”) provides services and access to its facility to all homeless people who are otherwise eligible for housing without regard to a person’s transgender status.
- Shelter staff shall be trained on an annual basis in the following areas, including but not limited to:
 - The shelter’s policies and procedures regarding transgender people;
 - Terminology used to describe transgender people; and
 - Applicable local, state, and federal laws protecting transgender people.
- Transgender people presenting for intake shall not to be turned away or referred to another shelter because of their transgender status, the length or extent of their gender transition, and/or because they do not meet the expectations of what a man or woman is supposed to look like.
- Shelter clients shall be treated according to their self-reported gender identity regardless of appearance, genital or other physical characteristics, or inconsistent legal documentation (such as a driver’s license).

- Private information, such as medical information about a shelter client’s transgender status and/or transition, is confidential.
- Staff shall address shelter clients with names, titles, pronouns, and other terms consistent with their gender identity. For example:
 - A transgender woman shall be referred to by her preferred name and female pronouns.
 - A transgender man shall be referred to by his preferred name and male pronouns.
- All shelter clients, including transgender people, shall be placed in dormitory facilities based on their self-reported gender identity regardless of appearance, genital or other physical characteristics, inconsistent legal documentation, or concerns (real or perceived) about objections or complaints of other clients.
- All shelter clients, including transgender people, who have privacy concerns shall be directed to spaces, where or when available, that allow for greater privacy and spaces that provide equivalent accommodations to those provided in the sleeping dormitories.
 - The use of private rooms shall not be reserved solely for transgender individuals.
 - A private room may be requested and utilized for any shelter client including but not limited to transgender clients who request additional privacy.
 - The unavailability of alternative space shall not be a basis for altering a transgender client’s sleeping accommodation.
- All shelter clients, including transgender people, who have safety concerns shall be directed to beds or private rooms, where or when available, with equivalent accommodations that are closer to staff.
 - The use of private rooms shall not be reserved solely for transgender individuals.
 - A private room may be requested and utilized for any shelter client including but not limited to transgender clients who request additional privacy because of safety concerns in the main sleeping area.
 - The unavailability of such accommodation shall not be a basis for altering a transgender client’s sleeping accommodation.
- All shelter clients, including transgender people, shall have access to bathrooms, showers, and all other facilities/programs separated by sex consistent with their gender identity regardless of appearance, genital or other physical characteristics, or inconsistent legal documentation.
- Some shelter clients may express discomfort regarding a transgender person sleeping in or using the facility that is consistent with the transgender person’s gender identity.

Another client's discomfort is not a reason to deny access to or equal treatment for the transgender person. Shelter staff shall work with shelter clients to address the discomfort and to foster understanding of gender identity for the purpose of creating a shelter environment that respects and values all shelter clients.

- The shelter does not tolerate verbal or physical harassment of any client at the shelter. If a transgender client experiences harassment, the incident of harassment shall be reported to a staff member as soon as possible, and the shelter staff shall take immediate action to ensure the safety of the transgender client. If harassment is committed by staff member(s), the incident of harassment shall be reported to the appropriate supervisor(s) as soon as possible and the shelter supervisor(s) shall take immediate action to ensure the safety of the transgender client. All incidents of harassment must be documented in writing.
- It is impermissible for shelter clients to assert a gender identity solely for fraudulent or other improper purposes. All assertions by clients of their gender identity will be presumed accurate and shall not be questioned by staff without a credible, objective, demonstrable basis. When a shelter client's gender identity is questioned, shelter staff who has been trained on the shelter's policy and practices with regard to transgender clients:
 - May initiate a conversation with the client in order to evaluate the client's gender identity and any other gender-related concerns;
 - May request documentation supporting the client's stated gender identity including a letter from a medical provider, therapist, social worker, member of the clergy, etc. * *Note: documentation of gender identity for transgender shelter clients is not expected or required in the majority of cases – this provision shall only be triggered upon a credible, objective, demonstrable basis for calling into question the client's stated gender identity**;
 - Any evidence supporting the fact that the client's stated gender identity is sincerely held as part of a person's core identity, including evidence demonstrating that the client presents and lives consistent with the stated gender identity shall be accepted by the shelter.