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Jennifer Truman, PhD
Bureau of Justice Statistics
810 Seventh Street, NW
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Submitted via email: Jennifer.Truman@ojp.usdoj.gov

RE: National Crime Victimization Survey (83 Fed. Reg. 15624)

Dear Dr. Truman,

The Fenway Institute at Fenway Health would like to submit public comment in opposition to the removal of sexual orientation and gender identity (SOGI) questions for 16- and 17-year old respondents on the National Crime Victimization Survey (NCVS). The Fenway Institute works to make life healthier for lesbian, gay, bisexual, and transgender (LGBT) people, people living with HIV/AIDS, and the larger community. We do this through research and evaluation, education and training, and policy analysis. We are the research division of Fenway Health, a federally qualified health center in Boston that serves 32,000 patients each year. Our youth-focused health center, the Sidney Borum Health Center, serves homeless and runaway youth, many of whom are LGBT.

The NCVS is one of the country's main sources of data on criminal victimization, including information on hate violence, sexual assault, intimate partner violence, and experience with the criminal justice system. This data is vital for informing researchers and policymakers on how to better address and serve communities, such as sexual and gender minority populations, which may be disproportionately burdened by violence and criminal victimization.

LGBT people—and especially black gay and bisexual men and transgender women—are commonly the victims of bias-motivated hate violence. In fact, on a per capita basis, LGBT people are more likely to be the targets of hate crimes than any other group in America.¹ In 2014, over one-fifth (20.4%) of reported hate crimes were perpetrated based on the victim's sexual orientation or gender identity.² According to the 2015 U.S. Transgender Survey, a survey of nearly 28,000 transgender and gender nonconforming respondents from across the country, 47% of respondents reported being sexually assaulted in their lifetime, with 10% reporting a sexual assault in the past year.³ More than half of the respondents (54%) reported experiencing some form of intimate partner violence.⁴ Bisexual men and women, and lesbian women, also experience intimate partner violence at high rates.⁵

Unfortunately, LGBT youth are not exempt from the mistreatment and victimization that disproportionately burdens the LGBT population in general. LGBT youth are often the victims of violence and bullying in schools. For example, according to data from the 2015 Youth Risk Behavior Survey, 10% of

LGB youth nationally reported being threatened or injured with a weapon on school property, compared with 5.1% of heterosexual youth.⁶ According to the 2015 National School Climate Survey, 27.0% of students reported being physically harassed in the past year based on sexual orientation, and 20.3% reported being physically harassed based on their gender expression.⁷ The 2015 U.S. Transgender Survey found that among respondents who were out or perceived as transgender in grades K-12, 24% reported being physically attacked, and 13% reported being sexually assaulted for being transgender.⁸

Because of harassment in schools, compounded with other factors such as family rejection and homelessness, LGBT youth are particularly vulnerable to interaction with the criminal justice system. Studies have found that sexual and gender minority youth are overrepresented in confinement facilities, with up to 20% of youth in confinement identifying as something other than heterosexual.⁹

Removing the SOGI questions from the NCVS for 16- and 17-year old respondents will impair attempts to better understand and address the pervasive violence and victimization disproportionately affecting LGBT youth, as well as all youth who may experience violence on the basis of perceived sexual orientation or gender identity. The inclusion of SOGI measures on the NCVS is supported by the inclusion of sexual orientation and gender identity as protected statuses under the Matthew Shepard and James Byrd, Jr. Hate Crime Prevention Act of 2009.

Furthermore, the federal government and BJS should be working towards expanding and improving federal efforts to collect SOGI data, rather than removing or limiting opportunities to collect this data. There is a dearth of population-level data on sexual orientation and gender identity, especially at the federal level. Because of this, the Federal Interagency Working Group on Improving Measurement of Sexual Orientation and Gender Identity in Federal Surveys was created with the goal of increasing the number of federal data collection activities that include SOGI measurements. In order to better understand the unique experiences and needs of LGBT people, more representative and better quality data need to be collected about them. This data can then help to inform researchers, providers, and policymakers in developing interventions and policies to address and eliminate the disparities that disproportionately burden LGBT populations.

For all of these reasons, we believe that it is critical that the NCVS continue to ask SOGI questions to 16- and 17-year old respondents. The request for comment cites “concerns about the possible sensitivity of these questions for adolescents” as the main reason why SOGI questions will not be asked of respondents younger than 18 years old. However, SOGI questions have been developed and used in surveys with respondents younger than age 18, and the respondents understand and answer the questions. For example, the Massachusetts Youth Risk Behavior Survey has been asking Massachusetts high school students about sexual orientation since 1995 and about transgender identity since 2013.¹⁰ In order to best understand and address violent victimization experienced by LGBT people, and especially by LGBT youth, we

urge BJS to retain the SOGI questions on the NCVS for 16- and 17-year old respondents.

Thank you for this opportunity to provide comment. If you have any questions, please feel free to contact Sean Cahill, Director of Health Policy Research at scahill@fenwayhealth.org, or Tim Wang, fedefHealth Policy Analyst at twang@fenwayhealth.org.

Sincerely,

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¹ Park H, Mykhalynshyn I. (2016, June 16). L.G.B.T. People Are More Likely to Be Targets of Hate Crimes Than Any Other Minority Group. *The New York Times*.

² Federal Bureau of Investigation. (2014). *Uniform Crime Reports: 2014 Hate Crime Statistics*. Available at <https://www.fbi.gov/about-us/cjis/ucr/hate-crime/2014>

³ James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). The Report of the 2015 U.S. Transgender Survey. Washington, DC: National Center for Transgender Equality.

⁴ *Ibid.*

⁵ Brown TNT, Herman JL. 2015, November. *Intimate partner violence and sexual abuse among LGBT people: A review of existing research*. Los Angeles: Williams Institute, UCLA Law School.
<http://williamsinstitute.law.ucla.edu/wp-content/uploads/Intimate-Partner-Violence-and-Sexual-Abuse-among-LGBT-People.pdf>

⁶ Kann L, O'Malley Olsen E, McManus T, et al. (2016). Sexual identity, sex of sexual contacts, and health-related behaviors among students in grades 9-12 – United States and selected sites, 2015. *Morbidity and Mortality Weekly Report*. Centers for Disease Control and Prevention.

⁷ Kosciw, J. G., Greytak, E. A., Giga, N. M., Villenas, C. & Danischewski, D. J. (2016). *The 2015 National School Climate Survey: The experiences of lesbian, gay, bisexual, transgender, and queer youth in our nation's schools*. New York: GLSEN.

⁸ James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). The Report of the 2015 U.S. Transgender Survey. Washington, DC: National Center for Transgender Equality.

⁹ Majd K, Marksamer J, & Reyes C. (2009). *Hidden injustice: Lesbian, gay, bisexual and transgender youth in juvenile courts*. Washington, DC: Legal Services for Children, National Juvenile Defender Center, and National Center for Lesbian Rights.
<http://www.modelsforchange.net/publications/237>

¹⁰ Conron K. (2015). *Recommended Standards for LGBT Health Data Collection in Massachusetts: Opportunities to Enhance Health Surveillance and Achieve Health Equity*. Prepared for the Massachusetts Department of Public Health, Office of Healthy equity.