



Protected and Served?

The executive summary of Lambda Legal's national survey that explores discrimination by police, courts, prisons and school security against lesbian, gay, bisexual, transgender (LGBT) people and people living with HIV in the United States.

For the complete report, data and recommendations, visit www.lambdalegal.org/protected-and-served

TABLE OF CONTENTS

INTRODUCTION 4

HOW THE SURVEY WAS CONDUCTED 5

TOP FINDINGS 6

- POLICE SEARCHES, HARASSMENT AND ASSAULT 6
- INADEQUATE POLICE RESPONSE 7
- BIAS IN COURT 7
- MISTREATMENT BY JAIL AND PRISON STAFF 7
- MISTREATMENT BY SCHOOL SECURITY AND DISCIPLINE IN MIDDLE AND HIGH SCHOOL 8

DISPROPORTIONATE RATES OF MISCONDUCT REPORTED BY MARGINALIZED GROUPS 8

- DISPARITIES BASED ON RACE AND ETHNICITY 9
- DISPARITIES BASED ON GENDER IDENTITY OR GENDER EXPRESSION 11
- DISPARITIES BASED ON INCOME 12
- DISPARITIES BASED ON HIV STATUS 14
- DISPARITIES BASED ON ABILITY 14

SUMMARY OF RECOMMENDATIONS 16

- POLICE 16
- JAILS/PRISONS 17
- COURTS 17
- SCHOOLS 18

INTRODUCTION

“I was arrested and charged with prostitution at a local casino. While the case was subsequently dismissed without going to court, during my arrest, I was physically and verbally assaulted by the arresting officers and others. I was put in handcuffs so tight that my wrists swelled up and turned purple. My face was shoved into a wall while I was handcuffed. The officers threatened, mocked and demeaned me for being transsexual.”

—Natalie, Las Vegas, NV

LGBT people and people living with HIV still face serious discrimination and abuse of power directed against them—often by the very government institutions that are supposed to protect them and ensure their civil rights.

In 2012, Lambda Legal—a national organization committed to achieving full recognition of the civil rights of LGBT people and those living with HIV through impact litigation, education and public policy work—conducted a national study to explore government misconduct by the police, courts, prisons and school security against LGBT people as well as people living with HIV in the United States. A total of 2,376 people completed the individual survey (for more details, see *How the Survey Was Conducted*, page 5).

Our study, like others, has found that LGBT people and people living with HIV experience significant discrimination at the hands of government entities. Police and other government entities, through their actions and inactions, continue to treat LGBT people and people living with HIV as second-class individuals and criminals. Compounded by factors such as race and income, this discrimination can take many forms, such as harassment and violence by police or prison guards, discriminatory statements by court personnel, hostility by school security and disproportionate discipline by school administrators.

Many government and law enforcement entities still operate under policies, practices and attitudes that have historically characterized

LGBT people—and in some cases, people living with HIV—as criminals. Currently, over 30 states have laws that criminalize the sex lives of people living with HIV.

Even when the laws have changed, longstanding practices can contribute to the continuing criminalization of LGBT people and people living with HIV, such as:

- the targeting of gay men in bar arrests or sex stings;
- the profiling of LGBT people by the police for stops and searches; and
- the use of condom possession as evidence of sex work, which disproportionately impacts transgender women.

In addition, operating systems and processes have not been reformed to ensure that the rights of LGBT people and people living with HIV are respected and that they are treated with dignity.



Numerous studies have shown that transgender people face disproportionate and pervasive discrimination.

Transphobia and lack of understanding and respect on the part of police, court staff and other civil servants can result in a host of abuses, including misnaming and misgendering (which can place transgender people in physical danger), harassment, abuse and violence. Rates of violent crime against members of the LGBT community, especially against transgender people, remain alarmingly high, and police response to this violence is too often inadequate.



The prevalence of such mistreatment can

- make segments of our communities distrustful of law enforcement and criminal justice institutions;
- disadvantage students by forcing them to drop out of school leaving them undereducated, or unfairly involving them in the juvenile justice system (a phenomenon known as the "school-to-prison pipeline"); and
- further brand portions of the community as criminals simply because of who they are.

These forms of government misconduct compromise the health, safety, psychological well-being and overall sense of belonging in society of LGBT people and people living with HIV and, as a result, weaken our democracy and our society.

Lambda Legal has a proud history of standing up when law enforcement officials target LGBT people and people living with HIV for abuse. Lambda Legal has challenged criminal laws directed at or disproportionately applied against members of our community, and has sought recourse when legal authorities violate the rights of LGBT people and people living with HIV. It is Lambda Legal's hope that the findings in this survey will support other research, advocacy, litigation and policy efforts to improve the treatment of LGBT people and people living with HIV by police departments, courts, prison systems, schools, and other government agencies.

HOW THE SURVEY WAS CONDUCTED

In 2012, Lambda Legal launched a national Government Misconduct

campaign to assess the current issues and legal needs of LGBT people and people living with HIV regarding police accountability and government misconduct—in order to help shape Lambda Legal's future agenda for litigation, education and policy work and support other research, advocacy, litigation and policy efforts.

With the help of Strength in Numbers Consulting Group, Lambda Legal held initial focus groups and interviews with people from over 35 organizations to identify the most pressing areas of concern with regard to government misconduct against LGBT people and people living with HIV. Among the national and local organizations were LGBT rights groups, university programs, anti-violence initiatives, youth organizations, HIV/AIDS advocacy and service organizations. The participants

in these discussions were leaders, staff members and volunteers.

From this information, Lambda Legal staff narrowed the list of possible government misconduct issues to those based on the needs expressed and connection to Lambda Legal's mission and scope of work. A first survey was created focusing on the interactions of LGBT people and people with HIV with police, courts, prisons and school security and school discipline. A second survey was created for organizational representatives to report the needs of the communities they represent along with issues they currently work on and the areas they believe should be high priorities for national LGBT organizations.

Both surveys were then posted on the Lambda Legal website in English and Spanish (remaining there for five months) and promoted to Lambda

Legal members and supporters via email and social media. Over 50 partner organizations also promoted the surveys. The organizational survey was completed by 35 organizations. The data in this report focuses on responses from the individual survey.



In total, we collected **3,095** individual survey responses. Of those, **2,376** met these criteria for inclusion in the final survey sample:

- they identified as one or more of: LGB, questioning, queer, SGL, other sexual orientation, transgender, two-spirit, genderqueer, gender-nonconforming, other gender identity, HIV-positive;
- they reported their age as 18 years old or older;
- they live in United States or its territories; and
- they completed at least 1/3 of key demographic questions.

Respondents were also given the opportunity to share their own accounts of their experiences with government misconduct. A subsequent “Share Your Story” project was launched in 2013; some of those stories are incorporated into this report.

TOP FINDINGS

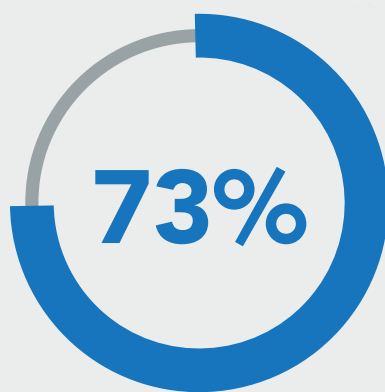
Lambda Legal’s survey found a wide range of complaints and reports of disrespect, bias and discrimination from LGBT people and people living with HIV in the areas explored by the survey. Among the most noteworthy findings:

POLICE SEARCHES, HARASSMENT AND ASSAULT

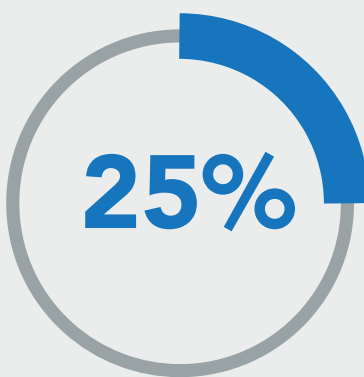
“I was called a faggot and beaten up by police officers right here in the nation’s capital, then charged with assaulting them and forced to plead guilty to being under the influence of my HIV meds.”

—Andrew, Washington, DC

Of all survey respondents:



reported face-to-face contact with police in the past five years



reported at least one type of police misconduct

harassment such as verbal assault, being accused of an offense they did not commit, sexual harassment or physical assault.

- 10% of respondents with recent police contact reported being physically searched by police or asked to empty their pockets, purse or backpack.
- 14% of (or approximately one in eight) respondents with police contact in the past five years reported being verbally assaulted—shouted at, taunted, called names—by a police officer.
- One out of every five respondents (21%) with police contact in the past five years reported that police had a hostile attitude toward them.
- Respondents were also subjected to sexual harassment (3%) and physical assault (2%)—including being hit or attacked with a weapon.

In our survey, almost three-quarters of respondents (73%) reported having face-to-face contact with the police in the past five years. An alarming percentage of them reported negative, hostile and violent interactions. One quarter of respondents with police contact reported at least one type of misconduct or

An overwhelming majority of those who made a complaint about police misconduct (71%) said that the police failed to fully address that complaint.

INADEQUATE POLICE RESPONSE

When respondents as crime victims sought out police, many felt police did not fully respond.

- 62% of respondents who had been victims of personal assault reported experiencing at least one incident in which police failed to fully address their complaints about personal assault.
- 41% of respondents who had been victims of intimate partner violence (IPV) reported experiencing at least one incident in which police failed to fully address their complaints about IPV.
- More than one-third (39%) of respondents who were victims of sexual assault reported that the police did not fully address their complaints about sexual assault.

BIAS IN COURT

“When I went to the court to file my divorce, the clerk tried to require proof of my transgender spouse’s birth, forcing me to out her as a trans person. When I said this, the MA state employee began telling me I needed to submit proof of birth to make sure I wasn’t lying. This happened in front of a whole packed lobby full of people.”

—Linda

This survey is one of only a few that has explored the bias and discrimination LGBT people and people living with HIV experience in the court system.

Consistent with the data about police interactions, it points to some of the ways the promise of fair and impartial proceedings is tainted by homophobia, transphobia and HIV bias. For the 43% of *Protected and Served?* survey respondents who had been involved in the court system in the previous five years, negative experiences included:

- Hearing a judge, attorney or other court employee make negative comments about a person’s sexual orientation, gender identity or gender expression (19%).
- Feeling their own sexual orientation or gender identity was raised by an attorney or judge when it was not relevant (16%).
- Having their HIV status raised when it was irrelevant (15%).

The survey results pointed all too frequently to a trend of discriminatory behavior across government agencies toward all LGBT people and people living with HIV. However, as with all forms of discrimination, respondents with multiple marginalized identities—such as being a lesbian living with HIV, a gay man with a disability or a low-income transgender person of color—were more likely to report misconduct and abuse by police, courts, prisons, and school security and staff. This section looks at ways respondents who identified as people of color, transgender or gender-nonconforming (TGNC), low-income, living with HIV and as having a disability experienced disproportionate rates of misconduct and discrimination.

MISTREATMENT BY JAIL AND PRISON STAFF

LGBT people and people living with HIV are particularly vulnerable and are often targeted when incarcerated.

This survey highlights the fact that in a climate that is already unsafe, prison guards and other staff often contribute to and exacerbate the danger by committing acts of violence against LGBT and HIV-positive people in their custody and by failing to protect them from dangerous or potentially dangerous situations. Five percent of all survey respondents had been incarcerated in jail or prison in the previous five years. Among them:

7% reported being sexually assaulted by jail or prison staff.

12% reported being physically assaulted by jail or prison staff.

27% reported being sexually harassed by jail or prison staff.

57% reported being verbally assaulted or harassed by jail or prison staff.

60% of those who identified as transgender or gender-nonconforming (TGNC) reported being placed in a single-sex prison or section of jail or prison that did not match their gender identity.

Nearly one-third (**30%**) of respondents who experienced harassment or assault by jail or prison staff reported their negative experiences to another jail or prison staff member, official or monitoring board.

Only **9%** of those who reported misconduct felt their complaints were fully addressed.

MISTREATMENT BY SCHOOL SECURITY AND DISCIPLINE IN MIDDLE AND HIGH SCHOOL

“Throughout middle and high school I was bullied and teased for the way I talked, walked, wore my clothes, etc. One day I was in middle school English class when I got into an altercation with another classmate. He yelled out to me, ‘You and your mom are faggots.’ My reaction was so quick. Before I knew it, I slapped him across the face. Both of us were taken to the vice principal’s office, and our parents were called in. We explained our sides of the story, and he admitted to using a gay slur. But in the end, he received one day of in-school suspension and mandatory anger management, whereas I received a week of out-of-school suspension and mandatory anger management. I was so upset that no one supported the fact that I was being teased and ridiculed in front of twenty other students.”

—Patrick, Arlington, VA

It has been well documented that high numbers of lesbian, gay, bisexual and questioning (LGBTQ) middle and high school students experience bullying and harassment. As security and police presence has become more commonplace in middle and high schools, this survey looked at the effects of school security and discipline on LGBTQ students.

Our survey shows that LGBTQ students are often additionally harassed and victimized by the security officers and administrators who are supposed to provide protection and support. Respondents between the ages of 18 and 24 were asked about their experiences in middle and high school. Of those, 68% reported having security personnel or police in their middle or high schools.

Among 18- to 24-year-old survey respondents who had security personnel in their middle or high schools:

9% reported being verbally assaulted by school security or police.

14% reported that school security were hostile toward them.

23% said they had heard school security or police use anti-LGBTQ language.

In addition, 18- to 24-year-old survey respondents reported high rates of discipline, including detention and suspension.

- Over half (57%) of reported being sent to detention in middle and/or high school.
- 20% reported being suspended.
- 19% reported that they felt they were treated harshly by school officials because of their LGBTQ identity.

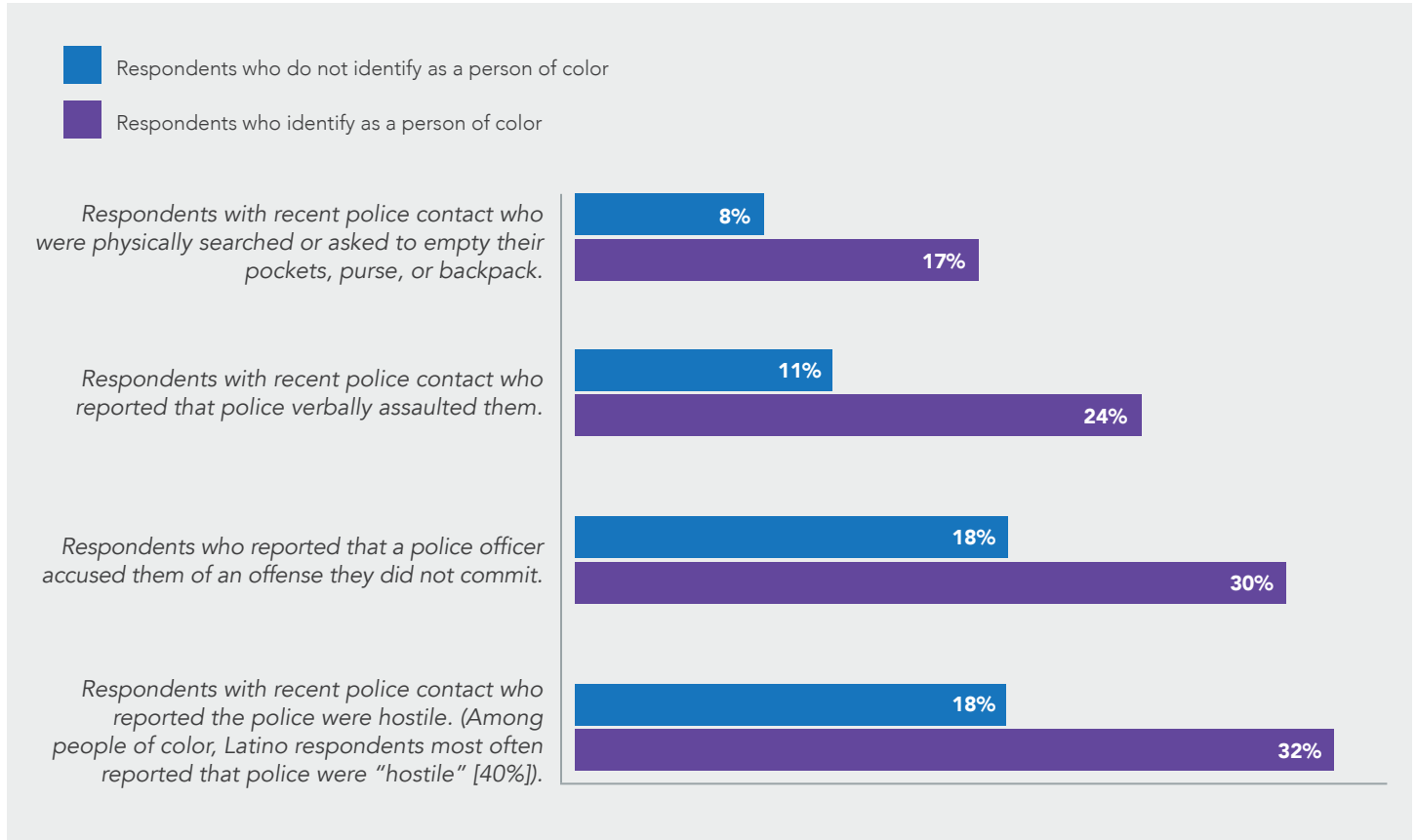
DISPROPORTIONATE RATES OF MISCONDUCT REPORTED BY MARGINALIZED GROUPS

The survey results pointed all too frequently to a trend of discriminatory behavior across government agencies toward all LGBT people and people living with HIV. However, as with all forms of discrimination, respondents with multiple marginalized identities—such as being a lesbian living with HIV, a gay man with a disability or a low-income transgender person of color—were more likely to report misconduct and abuse by police, courts, prisons, and school security and staff. This section looks at ways respondents who identified as people of color, transgender or gender-nonconforming (TGNC), low-income, living with HIV and as having a disability experienced disproportionate rates of misconduct and discrimination.

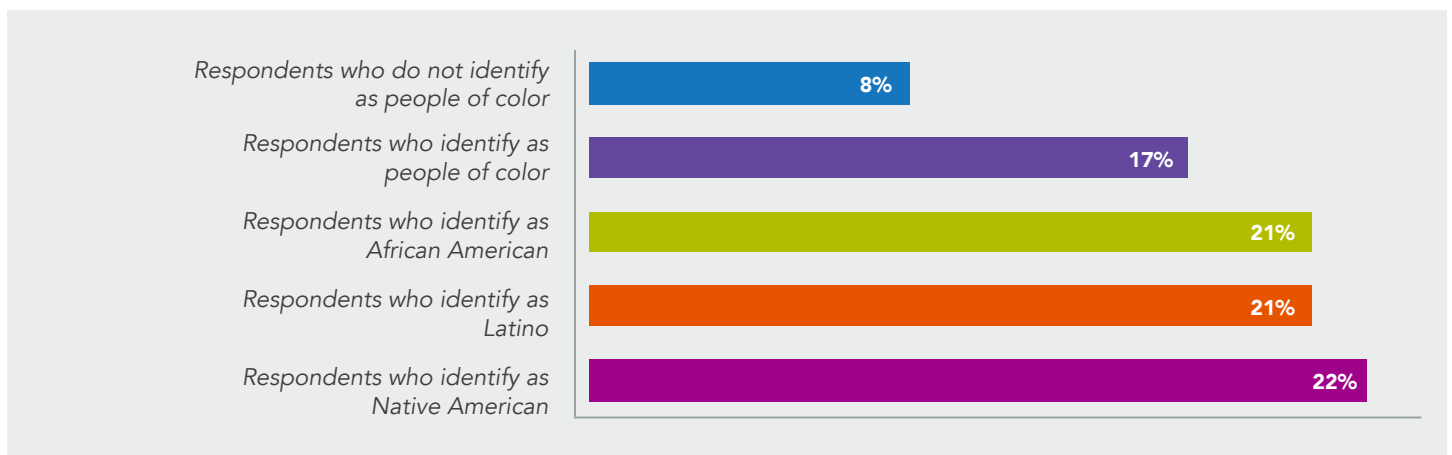


DISPARITIES BASED ON RACE AND ETHNICITY

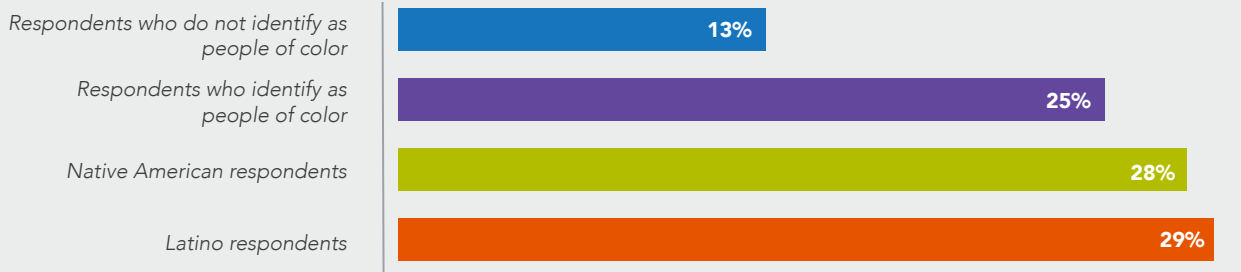
In many instances, respondents of color were much more likely to report negative and discriminatory interactions with the police compared to respondents who did not identify as people of color. When describing their most recent face-to-face contact with police:



Among certain respondents of color, the rates of physical search were higher than for people of color overall:



Respondents of color were much more likely to report that their LGBTQ identity was raised in court when it was not at issue:



Survey respondents of color experienced disproportionate rates of incarceration and were much more often placed in single-sex housing that did not match their gender identity.

- 9% of respondents of color, compared to 4% of respondents who did not identify as people of color, reported that they had spent time in jail or prison over the previous five years.
- Among certain respondents of color, the rates of incarceration were higher than for people of color overall, including Latinos (10%), African Americans (12%) and Native Americans (13%).
- Respondents of color who had spent time in jail or prison were nearly twice as likely to report being placed in a single-sex jail or section that did not match their gender identity (36%) compared to their counterparts who did not identify as people of color (19%).



Respondents of color, particularly Latino respondents, were much more likely to attend schools with a security presence. Latino respondents in particular were disproportionately subjected to negative and discriminatory treatment from school security.

Of the 18- to 24-year-old respondents who answered our questions about middle and high school, 79% of respondents of color had security in their schools, compared to 63% of respondents who did not identify as people of color. 77% of African American respondents and 91% of Latino respondents reporting the presence of school security and police.

Respondents with school security who reported hearing school security use anti-LGBTQ language such as "fag" or "dyke."

