



# **Suffolk University**

## **Law School**

**Legal Studies Research Paper Series**  
**Research Paper 17-9**  
**April 5, 2017**

### **Transcending Prejudice: Gender Identity and Expression-Based Discrimination in the Metro Boston Rental Housing Market**

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# TRANSCENDING PREJUDICE: GENDER IDENTITY AND EXPRESSION-BASED DISCRIMINATION IN THE METRO BOSTON RENTAL HOUSING MARKET

March 2017

Forthcoming, to be published in Volume 29.2 of the *Yale Journal of Law and Feminism* (2017)

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*Surveys of transgender people reveal high levels of discrimination in housing. Surveys are helpful; however, in the housing context discriminatory actions are often subtle and occur without a person's knowledge. Very little empirical evidence, in the form of statistic measures of discrimination exists regarding the actual level of gender identity-based discrimination that is occurring in the rental housing market.*

*This article presents estimates of discrimination from a series of matched paired housing discrimination tests. This method of gathering objective data from the rental housing market provided a comparison of the treatment of transgender and gender non-conforming people with that of the gender conforming cisgender people with whom they were paired. This study found that transgender and gender non-conforming people received discriminatory differential treatment 61% of the time. In addition, they were 27% less likely to be shown additional areas of the apartment complex, 21% less likely to be offered a financial incentive to rent, 12% more likely to be told negative comments about the apartment and the neighborhood, and 9% more likely to be quoted a higher rental price than people who were not transgender and conformed to typical gender standards. The study also analyzed data separately for transgender and gender non-conforming people, with similar findings. The type of discrimination this study reveals is similar to the subtler form found in recent studies of race discrimination, but at higher rates than that found with some other protected classes. Gender identity is not a protected class under the Fair Housing Act and is only included in nineteen state housing anti-discrimination laws. In 2016, more than 200 anti-LGBT bills were introduced and hate crimes against transgender people increased 239% between 2013 and 2015. In light of the lack of full protection against discrimination for transgender and*

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*gender non-conforming people and the extent of discrimination revealed in this study, policy makers should add gender identity as a protected class in anti-discrimination laws.*

## INTRODUCTION

Transgender<sup>1</sup> and gender non-conforming<sup>2</sup> people are among the most vulnerable to discrimination and prejudice in our society.<sup>3</sup> Two reports released in 2015 detailed widespread discrimination against and challenges faced by this community that included harassment, high poverty rates, poor health, limited job opportunities, and violence.<sup>4</sup> Data collected by the Federal Bureau of Investigation (“FBI”) reveals a 239% increase in hate crimes against transgender individuals between 2013 and 2015.<sup>5</sup> Binary conceptions of gender are so entrenched in our culture that those who do not conform to this paradigm are often marginalized, yet they remain largely unprotected under civil rights statutes such as the Fair Housing Act (“FHA”).<sup>6</sup>

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<sup>1</sup> “Transgender” is an adjective used to describe “people whose gender identity, expression or behavior is different from those typically associated with their assigned sex at birth.” Transgender Terminology, NAT’L CENTER FOR TRANSGENDER EQUALITY, <http://www.transequality.org/issues/resources/transgender-terminology> (last visited Feb. 19, 2016).

<sup>2</sup> “Gender non-conforming” is “a term for individuals whose gender expression is different from societal expectations related to gender.” Id.

<sup>3</sup> See e.g., Issues, Housing & Homelessness, NAT’L CENTER FOR TRANSGENDER EQUALITY, <http://www.transequality.org/issues/housing-homelessness> (last visited Oct. 14, 2016). The Nat’l Center for Transgender Equality reports that one in five transgender people in the U.S. has been discriminated against when seeking a home and more than one in ten have been evicted because of their gender identity; cf. Zach Ford, *STUDY: Transgender People Experience Discrimination Trying to Use Bathrooms*, The Williams Institute, UCLA School of Law (June 26, 2013), <http://williamsinstitute.law.ucla.edu/press/study-transgender-people-experience-discrimination-trying-to-use-bathrooms/> (article discusses a study that found that significant levels of discrimination against transgender and gender non-conforming people in the form of denial of access, verbal harassment, and physical assault).

<sup>4</sup> Press Release, Nat’l Center for Transgender Equality, Transgender Americans Face Staggering Rates of Poverty, Violence (Feb. 18, 2015), <http://www.transequality.org/press/releases/transgender-americans-face-staggering-rates-of-poverty-violence>.

<sup>5</sup> U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, Hate Crime Statistics, 2013-2015, [https://ucr.fbi.gov/hate-crime/2013/tables/1tabledatadecpdf/table\\_1\\_incidents\\_offenses\\_victims\\_and\\_known\\_offenders\\_by\\_bias\\_motivation\\_2013.xls](https://ucr.fbi.gov/hate-crime/2013/tables/1tabledatadecpdf/table_1_incidents_offenses_victims_and_known_offenders_by_bias_motivation_2013.xls), <https://ucr.fbi.gov/hate-crime/2014/tables/table-1>, <https://ucr.fbi.gov/hate-crime/2015/tables-and-data-declarations/1tabledatadecpdf> (last visited Nov. 15, 2016). Such crimes increased by 26% from 2014 to 2015. Id.

<sup>6</sup> See Fair Housing Act, 42 U.S.C. § 3604(a) [hereinafter *FHA*].

Where a person lives matters in every aspect of life. Housing lies at the heart of a person's ability to lead a stable productive life with access to education, healthcare, economic opportunities, and social networks.<sup>7</sup> The right to freely access housing without discrimination is a civil right,<sup>8</sup> but unfortunately many people are denied the opportunity to choose where to live because of who they are, not based on whether they can afford the housing. The Fair Housing Act provides protections in the housing context, but only on the basis of race, color, national origin, religion, disability, familial status, and sex.<sup>9</sup> Although sex is a protected class, it was traditionally understood to protect only women whose assigned sex at birth was female.<sup>10</sup> Various federal and state laws have slowly started to add protections based on gender identity, but some jurisdictions are rolling back or attempting to roll back those protections.<sup>11</sup> During this tempestuous time, policymakers are in need of evidence accurately describing the experiences of transgender and gender non-conforming people in the housing market. Today, few data sources are available that can be used to estimate the extent of discrimination against this population.<sup>12</sup>

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<sup>7</sup> Where You Live Matters, 2015 Fair Housing Trends Report, NAT'L FAIR HOUSING ALLIANCE, 1 (2015), <http://www.nationalfairhousing.org/Portals/33/2015-04-30%20NFHA%20Trends%20Report%202015.pdf> (“Where you live determines whether or not you have access to a high-performing school, fresh foods, reliable transportation, good job, quality health care, and recreation in a green space. It often determines even how long you will live.”).

<sup>8</sup> A “civil right” is defined as “[a]ny of the individual rights of personal liberty guaranteed by the Bill of Rights and by the 13th, 14th, 15th, and 19th Amendments, as well as by legislation such as the Voting Rights Act. Civil rights include esp. the right to vote, the right of due process, and the right of equal protection under the law.” Black's Law Dictionary 263 (8th ed. 2004). See also, Civil Rights Act of 1866, 42 U.S.C. § 1982 (1978) (“All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by White citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.”).

<sup>9</sup> FHA, 42 U.S.C. § 3604. Although the FHA includes “sex” as a protected class, claims based on gender identity have not traditionally been held to be cognizable under the Act. This is further examined in Section I of this article.

<sup>10</sup> See infra Section I.

<sup>11</sup> See Katy Steinmetz, Why So Many States Are Fighting Over LGBT Rights in 2016, TIME.COM (Mar. 31, 2016), <http://time.com/4277247/north-carolina-georgia-lgbt-rights-religious-liberty-bills/>; see also LGBT Nondiscrimination and Anti-LGBT Bills Across the Country, AMERICAN CIVIL LIBERTIES UNION, <https://www.aclu.org/other/lgbt-nondiscrimination-and-anti-lgbt-bills-across-country#harmfulbills> (last visited Nov. 2, 2016) (“There are bills in state legislatures across the country and in Congress – some that would protect LGBT people from discrimination, and others that would roll back existing protections or open the door to discrimination against gay and transgender people.”).

<sup>12</sup> United Nations Dev. Programme Discussion Paper, Measuring LGBTI Inclusion (June 2016), <http://www.lgbtimontevideo2016.org/admin/files/lgbtimontevideo2016/upload/files/Measuring%20LGBTI%20Inclu>

This study measures the extent of discrimination based on gender identity that is occurring in the Metropolitan Boston rental market.

## EXECUTIVE SUMMARY

The Suffolk University Law School Housing Discrimination Testing Program (“HDTP”) conducted this study between December 2015 and June 2016. The HDTP is a Housing and Urban Development (“HUD”)-funded program that seeks to eliminate housing discrimination through testing, enforcement, education and outreach, and academic study.<sup>13</sup> The HDTP engaged Analysis Group (“AG”), a firm specializing in economic and financial analysis, to assist in designing the study protocols and conducting the statistical analysis for the study.<sup>14</sup>

This article reports data resulting from a series of housing discrimination tests that paired protected class (“PC”) testers who are transgender and/or gender non-conforming with cisgender<sup>15</sup> and gender conforming testers (“controls”). Matched paired testing is a recognized methodology for research and enforcement and has been used in the housing market context since the 1960’s.<sup>16</sup> In the current study, the matched pairs visited randomly selected locations in the rental market and submitted reports detailing their treatment. The HDTP instructed transgender and gender non-conforming testers to reveal their protected class status as soon as

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sion%20Research%20Paper%20%2528July%205%20submitted%20for%20Montevideo%2529.pdf (“[R]elatively little systematic research on the lives of LGBTI people exists, particularly in developing countries.”). *Id.* at 6.

<sup>13</sup> The funding for this study came from HUD through the City of Boston’s Office of Fair Housing & Equity. The work that provided the basis for this publication was supported by funding under a grant with the U.S. Department of Housing and Urban Development through the Boston Fair Housing Commission. The substance and findings of the work are dedicated to the public. The authors and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the Federal Government.

<sup>14</sup> Analysis Group performed its work on this study on a pro bono basis and independently evaluated the outcome of each test.

<sup>15</sup> “Cisgender” describes a person who is not transgender. “The prefix *cis*-is Latin meaning “on this side of,” whereas *trans*- means “on the other side of.” Katy Steinmetz, *This is What ‘Cisgender’ Means*, TIME.COM (Dec. 23, 2014), <http://time.com/3636430/cisgender-definition/>.

<sup>16</sup> See *Paired Testing and the Housing Discrimination Studies*, EVIDENCE MATTERS (U.S. Dept. of Housing and Urban Dev.), Spring/Summer 2014, *available at* <https://www.huduser.gov/portal/periodicals/em/spring14/highlight2.html>.

possible during the site visit to avoid a scenario in which the housing provider was unaware of the variable being tested. The HDTP trained the testers to do so in as natural a manner as possible. For example, testers were trained to ask about whether there would be a credit or background check and instruct the housing provider that if so, they would find that the tester's legal name was different because they are transgender. Some testers introduced their status by informing the housing provider that they used the pronouns "they" and "them" rather than gender-specific pronouns. Some testers visually introduced their status through the manner of dress. It was important to make testers as comfortable as possible when introducing their protected class status so the interaction could mimic a "real" housing search as closely as possible. The treatment of protected class testers and controls was compared along a number of dimensions to determine whether there was discrimination based on gender identity or expression in the Greater Boston area.

Discrimination in the rental housing market based on gender identity is prohibited in Massachusetts.<sup>17</sup> In 2012, the Massachusetts legislature amended the Commonwealth's anti-discrimination statute to include gender identity as a protected class.<sup>18</sup> This study provides evidence of statistically significant discrimination in the rental market, for several outcomes, against transgender and gender non-conforming people, even in a jurisdiction where such discrimination is illegal.<sup>19</sup>

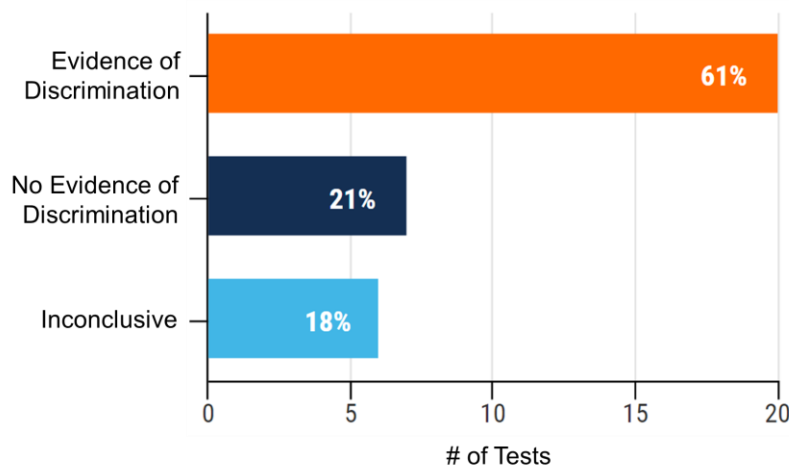
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<sup>17</sup> MASS. GEN. LAWS ch. 151B, § 6 (2012).

<sup>18</sup> Id.

<sup>19</sup> The assumption at the beginning of the study process was that the rate of discrimination in Greater Boston would be less than that found in jurisdictions in which there are no protections based on gender identity. This assumption could not be tested because all data was obtained in Greater Boston, where gender identity is protected by statute. See id. The authors are aware of at least one study in which paired testing was used to determine the prevalence of housing discrimination based upon sexual orientation in jurisdictions both with and without protection under the law and that study found lower rates of discrimination in jurisdictions in which sexual orientation was *not* protected as compared to jurisdictions that offered legislative protection. Samantha Friedman, et. al, An Estimate of Housing Discrimination against Same-Sex Couples, WASHINGTON D.C.: DEPARTMENT OF HOUSING AND URBAN

The HDTP conducted two types of analysis for purposes of this study. First, it compared the treatment of paired protected class and control testers along a number of dimensions and



determined whether there was differential treatment that would support evidence of discrimination. This is the same type of analysis that the HDTP performs regularly with respect to its enforcement testing

services.<sup>20</sup> The HDTP analyzed individual tests and categorized the results based on the evidence as: 1) showing evidence of discrimination (as a result of adverse differential treatment); 2) inconclusive; or 3) showing no evidence of discrimination.<sup>21</sup> When comparing the treatment of individual pairs of transgender and/or gender non-conforming people versus cisgender and gender conforming people, the HDTP found discrimination in the form of disparate treatment in over 60% of the tests.

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DEVELOPMENT, OFFICE OF POLICY DEVELOPMENT AND RESEARCH, vi (June 2013), [http://www.huduser.gov/portal/Publications/pdf/Hsg\\_Disc\\_against\\_SameSexCpls\\_v3.pdf](http://www.huduser.gov/portal/Publications/pdf/Hsg_Disc_against_SameSexCpls_v3.pdf). The question of how rates of discrimination vary in jurisdictions with and without protections based on gender identity is appropriate for further study.

<sup>20</sup> HDTP has conducted over 400 such paired tests since its inception in 2012. “Enforcement testing” is testing that is conducted for the purpose of litigation. The goal of such testing is to gather evidence that meets the standards used in courts and administrative agencies.

<sup>21</sup> This analysis, while rigorous, was not conducted in a manner that produces statistically significant results. Three people independently evaluated each test and made an outcome determination. Three out of the 33 tests had outcome determinations that were not unanimous by the independent evaluators. Those three tests were submitted to two additional people for review before being labeled as evidence of discrimination, inconclusive, or no evidence of discrimination.

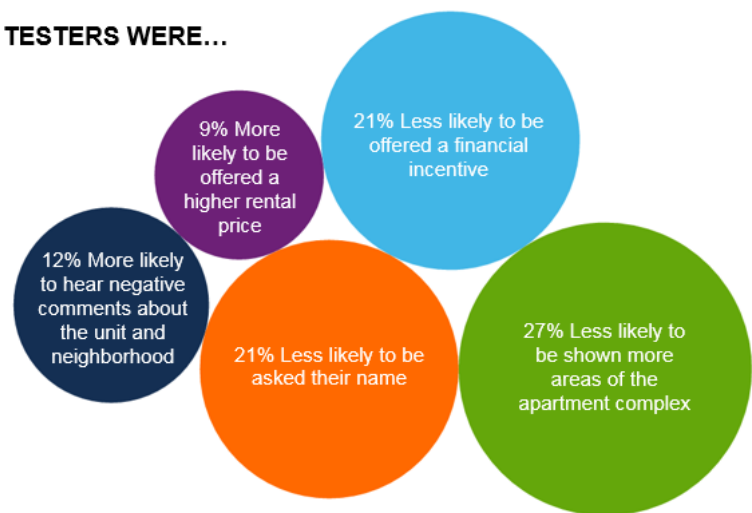
The second type of analysis involved a statistical analysis of the data collected for the paired testers. AG assisted in designing and performing this analysis. This portion of the study revealed a number of statistically significant differences in the treatment between transgender and/or gender non-conforming testers and gender conforming cisgender controls, signifying the existence of discrimination based on gender identity or expression in the rental market in the Greater Boston area. Specifically, transgender and gender non-conforming individuals are more likely to be quoted a higher rental price and shown fewer areas related to the housing (i.e.

amenities such as storage and other facilities). The study also found that they are less likely to be offered financial incentives to take the apartment and are even less likely to be asked their name when initially meeting the housing

provider in-person. Transgender and gender non-conforming individuals are also more likely to be shown fewer available apartments than gender conforming cisgender housing seekers.<sup>22</sup>

The results are similar when the data for transgender and gender non-conforming testers are examined separately. Transgender testers were significantly less likely to be asked their name, and significantly more likely to be quoted a higher price and to be

#### PC TESTERS WERE...



#### Results for Pairs With Transgender Testers TRANSGENDER TESTERS WERE...



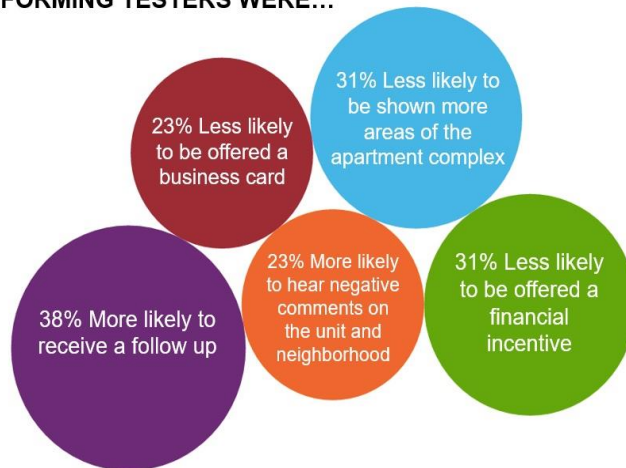
<sup>22</sup> This finding was statistically significant at the 89 percent confidence level.



shown fewer amenities than their counterparts. Transgender testers were more likely to be addressed by a courtesy title (i.e. Mr., Ms., etc.) than when compared to control testers.

The data as to gender non-conforming testers revealed that housing providers offered

Results for Pairs With Gender Non-conforming Testers  
**GENDER NON-CONFORMING TESTERS WERE...**

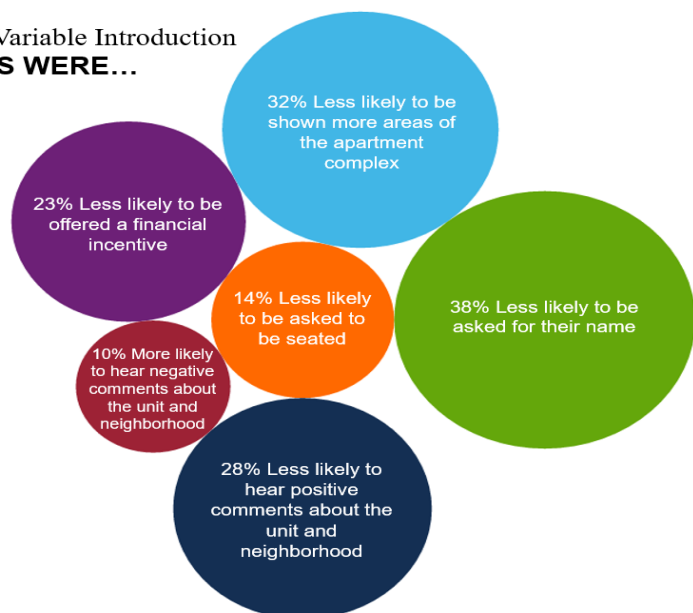


control testers a business card, but not gender non-conforming testers. In addition, housing providers showed gender non-conforming testers fewer amenities, offered them less financial incentives,

and made negative comments about the apartments to gender non-conforming testers, but not to the control group. However, gender non-conforming testers did receive a greater degree of follow-up than control testers.

The test results demonstrate that after PC testers revealed their protected class status they were less likely than controls to be asked their name or asked to be seated, they were shown fewer amenities and offered fewer financial incentives to rent than the

Results After Variable Introduction  
**PC TESTERS WERE...**



controls, and were given fewer positive comments (and more negative comments) about the housing.

Opponents of anti-discrimination laws that include gender identity and proponents of so-called "bathroom bills" typically cite the lack of evidence that there is a problem with discrimination against this population.<sup>23</sup> The results of this study demonstrate that in Massachusetts, where gender identity is a protected class under state anti-discrimination statutes, rates of discrimination are still very high and it is important for those being discriminated against to be protected under the law to prevent discrimination from occurring and to provide people with recourse when it occurs.

Section I of the article briefly describes the history of the treatment of gender identity under civil rights laws. Section II describes the design and statistical parameters of the study, and Sections III, IV, and V describe the results of the study. Section VI contains the authors' recommendations based on the results of the study.

## I. EVOLUTION OF THE LAW RELATED TO 'SEX'

Discrimination because of a person's gender identity is inherently discrimination related to a person's sex, although that does not necessarily mean it has consistently been recognized as such under the law. Although sex is a protected class related to both employment and housing,<sup>24</sup>

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<sup>23</sup> See Katy Steinmetz, Lawmakers to Introduce Historic LGBT Non-Discrimination Bills, TIME.COM (July 23, 2015), <http://time.com/3968995/equality-act-congress-lgbt/> ("There is a huge hurdle our community needs to overcome to convince people that this kind of discrimination is—A—perfectly legal, and—B—actually exists," says Winnie Stachelberg from the Center for American Progress.").

<sup>24</sup> Discrimination based on sex in employment was outlawed under Title VII of the Civil Rights Act of 1964 and sex was made a protected class related to housing under the FHA by amendment in 1974. 42 U.S.C. § 2000e-2; FHA, supra note 6. Employment law is relevant to housing law as "most of the legal principles in [housing cases] have been derived from employment discrimination cases." See, e.g., Robert G. Schwemm, Housing Discrimination Law and Litigation, §11C2 (2008).

early claims of discrimination by transgender<sup>25</sup> people were not successful.<sup>26</sup> This was due to a narrow interpretation of what “sex” meant under the law.<sup>27</sup> The legislative intent behind adding sex as a class was understood to specifically protect cisgender women, not all people related to their sex.<sup>28</sup> The legislative history regarding the amendment adding sex to Title VII is virtually nonexistent as the amendment was added one day before House approval of the bill and apparently as a tactic meant to defeat the entire bill.<sup>29</sup> The result of this lack of clarity regarding Congressional intent is that courts have developed their own interpretations, often conflicting, on whether Title VII extends protection to people related to gender identity or expression.<sup>30</sup>

Courts began to interpret the definition of “sex” under the law more broadly, as it relates to cisgender persons, starting in the 1970s when the Fifth Circuit held that Title VII protections extended to men.<sup>31</sup> In 1986, the Supreme Court ruled that sexual harassment was always

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<sup>25</sup> The broad term *transgender* is used here in order to include the multiple ways that plaintiffs self-identified.

<sup>26</sup> See *Holloway v. Arthur Anderson*, 566 F.2d 659 (9th Cir. 1977) (court held that Title VII did not include a prohibition against transgender discrimination). *Id.* at 662; see also *Ulane v. Eastern Airlines*, 742 F.2d 1081 (7th Cir. 1984) *cert. denied* 471 U.S. 1017 (1985) (court found that Ms. Ulane, a transgender woman, was “not discriminated against as a female” and that there is no record of legislative intent to create an “all-encompassing interpretation” of the law).

<sup>27</sup> There are articles that detail the evolution of the law in this area in more depth. See Eric S. Dreiband and Brett Swearingen, *The Evolution of Title VII – Sexual Orientation, Gender Identity, and the Civil Rights Act of 1964*, 2, <http://jonesday.com> (search “gender identity” in “search jones day” box in publications section); see also Daniella Lichtman Esses, *Afraid to be Myself, Even at Home: A Transgender Cause of Action Under the Fair Housing Act*, 42 COLUM. J.L. & SOC. PROBS. 465 (2009).

<sup>28</sup> See Dreiband, *supra* note 28 at 2 (even more specifically, there is evidence that the addition was intended to protect White women. “[D]uring the debate [the Representative offering the amendment] and several other representatives spoke about their concern that, if the underlying bill were to pass, the “sex” provision would be needed to protect White women competing with Black women in employment.”); see also Tracey McCartney and Sara Pratt, *The Fair Housing Act: 35 Years of Evolution*, 3, <http://www.fairhousing.com/include/media/pdf/35years.pdf> (last visited Nov. 3, 2016).

<sup>29</sup> Shannon H. Tan, *When Steve is Fired for Becoming Susan: Why Courts and Legislators Need to Protect Transgender Employees From Discrimination*, 37 STETSON L. REV. 579, 584 (2008).

<sup>30</sup> *Id.*

<sup>31</sup> *Diaz v. Pan Am. World Airways*, 442 F.2d 385, 388 (5th Cir. 1971) (A man sued Pan American Airways after he was rejected for employment as a flight cabin attendant because the airline had a policy of only hiring females for that position. The Court found that being female was not a bona fide occupational qualification that was reasonably necessary to operation of the business.).

discrimination “because of sex.”<sup>32</sup> Three years later in, *Price Waterhouse*, the Supreme Court extended the definition of “sex” to cover women who were not perceived as feminine enough – the sex stereotyping theory.<sup>33</sup> The Supreme Court further expanded the scope of sex discrimination in 1998, when the Court held in the *Oncale v. Sundowner* decision that Title VII prohibited same-sex sexual harassment.<sup>34</sup> Justice Scalia wrote in that decision that:

[M]ale-on-male sexual harassment in the workplace was assuredly not the principal evil that Congress was concerned with when it enacted Title VII. But statutory prohibitions often go beyond the principal evil to cover reasonable comparable evils, and it is ultimately the provisions of our laws rather than the principal concerns of our legislator by which we are governed.<sup>35</sup>

The Court assessed whether “members of one sex are exposed to disadvantageous terms or conditions of employment to which members of the other sex are not exposed.”<sup>36</sup> Although *Oncale v. Sundowner* expanded the definition of sex, the Court’s language regarding one sex and the other sex indicated that it recognized only the male and female categories of sex.<sup>37</sup>

Post-*Price Waterhouse*, transgender plaintiffs argued that they had been discriminated against based on sex stereotypes for not dressing and behaving according to their anatomical sex.<sup>38</sup> Generally lower courts have agreed that claims based on gender non-conformity are actionable under Title VII; however, these same courts have tended to reject the claims when the plaintiff’s behavior is also related to gender identity or sexual orientation.<sup>39</sup> In particular, lower

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<sup>32</sup> See *Meritor Sav. Bank v. Vinson*, 477 U.S. 57, 65 (1986) (sexual harassment, even if it does not lead to economic injury, is impermissible sex discrimination under Title VII).

<sup>33</sup> See *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989) (lawsuit was brought after a cisgender female senior manager was denied partnership because she was viewed as masculine).

<sup>34</sup> See *Oncale v. Sundowner Offshore Servs. Inc.*, 523 U.S. 75 (1998).

<sup>35</sup> *Id.* at 79.

<sup>36</sup> *Id.* at 80.

<sup>37</sup> Tan, *supra* note 30 at 588.

<sup>38</sup> *Id.* at 589.

<sup>39</sup> *Id.*

courts have found that discriminatory behavior was motivated by a bias against transgender persons, not gender stereotyping and, following that reasoning, that Title VII outlaws sex-based discrimination, not transgender discrimination.<sup>40</sup>

The circuit courts are split as to how sex is interpreted under Title VII regarding claims related to gender identity. A few circuit courts have heard cases after the *Price Waterhouse* expansion and some have used the sex stereotyping theory to accept such claims and some have used competing precedent that the law was not intended to be interpreted so broadly to reject such claims.<sup>41</sup>

While some of the circuit courts are in disagreement and the legislative branch has yet to act, the executive branch of government under the Obama Administration has extended protections to transgender and gender non-conforming people. In 2012, the Equal Employment Opportunity Commission (“EEOC”) ruled, in a decision that is binding on all federal agencies, that “‘discrimination based on gender identity, change of sex, and/or transgender status’ is discrimination ‘because of sex’ under Title VII....”<sup>42</sup> The decision concluded that the sex stereotyping theory of *Price Waterhouse* protects transgender individuals discriminated against on the basis of their status.<sup>43</sup> That same year, HUD issued the Equal Access Rule that required

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<sup>40</sup> Id.

<sup>41</sup> See Schwenk v. Hartford, 204 F.3d 1187, 1201 (9th Cir. 2000) (“The initial judicial approach taken in cases such as Holloway [see note 25] has been overruled by the logic and language of *Price Waterhouse*.”); see also Smith v. City of Salem, 378 F.3d 566, 572 (6th Cir. 2004) (holding that Smith stated a valid claim under Title VII for discrimination “because of sex” as a result of Smith’s gender non-conformity); compare Etsitty v. Utah Transit Auth., 502 F.3d 1215, 1220 (10th Cir. 2007) (lower court’s ruling was affirmed that “transsexuals are not a protected class under Title VII”) and Sweet v. Mulberry Lutheran Home, WL 21525058 at \*3 (“Sweet’s intent to change sex does not support a claim of sex discrimination under Title VII because that intended behavior did not place him within the class of person’s protected under Title VII from discrimination based on sex.”).

<sup>42</sup> Dreiband, supra note 28 at 9, citing Macy v. Holder, EEOC Appeal No. 0120120821, 2012 WL 1435995, at \*1 (Apr. 20, 2012).

<sup>43</sup> Id.

HUD-assisted housing be made available to people regardless of gender identity.<sup>44</sup> This included all housing insured by the Federal Housing Administration and all housing funded by Community Planning and Development funds.<sup>45</sup> This rule does not expand the definition of “sex” under the Fair Housing Act to include gender identity or specifically add “gender identity” as a protected class. As such, under current federal fair housing law, private housing providers are potentially able to legally continue to discriminate against prospective tenants because they are transgender and/or gender non-conforming.<sup>46</sup> The Departments of Labor and Justice have issued guidance regarding prohibitions on discrimination in employment based on gender identity and gender expression.<sup>47</sup>

Not all executive branch attempts to expand protection have been successful. A federal judge in Texas issued a preliminary injunction against a federal rule that had been set to take effect January 1, 2017, that would have extended anti-discrimination protections under the Affordable Care Act to transgender health related services.<sup>48</sup> Additionally, not all executive branch expansions of protection have persisted under the new Administration. The Departments of Justice and Education issued guidance to public schools in May 2016 requiring that as a condition of receipt of Federal funds, schools must treat a child’s gender identity as their sex for

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<sup>44</sup> 24 C.F.R. 5.403 (2012).

<sup>45</sup> Id.

<sup>46</sup> The authors note that private landlords may be *potentially* able to legally discriminate based on gender identity due to the circuit split in relevant Title VII cases.

<sup>47</sup> See Training and Employment Guidance Letter No. 37-14, *Update on Complying with Nondiscrimination Requirements: Discrimination Based on Gender Identity, Gender Expression and Sex Stereotyping are Prohibited Forms of Sex Discrimination in the Workforce Development System* (2015), [https://wdr.doleta.gov/directives/attach/TEGL/TEGL\\_37-14.pdf](https://wdr.doleta.gov/directives/attach/TEGL/TEGL_37-14.pdf); see also DOJ, Memorandum from the Att’y Gen., *Treatment of Transgender Employment Discrimination Claims Under Title VII of the Civil Rights Act of 1964* (2014), [https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2014/12/18/title\\_vii\\_memo.pdf](https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2014/12/18/title_vii_memo.pdf).

<sup>48</sup> Steve Gorman, *U.S. judge blocks transgender, abortion-related Obamacare protections*, REUTERS, Dec. 31, 2016, <http://www.reuters.com/article/us-usa-obamacare-idUSKBN14L0OP>.

purposes of Title IX.<sup>49</sup> The Trump administration withdrew and rescinded that guidance on February 22, 2017.<sup>50</sup>

Some states have begun to address discrimination against a person based on their gender identity. Nineteen states and the District of Columbia have added gender identity to their state housing anti-discrimination laws.<sup>51</sup> By adding “gender identity” as a protected class rather than just waiting for the courts to expand the protection under “sex,” such jurisdictions leave no doubt that discrimination based on gender identity is not acceptable under the law. This is important in the housing context when anyone with available housing can become a landlord and when there are applicable federal and state laws with different protections.

Some states have actively sought to allow its private citizens to discriminate against people based on their gender identity.<sup>52</sup> While North Carolina’s law, referred to colloquially as the “bathroom bill,” might be the most well-known, more than 200 bills were introduced in 2016 across the country that LGBTQ<sup>53</sup> advocates consider anti-LGBT.<sup>54</sup> In early 2017, eight states

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<sup>49</sup> See Dear Colleague Letter on Transgender Students from Catherine E. Lhamon, Asst. Sec’y for Civil Rights, U.S. Dep’t of Educ., and Vanita Gupta, Principal Deputy Asst. Att’y Gen. for Civil Rights, U.S. Dep’t of Justice (May 13, 2016), *available at* <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf>.

<sup>50</sup> See Dear Colleague Letter from Sandra Battle, Acting Asst. Sec’y for Civil Rights, U.S. Dep’t. of Educ., and T.E. Wheeler, II, Acting Asst. Att’y Gen. for Civil Rights, U.S. Dept. of Justice (Feb. 22, 2017).

<sup>51</sup> National Equality Map, TRANSGENDER LAW CENTER, <http://transgenderlawcenter.org/equalitymap> (choose “housing” tab). The states with housing non-discrimination laws that cover gender identity are: California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Iowa, Massachusetts, Maryland, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, and Washington.

<sup>52</sup> E.g. 2016 N.C. Sess. Laws 2016-3 (commonly known as “HB2”). HB2 states that “[i]t is the public policy of [North Carolina] to protect and safeguard the right and opportunity of all individuals within the State to enjoy fully and equally the goods, services, facilities, privileges, advantages, and accommodations of places of public accommodation free of discrimination because of race, religion, color, national origin, or biological sex, provided that designating multiple or single occupancy bathrooms or changing facilities according to biological sex ... shall not be deemed to constitute discrimination.” Id. at § 143-422.11.

<sup>53</sup> The acronym stands for lesbian, gay, bisexual, transgender, and queer.

<sup>54</sup> See Steinmetz, supra note 11.

introduced or pre-filed bills similar to North Carolina’s law that seek to restrict access to facilities.<sup>55</sup>

In March 2017 the Supreme Court remanded a case to the Fourth Circuit involving a child that was not allowed to use the bathroom at school that matched his gender identity.<sup>56</sup> The Fourth Circuit had sidestepped the question of whether Title IX regulations permitted transgender public school students to use restrooms consistent with their gender identity by giving deference to the guidance from the Departments of Education and Justice that said it did.<sup>57</sup> The Supreme Court granted certiorari on two questions related to the case: 1) whether the lower court’s deference to the agency interpretation of the law was appropriate; and 2) whether Title IX provides the same protections to transgender students as it does to cisgender students.<sup>58</sup> Due to a change in position by the Department of Education under a new Executive Branch administration that was communicated via new guidance, the Court vacated the judgement and remanded the case for further consideration.<sup>59</sup> The Fourth Circuit must now decide the question of how the term “sex” in Title IX applies to a transgender student’s sex without relying on federal guidance.

It is well understood that transgender and gender non-conforming people are among the most vulnerable to discrimination in our society.<sup>60</sup> This study confirmed that discrimination is

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<sup>55</sup> Tom Dart, ‘*Bathroom Bills*’ planned in eight states despite furor in North Carolina, THE GUARDIAN, Jan. 6, 2017, <https://www.theguardian.com/world/2017/jan/06/bathroom-bills-planned-north-carolina-texas-lgbt-transgender>. (The eight states are: Alabama, Kentucky, Minnesota, Missouri, South Carolina, Texas, Virginia, and Washington).

<sup>56</sup> Certiorari – Summary Disposition, Gloucester County Sch. Bd. v. G.G., (Mar. 2017) (No. 16-273), available at [https://www.supremecourt.gov/orders/courtorders/030617zor\\_6j37.pdf](https://www.supremecourt.gov/orders/courtorders/030617zor_6j37.pdf).

<sup>57</sup> See G.G. ex rel. Deirdre Grimm v. Gloucester County Sch. Bd., 822 F.3d 709 (2016)(court found that the Department’s interpretation was entitled to *Auer* deference (deference to an agency’s interpretation of their own regulations) because Title IX language was ambiguous as applied to transgender individuals); see generally Dear Colleague Letter, supra note 49.

<sup>58</sup> Gloucester County Sch. Bd. v. G.G. ex rel. Deirdre Grimm, 136 S.Ct. 2442 (Aug. 3, 2016).

<sup>59</sup> See Certiorari, supra note 56.

<sup>60</sup> For an extensive review of the many ways that transgender and/or gender non-conforming people are subjected to discrimination, visit the Nat’l Center for Transgender Equality (“NCTE”) website at <http://transequality.org>. The NCTE released a survey in 2011 that included interviews with over 6,400 transgender and gender non-conforming people related to the discrimination and violence that they have faced.



occurring against this population in the Metropolitan Boston rental housing market. Such discrimination can severely limit a person's housing choices and have a negative impact on all areas of a person's life.

## II. STUDY PROTOCOLS

### A. *Objective and Hypothesis*

The HDTP set out to gather data related to the level of discrimination that transgender and/or gender non-conforming people are experiencing in the rental housing market. The HDTP engaged AG<sup>61</sup> to assist in designing the protocols for the study. The objective was to determine whether there was evidence of gender identity discrimination in the housing market in the Greater Boston area through a carefully designed, controlled experiment that would produce results that could be generalized for the purpose of informing future policy. Our hypothesis was that we would find measurable preferential treatment toward the control group in terms of levels of service and treatment in the rental market. Other similar studies have shown such discrimination in various rental markets based on disability,<sup>62</sup> sexual orientation,<sup>63</sup> and race.<sup>64</sup>

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<sup>61</sup> Analysis Group is one of the largest private economics consulting firms in North America.

<sup>62</sup> U.S. Department of Housing and Urban Development, *Discrimination in the Rental Housing Market Against People who are Deaf and People who use Wheelchairs: National Study Findings* (2015), [https://www.huduser.gov/portal/sites/default/files/pdf/housing\\_discrimination\\_disability.pdf](https://www.huduser.gov/portal/sites/default/files/pdf/housing_discrimination_disability.pdf) [hereinafter *U.S. Dept. of HUD*]. The study found that well-qualified homeseekers who are deaf or hard of hearing who contacted housing providers using assistive communication technologies to inquire about advertised housing were less likely to receive a response, and when they did receive a response, were told about fewer available housing options than comparable homeseekers who were hearing. The study found that homeseekers who use wheelchairs were more likely to be denied an opportunity to view housing in buildings with accessible units than similarly situated ambulatory counterparts. *Id.* at 1.

<sup>63</sup> Friedman, *supra* note 19. The study found that greater than one in four tests demonstrated disparities in treatment (27% or 32 tests). *Id.* at 9. Disparities included differences in rental rates, level of encouragement, and rental fees. *Id.*

<sup>64</sup> U.S. Department of Housing and Urban Development, *Housing Discrimination Against Racial and Ethnic Minorities* xi (2012), [http://www.huduser.gov/portal/Publications/pdf/HUD-514\\_HDS2012.pdf](http://www.huduser.gov/portal/Publications/pdf/HUD-514_HDS2012.pdf) [hereinafter *Racial and Ethnic Minorities*]. Among the results, the study found that Black renters learned about 11.4% fewer available units and were shown 4.2% fewer units than equally qualified Whites. *Id.* at xv. Hispanics learned about 12.5% fewer unit available and were shown 7.5% fewer units than Whites. *Id.* Asians learned about 9.8% fewer available units and

We expected to find such discrimination based on gender identity, most probably at similar or higher rates.

### *B. Testing Protocols*

Housing discrimination testing is a controlled method to determine whether there is a difference in the quality, content, and quantity of information and services given to home seekers by those in the housing industry. Studies that use testing have been conducted since the 1970's.<sup>65</sup> To conduct a test, the testing coordinator<sup>66</sup> pairs individuals who are similar in all relevant aspects except the variable being tested. Characteristics such as race, age, economic status, and marital status might be matched or assigned so that the two testers can present as similarly qualified and situated prospective renters. The test coordinator ensures that the testers are both contacting the housing provider within a short period of time and in the same manner in order to minimize other factors that might impact how a prospective renter is treated by the housing provider. In order to preserve the unbiased nature of testing, testers are not aware of who they are paired with, nor are they aware of the treatment that their counterpart received.

Courts have recognized that a trained tester who is objective is likely to be the best source of evidence in determining whether there has been discrimination.<sup>67</sup> This is because a trained tester interacts with the housing provider with the goal of experiencing that housing provider's typical business practice and to accurately record their interaction. "The evidence provided by testers both benefits unbiased landlords by quickly dispelling false claims of discrimination and

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were shown 6.6% fewer units than Whites. *Id.*

<sup>65</sup> *Id.* at xi.

<sup>66</sup> The test coordinator is the person who plans, coordinates, and evaluates fair housing tests.

<sup>67</sup> See *Richardson v. Howard*, 712 F.2d 319, 321 (7th Cir. 1983) (court noted that tester evidence may receive more weight because testers are "careful and dispassionate observers").

is a major resource in society's continuing struggle to eliminate the subtle but deadly poison of racial discrimination . . ."<sup>68</sup> Courts have repeatedly accepted and recognized the importance of testing evidence because those who act in a discriminatory manner often disguise their inappropriate actions.<sup>69</sup> Testing provides a unique window into what is actually happening in housing transactions and provides researchers a tool to measure the level of discrimination occurring in the market.<sup>70</sup>

One of the challenges of conducting this study was to recruit a sufficient number of testers. The sample size of PC testers in the aggregate was 33; a number that is small but nevertheless the largest attained in any study of this type. Necessarily, when transgender and gender non-conforming testers are considered separately the samples are even smaller. There were 20 transgender testers and only 13 gender non-conforming testers. Still, the outcomes reported represent statistically significant differences in treatment across testers, increasing the confidence with which the results from this small study can be generalized to the broader population.

Transgender and gender non-conforming individuals have been and continue to be subjected to ill treatment in society.<sup>71</sup> Exposure to discrimination has a negative impact on physical and mental health.<sup>72</sup> Thus, a study that may result in volunteers experiencing discrimination is not taken lightly and is carefully planned. The HDTP engaged an outreach

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<sup>68</sup> *Id.* at 321-22.

<sup>69</sup> See *Zuch v. Hussey*, 394 F. Supp. 1028, 1051 (E.D. Mich. 1975), *aff'd*, 547 F.2d 1168 (6th Cir. 1977) ("it is the rare case today where the defendant either admits his illegal conduct or where he sufficiently publicizes it so as to make testers unnecessary"); see also *Gladstone Realtors v. Bellwood*, 441 U.S. 91, 97 (1979); see also *Hamilton v. Miller*, 477 F.2d 908, 909 n.1 (10th Cir. 1973).

<sup>70</sup> See *Racial and Ethnic Minorities*, *supra* note 64 at xii.

<sup>71</sup> See discussion *supra*, Introduction, footnotes 3-5.

<sup>72</sup> *E.g.*, CENTERS FOR DISEASE CONTROL AND PREVENTION, *NCHHSTP Social Determinants of Health*, <http://www.cdc.gov/nchhstp/socialdeterminants/definitions.html> (last visited Nov. 28, 2016)(scientists generally recognize five factors that have an impact on a person's mental and physical health and social environment, which can include discrimination, is one of the five factors).

coordinator who focused on recruiting and community outreach. He and the test coordinator engaged in a sustained effort for months to recruit the testers needed for the study. They contacted affinity groups and networked in the community in order to connect with and recruit PC testers. The test coordinator also engaged in additional recruiting of control testers in order to have matched pairs as to age, race, and ethnicity. The HDTP trained each tester on how to conduct testing in a manner that produces accurate and unbiased test evidence. Sixty-seven people indicated an interest in participating in the study as protected class testers and ultimately 33 people were trained and completed a test.

### *C. Rental Ad Scraping, Selection, and Randomization*

AG designed a procedure to generate a random sample of listings of studio and one bedroom apartments in the Greater Boston Area for the HDTP to test in this study. It was important to generate a random sample of listings to ensure the ability to generalize the result to the greatest extent possible and to avoid unintended bias. AG created a script using Python to randomly scrape 100 of the most recent rental listings from housing rental websites on a weekly basis. The program restricted the search to one bedroom and studio apartments under \$2,200 in the Greater Boston area. The HDTP and AG decided to restrict the scraping to studio and one bedroom apartments in order to reduce the possibility that the data would be impacted by unintentionally introducing another protected class such as marital status or sexual orientation into the test. The HDTP instructed testers to respond that they were looking for housing for only themselves if asked who would be living in the apartment.

Once AG identified the appropriate set of unique listings, AG randomized the order of the listings and randomly assigned either a PC or Control tester to be the first to contact the housing provider in the listing. AG then sent the listings to the HDTP. The HDTP's test

coordinator then began at the top of the list that AG provided and called each housing provider in succession in order to confirm that the listed apartment was still available. Once the test coordinator verified that an apartment was available, that apartment would become the subject of a test. These procedures ensured that the HDTP contacted a random sample of housing providers. The randomization of the listings and which tester would make first contact was important because even if an individual pair of testers interacted with different people, the testers contact with biased and unbiased agents should reflect the underlying proportion of biased agents in the population.

#### *D. Test Assignment*

The HDTP conducted tests in three parts: test assignment, site visit, and tester debrief. The test coordinator developed profiles for each tester based on the listing being tested. The test coordinator gave each tester pair (PC and Control) similar profiles that were designed to allow each pair to appear similarly qualified to rent the apartment. The test coordinator individually met with the PC and Control testers to provide them with their test assignments. The individual PC and Control testers never met their matched pair and were not given any information regarding the other tester in the pair. Testers were given instructions on how to initiate contact with the housing provider so that pairs would interact with the housing provider over the same medium (e.g., phone, e-mail, text message).

#### *E. Site Visit*

The testers set up appointments to view the advertised apartments. The test coordinator instructed the PC testers to introduce the test variable (transgender or gender non-conforming status) as soon as the opportunity arose at the site. The variable was always introduced in-person.

The test coordinator designed the tests to mimic a real apartment search interaction as closely as possible. The test coordinator did not give testers a script to follow; instead, testers were instructed to engage the housing providers as they would in a real housing search. The test coordinator provided PC testers with guidance regarding how to respond to potentially inappropriate comments should they receive such comments from housing providers.<sup>73</sup> The results revealed that most housing providers did not engage the PC testers directly about gender identity, with the exception of one housing provider who gushed about being proud of the PC tester and another housing provider who indirectly implicated gender identity by refusing to use the PC tester's preferred name instead of the tester's legal name even after being asked to do so.

The test coordinator instructed testers to verbally or visually introduce that they were transgender or gender non-conforming to the housing provider. The test coordinator made sure that for each completed test the housing provider was aware of the gender identity variable. Testers recorded their experiences in detailed test reports as soon as possible after the interaction with the housing provider. The HDTP trained the testers to record as much as they could recall about what was said during the site visit.

#### *F. Debrief*

Each tester individually met with the test coordinator to review their report,<sup>74</sup> answer any questions that the test coordinator had, and to ensure the tester filled out the report completely. Each tester wrote their report independently and the test coordinator did not in any way influence the content of the report other than to ask a tester to clarify a statement or add additional information.

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<sup>73</sup> The guidance was never used by testers, as housing providers did not make overt discriminatory statements to testers related to gender identity or expression.

<sup>74</sup> A copy of a blank test report is attached in Appendix A.

The testing process went smoothly and provided the opportunity to gather ample data for analysis. A handful of tests were cancelled because one or both of the testers were unable to connect with the housing provider, even after the testing coordinator initially confirmed that the apartment was available. When this occurred, the pair of testers was assigned a different randomly selected apartment to test.

### III. FINDINGS

Testing demonstrated that people are being discriminated against based on gender identity in the Metropolitan Boston rental market in a number of significant ways. Specifically, PC testers were 1) more likely to be quoted a higher rental price; 2) less likely to be offered a financial incentive to rent the apartment; 3) shown fewer areas than the control (i.e. such as storage area, laundry facilities, etc.); and 4) less likely to be asked their name upon meeting the housing provider face to face. Testing also found that individuals who are transgender and/or gender non-conforming were shown fewer apartments than their cisgender and gender conforming counterparts.<sup>75</sup> When comparing individual pairs of testers, the HDTP found discrimination by way of differential treatment in over 60% of tests. This finding is significantly higher than the finding in the Friedman study regarding discrimination based on sexual orientation. In that study evidence of discrimination was found in 27% of the tests.<sup>76</sup> The differential treatment found when comparing pairs was often based upon the statistically

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<sup>75</sup> When AG analyzed the data this variable was demonstrated with 89% certainty. While just shy of statistically significant, this result was strong enough to warrant reporting and further study. Typically, results that arise to the level of 90% certainty are considered statistically significant. “[A]ppplied econometricians generally follow the practice of setting the value of  $\alpha$  at a 1 or a 5 or at most a 10 percent level and choose a test statistic that would make the probability of a Type II error as small as possible.” DAMODAR N. GUJARATI, BASIC ECONOMETRICS 137 (4th ed. 2003). AG recommended reporting as statistically significant, any result with an alpha value of up to 10%. An alpha value of 10 corresponds to a 90% significance level. In other words, one can reject the hypothesis there is no difference in treatment between the protected class and the control with 90% confidence. *Id.* at 128.

<sup>76</sup> See Friedman, *supra* note 19 at 10.

significant factors noted above, but other times resulted from treatment such as the control receiving follow up that the protected class tester did not receive, or the control being offered services that the housing provider did not offer the protected class tester.

#### IV. STATISTICAL ANALYSIS

##### 1. *Conversion of Reports into Variables Used in Analysis*

Once the HDTP completed testing it provided AG with 99 reports: the 66 reports from the 33 sets of paired testers included in the study, and the test coordinator's assessment of each test. AG converted the information in the reports into a set of 21 outcome variables that would be used to measure whether the pairs received the same treatment. Variables included whether the testers were quoted the same price, were offered different terms, shown different numbers of apartments or areas of the buildings or received different levels of service and follow up. Appendix B describes the full set of variables and how AG constructed each variable.

##### 2. *Measurement of Discrimination*



The aggregated results table (Table 1) is included in full in the appendix. It describes the study results for all outcome variables constructed from the testing reports. The first four columns of results describe the gross outcomes for each variable across all 33 pairs of testers. For example, in regards to the question of whether the testers were offered a “Financial Incentive,” the test results indicate: 1) in 36% of cases, neither the PC tester nor the control tester were offered a financial incentive; 2) in 30% of cases, both the PC tester and the control tester were offered a financial incentive; 3) in 27% of cases, only the control tester was offered a financial incentive; and in 6% of cases, only the PC tester was offered a financial incentive. The four first columns, by construction, add up to 100% for every outcome variable. Column 5 provides a measure of the *net differential treatment*, the proportion of pairs for which the PC

Excerpt from Table 1: Aggregate Results (Columns 1-5)

Measure	Neither	Both	Control	PC	Difference
	Gross Difference				
Asked to be seated	79%	3%	12%	6%	-6%
Introduction	0%	79%	12%	9%	-3%
<b>Asked for name</b>	<b>12%</b>	<b>48%</b>	<b>30%</b>	<b>9%</b>	<b>-21%</b>
Courtesy title	88%	0%	3%	9%	6%
Shook hand	0%	88%	3%	9%	6%
Offered literature	70%	15%	6%	9%	3%
Offered food/drink	82%	9%	6%	3%	-3%
Offered business card	39%	30%	15%	15%	0%
Other gesture	55%	6%	21%	18%	-3%
Told more units available than partner	64%	0%	24%	12%	-12%
Shown more units than partner	67%	0%	18%	15%	-3%
<b>Shown more areas than partner</b>	<b>67%</b>	<b>0%</b>	<b>30%</b>	<b>3%</b>	<b>-27%</b>
<b>Financial incentive</b>	<b>36%</b>	<b>30%</b>	<b>27%</b>	<b>6%</b>	<b>-21%</b>
Non-financial incentive	58%	3%	24%	15%	-9%
Larger fee than partner	39%	6%	24%	30%	6%
<b>Rental price higher than partner</b>	<b>91%</b>	<b>0%</b>	<b>0%</b>	<b>9%</b>	<b>9%</b>
Offered application	45%	18%	21%	15%	-6%
<b>Negative comment</b>	<b>85%</b>	<b>3%</b>	<b>0%</b>	<b>12%</b>	<b>12%</b>
Positive comment	24%	39%	21%	15%	-6%
Offer help w housing search	85%	0%	9%	6%	-3%
Follow up	48%	12%	18%	21%	3%

tester received positive treatment minus the proportion of pairs for which the control tester received positive treatment. Following the previous example: 1) in 6% of cases, only the PC tester was offered a financial incentive; 2) in 27% of cases, only the control tester was offered a financial incentive; therefore, 3) the PC received positive treatment by this measure 21% *fewer* times than the control tester, as noted in column 5 of Table 1.

The final three columns of Table 1 provide evidence of the statistical significance of the differential treatment of PC testers as compared to control testers. In particular, the p-value measures the strength of the evidence against the conclusion there is no discrimination against PC testers. For example, a p-value of 5% (i.e., 0.05) says there is only a 5% chance that the differential treatment observed across PC and control testers is simply due to chance.<sup>77</sup> This is an

arbitrary, but conventional, measure of what is referred to as statistical significance at the 95% level: when the p-value is less than 5%, there is a 95% chance the outcome is not due simply to chance.<sup>78</sup> Significance levels of 99 and 90% are also commonly used. For this reason, we present all three in Table 1.<sup>79</sup>

Following the above example, the p-value is 3% for the outcome “Financial incentive.” This means there is a 3% chance that the finding that the PC was less

Excerpt from Table 1: Aggregate Results (Columns 6-8)

Measure	Standard error of difference	T-statistic	P-value
<b>Net Difference</b>			
Asked to be seated	7%	-0.8123	0.4226
Introduction	8%	-0.373	0.7116
<b>Asked for name</b>	<b>10%</b>	<b>-2.0313*</b>	<b>0.0506</b>
Courtesy title	6%	1.0000	0.3248
Shook hand	6%	1.0000	0.3248
Offered literature	7%	0.4417	0.6617
Offered food/drink	5%	-0.5714	0.5717
Offered business card	10%	0.0000	1.0000
Other gesture	11%	-0.2734	0.7863
Told more units available than partner	10%	-1.1608	0.2543
Shown more units than partner	10%	-0.2973	0.7681
<b>Shown more areas than partner</b>	<b>9%</b>	<b>-3.0317***</b>	<b>0.0048</b>
<b>Financial incentive</b>	<b>9%</b>	<b>-2.2346**</b>	<b>0.0326</b>
Non-financial incentive	11%	-0.8281	0.4138
Larger fee than partner	13%	0.4658	0.6445
<b>Rental price higher than partner</b>	<b>5%</b>	<b>1.7889**</b>	<b>0.0831</b>
Offered application	11%	-0.5714	0.5717
<b>Negative comment</b>	<b>6%</b>	<b>2.1009**</b>	<b>0.0436</b>
Positive comment	11%	-0.5714	0.5717
Offer help w housing search	7%	-0.4417	0.6617
Follow up	11%	0.2734	0.7863

\*Difference is statistically significant at the 90% level, \*\*at the 95% level, \*\*\*at the 99% level.  
N=33

<sup>77</sup> See JACOB COHEN, STATISTICAL POWER ANALYSIS FOR THE BEHAVIORAL SCIENCES 1-4 (2d ed. 1988).

<sup>78</sup> Id.

<sup>79</sup> See GUJARATI, supra note 76 at 137.

likely to be offered a financial incentive is due simply to chance. In other words, one would conclude there is a statistically significant difference in treatment related to this outcome. The outcomes displayed in bold in Table 1 indicate those outcomes for which the study shows that there is a statistically significant difference in outcomes across PC and control testers. The findings indicate that PC testers are: 1) 21% less likely to be asked their name; 2) 27% less likely to be shown more areas of the apartment complex; 3) 21% less likely to be offered a financial incentive; 4) 9% more likely to be offered a higher rental price; and 5) 12% more likely to hear negative comments about the unit or neighborhood than the control testers in their pair. All of these results are statistically significant at the 90% level or higher.

In Table 2 we seek to determine whether the differential treatment of PC testers only becomes apparent after their gender identity is explicitly revealed.

Table 2: After Variable Introduction



After gender identity reveal

Measure	Difference	T-statistic	P-value	N
Asked to be seated	<b>-14%</b>	<b>-2.1213**</b>	<b>0.0432</b>	<b>28</b>
Introduction	-25%	-1.5275	0.1705	8
Asked for name	<b>-38%</b>	<b>-3.5082***</b>	<b>0.0022</b>	<b>21</b>
Courtesy title	4%	1.0000	0.3265	27
Shook hand	0%	0.0000	1.0000	9
Offered literature	0%	0.0000	1.0000	26
Offered food/drink	0%	0.0000	1.0000	28
Offered business card	4%	0.3278	0.7457	27
Other gesture	-3%	-0.3282	0.7452	29
Told more units available than partner	-4%	-0.3276	0.7460	26
Shown more units than partner	3%	0.3282	0.7452	29
Shown more areas than partner	<b>-32%</b>	<b>-3.3607***</b>	<b>0.0026</b>	<b>25</b>
Financial incentive	<b>-23%</b>	<b>-2.0045*</b>	<b>0.0560</b>	<b>26</b>
Non-financial incentive	-14%	-1.2787	0.2115	29
Larger fee than partner	-4%	-0.2722	0.7878	25
Rental price higher than partner	8%	1.4460	0.1617	24
Offered application	-7%	-0.6255	0.5369	28
Negative comment	<b>10%</b>	<b>1.7974*</b>	<b>0.0831</b>	<b>29</b>
Positive comment	<b>-28%</b>	<b>-2.5570**</b>	<b>0.0204</b>	<b>18</b>
Offer help w housing search	0%	0.0000	1.0000	29
Follow up	-3%	-0.2967	0.7689	29

\*Difference is statistically significant at the 90% level, \*\*at the 95% level, \*\*\*at the 99% level.

The results indicate

several statistically significant differences in testing. In particular, PC testers are: 1) 14% less

likely to be asked to be seated; 2) 38% less likely to be asked for their name; 3) 32% less likely to be shown more areas than their partner; 4) 23% less likely to be offered a financial incentive; 5) 10% more likely to hear negative comments; and 6) 28% less likely to hear positive comments about the unit or neighborhood than the control tester in their pair.<sup>80</sup>

The results were similar when the HDTP examined the data for transgender and gender

Table 3: Results for Pairs Containing Transgender Testers

Measure	Neither	Both	Control	PC	Difference	Standard error of difference	T-statistic	P-value
Asked to be seated	85%	0%	10%	5%	-5%	9%	-0.5675	0.5770
Introduction	0%	80%	10%	10%	0%	10%	0.0000	1.0000
<b>Asked for name</b>	<b>10%</b>	<b>60%</b>	<b>30%</b>	<b>0%</b>	<b>-30%</b>	<b>11%</b>	<b>-2.8536**</b>	<b>0.0102</b>
<b>Courtesy title</b>	<b>85%</b>	<b>0%</b>	<b>0%</b>	<b>15%</b>	<b>15%</b>	<b>8%</b>	<b>1.8311*</b>	<b>0.0828</b>
Shook hand	0%	95%	0%	5%	5%	5%	1.0000	0.3299
Offered literature	70%	15%	5%	10%	5%	9%	0.5675	0.5770
Offered food/drink	90%	5%	5%	0%	-5%	5%	-1.0000	0.3299
Offered business card	40%	25%	10%	25%	15%	13%	1.1425	0.2674
Other gesture	65%	5%	15%	15%	0%	13%	0.0000	1.0000
Told more units available than partner	65%	0%	25%	10%	-15%	13%	-1.1425	0.2674
Shown more units than partner	65%	0%	20%	15%	-5%	14%	-0.3697	0.7157
Shown more areas than partner	65%	0%	30%	5%	-25%	12%	-2.0323	0.0563
Financial incentive	35%	30%	25%	10%	-15%	13%	-1.1425	0.2674
Non-financial incentive	65%	5%	25%	5%	-20%	12%	-1.7097	0.1036
Larger fee than partner	40%	0%	35%	25%	-10%	18%	-0.5675	0.5770
<b>Rental price higher than partner</b>	<b>85%</b>	<b>0%</b>	<b>0%</b>	<b>15%</b>	<b>15%</b>	<b>8%</b>	<b>1.8311*</b>	<b>0.0828</b>
Offered application	45%	10%	30%	15%	-15%	15%	-1.0000	0.3299
Negative comment	95%	0%	0%	5%	5%	5%	1.0000	0.3299
Positive comment	20%	45%	15%	20%	5%	14%	0.3697	0.7157
Offer help w housing search	85%	0%	5%	10%	5%	9%	0.5675	0.5770
Follow up	55%	5%	30%	10%	-20%	14%	-1.4530	0.1625

\*Difference is statistically significant at the 90% level, \*\*at the 95% level, \*\*\*at the 99% level.

N=20

non-conforming testers separately. Transgender testers were 30% less likely to be asked their name, 15% more likely to be quoted a higher price, and 25% more likely to be shown fewer amenities than their counterparts. (Table 3). The data also revealed that housing providers were 14% more likely to address transgender testers with a courtesy title, such as Mr., Ms., Sir, or Madame, than the Control.<sup>81</sup>

<sup>80</sup> Tables 1-4 are provided in Appendix C in larger format.

<sup>81</sup> Table 3.

The data as to gender non-conforming testers revealed that 23% of the time only one tester of a pair was offered a business card and it was always the control tester. Housing providers showed gender non-conforming testers fewer amenities 31% of the time, offered them fewer financial incentives 31% of the time, and made negative comments about the apartments to

Table 4: Results for Pairs Containing Gender Non-conforming Testers

Measure	Both	Control	Neither	PC	Difference	Standard error of difference	T-statistic	P-value
Asked to be seated	8%	15%	69%	8%	-8%	14%	-0.5620	0.5845
Introduction	77%	15%	0%	8%	-8%	14%	-0.5620	0.5845
Asked for name	31%	31%	15%	23%	-8%	21%	-0.3651	0.7214
Courtesy title	0%	8%	92%	0%	-8%	8%	-1.0000	0.3370
Shook hand	77%	8%	0%	15%	8%	14%	0.5620	0.5845
Offered literature	15%	8%	69%	8%	0%	11%	0.0000	1.0000
Offered food/drink	15%	8%	69%	8%	0%	11%	0.0000	1.0000
<b>Offered business card</b>	<b>38%</b>	<b>23%</b>	<b>38%</b>	<b>0%</b>	<b>-23%</b>	<b>12%</b>	<b>-1.8974</b>	<b>0.0821*</b>
Other gesture	8%	31%	38%	23%	-8%	21%	-0.3651	0.7214
Told more units available than partner	0%	23%	62%	15%	-8%	18%	-0.4330	0.2735
Shown more units than partner	0%	15%	69%	15%	0%	16%	0.0000	0.6727
<b>Shown more areas than partner</b>	<b>0%</b>	<b>31%</b>	<b>69%</b>	<b>0%</b>	<b>-31%</b>	<b>13%</b>	<b>-2.3094</b>	<b>0.0395**</b>
<b>Financial incentive</b>	<b>31%</b>	<b>31%</b>	<b>38%</b>	<b>0%</b>	<b>-31%</b>	<b>13%</b>	<b>-2.3094</b>	<b>0.0395**</b>
Non-financial incentive	0%	23%	46%	31%	8%	21%	0.3651	0.7214
Larger fee than partner	15%	8%	38%	38%	31%	17%	1.7598	0.1039
Rental price higher than partner	0%	0%	100%	0%	0%	0%	.	.
Offered application	31%	8%	46%	15%	8%	14%	0.5620	0.5845
<b>Negative comment</b>	<b>8%</b>	<b>0%</b>	<b>69%</b>	<b>23%</b>	<b>23%</b>	<b>12%</b>	<b>1.8974</b>	<b>0.0821*</b>
Positive comment	31%	31%	31%	8%	-23%	17%	-1.3887	0.1902
Offer help w housing search	31%	31%	31%	8%	-23%	10%	-1.4771	0.1654
<b>Follow up</b>	<b>23%</b>	<b>0%</b>	<b>38%</b>	<b>38%</b>	<b>38%</b>	<b>14%</b>	<b>2.7386</b>	<b>0.0180**</b>

\*Difference is statistically significant at the 90% level, \*\*at the 95% level, \*\*\*at the 99% level.  
N=13

gender non-conforming testers received follow-up from housing providers, but their respective control testers did not.<sup>83</sup>

The level of discriminatory treatment experienced by transgender and gender non-conforming testers in this study is greater than the findings other studies have found based on other protected classes. In a 2015 HUD study, deaf testers were 4.8% less likely to be told about move-in incentives.<sup>84</sup> This study found transgender and gender non-conforming testers were 21% less likely to be told about financial incentives. That level is much higher than the study based on race that found Whites were significantly more likely to be told about rent incentives

<sup>82</sup> Table 4.

<sup>83</sup> Id.

<sup>84</sup> U.S. Dept. of HUD, supra note 62 at 40, 48.

than Blacks at a difference of 4.8%.<sup>85</sup> A 2007 study of discrimination in the Newton, MA housing market based on disability found evidence of discrimination in 54% of tests.<sup>86</sup> In addition to experiencing discrimination at similar or greater levels as other protected classes, LGBT people also have been found to make use of non-discrimination laws when available. The Williams Institute analyzed the frequency of the use of sexual orientation and gender identity non-discrimination laws by LGBT people and found that LGBT people used those laws at a similar rate to the use of race non-discrimination laws by people of color and the use of sex non-discrimination laws by women.<sup>87</sup>

This research still leaves many unanswered questions that should be the subject of further study. For example, how do rates of discrimination compare between jurisdictions with and without gender identity as a protected class? How do the rates of discrimination differ between transgender men and transgender women; and how do they differ between transgender or gender non-conforming people of color as compared to their White counterparts?

## V. BEYOND THE DATA POINTS: WHAT TESTERS ACTUALLY EXPERIENCED

As predicted, most PC testers who experienced disparate treatment, did so in the form of subtle actions by the housing provider; and many were not even aware that they were treated differently from their gender conforming and cisgender counterparts (controls). In one test the agent told the PC tester to call if they wanted to receive an application, while the Control tester was given an application and told that it could be returned in person or mailed back. In that same

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<sup>85</sup> See *Racial and Ethnic Minorities*, *supra* note 64 at 43.

<sup>86</sup> *Disability Discrimination Audit of the Housing Market of Newton, Massachusetts*, DISABILITY LAW CENTER, INC. 3 (Jan. 2007), <http://www.dlc-ma.org/news/Newton%20Housing%20Report.pdf> (the study found evidence of discrimination in 48% of the 52 tests conducted and of the tests conducted involving only private, non-subsidized rental housing evidence of discrimination was found in 54% of the tests).

<sup>87</sup> *Evidence of Housing Discrimination Based on Sexual Orientation and Gender Identity: An Analysis of Complaints Filed with State Enforcement Agencies, 2008 – 2014*, THE WILLIAMS INSTITUTE 8 (Feb. 2016).

test the housing provider told the Control that the kitchen would be painted before they moved in, while the PC was not. The PC was not denied the opportunity to start the rental application process, but neither was the PC encouraged in the same way as the Control with an application provided during the visit and an offer to paint before move-in.

In another test, the agent told both testers about a second available unit; however, the agent made negative comments about that unit to the PC that they did not make to the Control. The difference in the way that the agent informed the two testers about the other apartment had the effect of encouraging the Control to see it (which they actually did) and discouraging the PC from viewing it (the PC did not see it).<sup>88</sup> During that test, the agent told the Control that the agent would send them an email with an application in order to follow up the next day, and the agent followed through and sent the email. The agent did not offer the PC an application or follow-up and PC did not receive either. In that same test, the agent offered information to the Control about the application process and showed the Control the basement area, which included a trash and laundry room. The agent did not give the PC that information and did not show or tell the PC about the basement area. Here again, the PC was not denied the opportunity to begin the rental application process; but neither was the PC given the same level of customer service that the agent gave the gender conforming cisgender Control tester.

In another test, the housing provider showed both testers apartments, both received rental application packets, and both received follow-up correspondence after the site visit. Beyond those similarities, the Control received a much higher level of customer service. The housing provider told the Control about a rent special that could be taken advantage of if an application

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<sup>88</sup> The testers had the flexibility to choose during the site visit to see more units if they were offered the opportunity.

was submitted within the first 24 hours after the site visit. The housing provider also showed the Control the outdoor lounge/pool area, but only told the PC about it. The housing provider told the PC that the screening process would involve calling former landlords, contacts, and references and did not tell this to the Control. The housing provider told the PC that their income would need to be verified, but only asked the Control where they worked and did not tell the Control that their income would be verified.

Some housing providers quoted testers different move-in costs. In one test, the housing provider told the PC that move-in costs would include first and last month's rent and a cleaning deposit, but told the Control in that test that move-in cost would be just one month's rent for the deposit. In that test, the housing provider gave both testers rental applications; however, the housing provider told the PC that they could leave the filled out application on top of the mailbox at the housing site for the agent if PC chose to submit, but told the Control that if they wanted to apply the agent would travel to their location to get the application and deposit check. Again, both testers were given the opportunity to begin the rental application process, but the Control tester received a much higher level of customer service.

Some testers were offered financial move-in incentives while others were not. In one test, the housing provider told the Control that the security deposit could be reduced by 75% (from \$2,000 to \$500, or a difference of \$1,500). The housing provider did not offer the PC that option. Additionally, the housing provider quoted the Control a lower price for the credit check (although the agent indicated that they were unsure of the exact price). In that test, the agent told PC that PC had agent's number if they wanted to follow-up. The agent told the Control that they would email Control with more information and the agent sent a follow-up email. The agent texted the Control a few hours after the site visit, but waited four days to text the PC after their



site visit. Again, both testers were given the opportunity to begin the rental application process, but the Control received a much higher level of customer service.

In another test with differential treatment, the testers interacted with the housing provider 15 minutes apart. Although PC walked down the street with the housing provider after viewing the unit, and presumably had more time to chat than the Control, the agent did not tell the PC to contact the housing provider for advice on their housing search; nor did the agent tell the PC that it was a good time in the market to buy; or, most importantly, that the rent might be negotiable (all information that the Control received). The PC asked the agent to show them the storage space but the agent showed the Control without being asked. Also, when PC introduced that they are transgender (for purposes related to testing), the housing provider responded “congratulations!”

In one of the tests where a PC was aware of negative treatment, the PC was improperly and repeatedly referred to by their legal first name, not the name that they had initially introduced themselves as and asked the housing provider to use.<sup>89</sup> The PC was left with the impression that the agent felt they should use their legal name instead of the name that the PC was using. Similar to what other testers experienced, the PC was not denied the opportunity to begin the rental application process; however, the PC was also not treated with the dignity of being addressed by the name in which they asked repeatedly to be addressed.

Not all tests resulted in evidence of discrimination being found and in a few tests the PC received better treatment. In one such test, the PC was shown more available units than the Control and she was told that the broker fee could be waived, while Control was told if she had

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<sup>89</sup> In this test the PC introduced that the name they were using would be different from the name used for a credit check. The PC only provided that name after the housing provider asked what PC’s legal name was.

good credit that she might be able to get one month's rent free (the broker fee was equal to one month's rent). The PC reported feeling very welcomed and was left with the impression that the agent really wanted to rent her an apartment.

## VI. RECOMMENDATIONS

The data resulting from this study demonstrates that discrimination based on gender identity and expression is occurring and that there is a need for policymakers to adopt legislation prohibiting discrimination in housing based upon gender identity at the federal level. This study confirms discrimination at high rates and along a number of significant variables against this vulnerable population. While this may not come as a surprise to most, there is a dearth of data surrounding this particular community, perhaps, in part because its members have been historically marginalized and thus are hard to recruit for a study that is likely to expose its subjects to further discrimination. In interviews, transgender and gender non-conforming individuals confirmed, anecdotally, the difficulties facing this community. For example, one individual who transitioned from female to male noted an increase in his level of cultural safety and power. He found it shocking how differently he was treated after he began passing as male. He observed that it was important for him to have transitioned in a safe environment at a time during which he did not have to look for housing. Implicit in this remark is the understanding that those transitioning outside of a safe environment are more vulnerable to ill treatment because of society's outmoded binary conceptions of gender identity. He also observed that in his experience, transgender women are more likely to be the subject of discrimination.<sup>90</sup>

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<sup>90</sup> In this study, with its relatively small sample size, the HDTP found discrimination at a higher rate among transgender men, than among transgender women. However, the HDTP designed the study such that all of the protected class testers revealed their protected class status, and thus none of the protected class testers were able to pass as their preferred gender without regard to their gender status at birth.

A transgender woman described a series of problematic interactions with her landlord that highlight the struggles of those in this protected class. These interactions included her landlord telling her not to “make a spectacle of things,” and referring to her girlfriend as her “boyfriend.” When she corrected the landlord, he said “I don’t care what the fuck it is.” The landlord also refused to refer to her preferred gender after she legally changed her name, calling her “Mr.” and “Sir.” One should not have to endure such humiliating conduct just by virtue of expressing their gender identity. As this study demonstrates, there is a basis for generalizing discriminatory conduct based on gender identity on a number of significant measures. While the conduct approximates the more subtle type of discrimination that HUD found in its most recent study on race,<sup>91</sup> it is no less problematic.

Congress should be the first to pass such legislation, but this is not likely in the near future. As such, states and municipalities should consider adopting their own protections. This study presents solid statistical evidence of the need for such protections. This study also squarely raises the need for further study. An even larger study over a wider geographic area is warranted, such as the national study HUD has conducted with regard to race.<sup>92</sup> Additionally, further study of the rates of discrimination against people based on gender identity or expression and race and ethnicity are also warranted.

The back drop of the 2016 post-election increase in hate and harassment of marginalized groups underscores the need for state and local policymakers to step up their efforts at protecting transgender and gender non-conforming people. Policymakers should use this data to design policies that give appropriate protections to transgender and gender non-conforming people so

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<sup>91</sup> See *Racial and Ethnic Minorities*, supra note 64.

<sup>92</sup> Id.

that they have redress against ill treatment and can hope to live in a society free from barriers that allows them to reach their potential as their true selves.

## APPENDIX A: SITE VISIT TEST REPORT FORM

Suffolk University Law School  
Housing Discrimination Testing Program

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**RENTAL TEST REPORT FORM**

*To be removed by test coordinator*

**HOUSING PROVIDER'S INFORMATION:**

HOUSING PROVIDER'S NAME:			
COMPANY:			
ADDRESS:		CITY, STATE, ZIP:	
PHONE:	DATES OF SITE VISIT(S)	TEST REPORT DATE:	

**TESTER'S INFORMATION:**

NAME:					
NAME USED FOR TEST (IF DIFFERENT):					
PHONE: (HOME)			PHONE: (CELL)		
LIST <b>ALL</b> APARTMENTS SEEN OR MENTIONED; APPEND A PAGE IF NECESSARY					
ADDRESS	CITY	APT. #	MONTHLY RENT	# OF BEDROOMS	UTILITIES/AMENITIES INCLUDED
A.			\$		
B.			\$		
C.			\$		
DESCRIBE <b>EACH</b> PERSON YOU SPOKE WITH OR CAME INTO CONTACT WITH; APPEND A PAGE IF NECESSARY.					
NAME	POSITION/TITLE		PHYSICAL DESCRIPTION (Age, gender identity, race)		

*\*To be removed by test coordinator*

# RENTAL TEST REPORT FORM

## HOUSING PROVIDER'S DEMOGRAPHIC INFORMATION:

ETHNICITY (select one):

☐ HISPANIC OR LATINO ☐ NOT-HISPANIC OR LATINO ☐ UNSURE

RACE (select one or more):

☐ WHITE ☐ BLACK/AFRICAN AMERICAN ☐ NATIVE HAWAIIAN OR OTHER  
PACIFIC ISLANDER

☐ ASIAN ☐ AMERICAN INDIAN OR ALASKA NATIVE ☐ OTHER (SPECIFY):

HOUSING PROVIDER'S (PERCEIVED) GENDER IDENTITY: ☐ MALE ☐ FEMALE

## TESTER'S DEMOGRAPHIC INFORMATION:

ETHNICITY (select one):

☐ HISPANIC OR LATINO ☐ NOT-HISPANIC OR LATINO

RACE (select one or more):

☐ WHITE ☐ BLACK/AFRICAN AMERICAN ☐ NATIVE HAWAIIAN OR OTHER  
PACIFIC ISLANDER

☐ ASIAN ☐ AMERICAN INDIAN OR ALASKA NATIVE ☐ OTHER (SPECIFY):

TESTER'S ASSIGNED SEX AT BIRTH: ☐ MALE ☐ FEMALE ☐ INTERSEX ☐ OTHER:

\_\_\_\_\_

TESTER'S GENDER IDENTITY: ☐ MALE ☐ FEMALE ☐ TRANSGENDER ☐ GENDER  
NON-CONFORMING

IF THERE ARE OTHER TERMS TO DESCRIBE THE TESTER'S IDENTITY  
(GENDERQUEER, FTM, MTF, AGENDER, ETC. PLEASE INDICATE THEM HERE:

\_\_\_\_\_

GENDER MARKER ON STATE ISSUED ID: ☐ MALE ☐ FEMALE

***I. GENERAL SITE VISIT INFORMATION***

1. FROM THE TIME YOU ENTERED THE OFFICE OR ARRIVED AT THE APARTMENT, HOW LONG DID YOU WAIT TO BE HELPED?
2. HOW MANY EMPLOYEES WERE VISIBLE IN THE OFFICE? (check one of the following)  <input type="checkbox"/> 1-2 <input type="checkbox"/> 3-5 <input type="checkbox"/> 6-9 <input type="checkbox"/> 10 OR MORE <input type="checkbox"/> DOES NOT APPLY
3. HOW MANY CUSTOMERS (EXCLUDING YOURSELF) WERE VISIBLE IN THE OFFICE OR DWELLING?
4. HOW MANY BUILDINGS DO YOU ESTIMATE ARE IN THE COMPLEX?
5. HOW MANY RENTAL UNITS DO YOU ESTIMATE ARE IN EACH BUILDING?
6. HOW MANY FLOORS ARE IN EACH BUILDING?
7. HOW OLD DO YOU ESTIMATE THE BUILDING/COMPLEX TO BE?
8. DID ANYONE, <u>OTHER THAN THE HOUSING PROVIDER WHO INTERVIEWED AND HELPED YOU</u> <u>PERSONALLY</u> , DO ANY OF THE FOLLOWING FOR YOU?  <input type="checkbox"/> YES <input type="checkbox"/> NO   A. ASKED TO BE SEATED <input type="checkbox"/> YES <input type="checkbox"/> NO   B. INTRODUCED HIM/HERSELF TO YOU <input type="checkbox"/> YES <input type="checkbox"/> NO   C. ASKED YOUR NAME <input type="checkbox"/> YES <input type="checkbox"/> NO   D. ADDRESSED YOU BY A COURTESY TITLE (MR., MS., SIR, MADAM, ETC.) <input type="checkbox"/> YES <input type="checkbox"/> NO   E. SHOOK YOUR HAND <input type="checkbox"/> YES <input type="checkbox"/> NO   F. OFFERED LITERATURE ON HOMES AVAILABLE <input type="checkbox"/> YES <input type="checkbox"/> NO   G. OFFERED YOU SOMETHING TO DRINK/EAT <input type="checkbox"/> YES <input type="checkbox"/> NO   H. OFFERED YOU A BUSINESS CARD <input type="checkbox"/> YES <input type="checkbox"/> NO   I. OTHER (SPECIFY)



9. DID THE HOUSING PROVIDER THAT INTERVIEWED AND HELPED YOU PERSONALLY DO ANY OF THE FOLLOWING?

- |                              |                             |   |
|------------------------------|-----------------------------|---|
| <input type="checkbox"/> YES | <input type="checkbox"/> NO | A. ASKED TO BE SEATED   |
| <input type="checkbox"/> YES | <input type="checkbox"/> NO | B. INTRODUCED HIM/HERSELF TO YOU                                  |
| <input type="checkbox"/> YES | <input type="checkbox"/> NO | C. ASKED YOUR NAME  |
| <input type="checkbox"/> YES | <input type="checkbox"/> NO | D. ADDRESSED YOU BY A COURTESY TITLE (MR., MS., SIR, MADAM, ETC.) |
| <input type="checkbox"/> YES | <input type="checkbox"/> NO | E. SHOOK YOUR HAND  |
| <input type="checkbox"/> YES | <input type="checkbox"/> NO | F. OFFERED LITERATURE ON HOMES AVAILABLE                          |
| <input type="checkbox"/> YES | <input type="checkbox"/> NO | G. OFFERED YOU SOMETHING TO DRINK/EAT                             |
| <input type="checkbox"/> YES | <input type="checkbox"/> NO | H. OFFERED YOU A BUSINESS CARD                                    |
| <input type="checkbox"/> YES | <input type="checkbox"/> NO | I. OTHER (SPECIFY)  |

10. WHICH OF THE FOLLOWING BEST DESCRIBES THE PLACE WHERE YOU WERE INTERVIEWED BEFORE

BEING SHOWN ANY RENTAL UNITS? (check only one)

- |                          |   |
|--------------------------|---|
| <input type="checkbox"/> | A. A RENTAL UNIT IN WHICH THE HOUSING PROVIDER RESIDES                  |
| <input type="checkbox"/> | B. A "MODEL APARTMENT" IN WHICH NO ONE REGULARLY RESIDES                |
| <input type="checkbox"/> | C. AN OFFICE WITH ONE OR MORE DESKS AND NO SEPARATE ROOMS OR PARTITIONS |
| <input type="checkbox"/> | D. AN OFFICE WITH ONE OR MORE DESKS SEPARATED BY PARTITIONS             |
| <input type="checkbox"/> | E. A SUITE OF OFFICES WITH A RECEPTION AREA                             |
| <input type="checkbox"/> | F. OTHER (SPECIFY)  |

## II. SUBJECTS OF DISCUSSION WITH THE HOUSING PROVIDER

11. WERE ANY OF THE FOLLOWING SUBJECTS DISCUSSED *Please describe how each subject was brought up and what was said about it. If a subject was not discussed please check the appropriate box. (Please note that "vol." stands for volunteered.)*

SUBJECT	SUBJECT AROSE BECAUSE:	WHAT WAS SAID?
A. SIZE OF APARTMENT	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
B. RENTAL PRICE RANGE	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
C. WHO WILL OCCUPY THE APARTMENT	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
D. GENDER(S) OF OCCUPANT(S)	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
E. AGE(S) OF OCCUPANT(S)	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
F. DISABILITY OF OCCUPANT(S)	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
G. MARITAL STATUS	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL.	AGENT SAID:

	<input type="checkbox"/> NOT DISCUSSED	YOU SAID:
H. CURRENT ADDRESS	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
I. PHONE NUMBER	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
J. OCCUPATION	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
K. EMPLOYMENT HISTORY AND/OR EMPLOYER	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
L. INCOME	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
M. ASSESTS OTHER THAN INCOME (i.e. SSI, Section 8, child support, etc.)	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
N. CREDIT HISTORY	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL.	AGENT SAID:

	<input type="checkbox"/> NOT DISCUSSED	YOU SAID:
O. DEBTS	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
P. SPOUSE/ ROOMMATE'S INCOME	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
Q. SPOUSE/ ROOMMATE'S  EMPLOYMENT HISTORY AND/OR EMPLOYER	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
R. WHY YOU WANT TO MOVE	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
S. HOW MUCH RENT YOU CURRENTLY PAY	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
T. REFERENCES (i.e. current landlord, employer, etc.)	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
U. RACE OR NATIONAL	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL.	AGENT SAID:



13. DID THE HOUSING PROVIDER OFFER TO PUT YOU ON A WAITING LIST?

(check one)

☐ YES, VOLUNTARILY (if yes, answer 15A and 15B)

☐ YES, BUT ONLY AFTER YOU ASKED HIM/HER ABOUT A WAITING LIST (if yes, answer 13A and 13B)

☐ NO, BECAUSE NO WAITING LIST EXISTS

☐ NO, BECAUSE A UNIT WAS AVAILABLE OR WOULD BE AT A GIVEN DATE

☐ OTHER, PLEASE SPECIFY

14. HOW MANY RENTAL UNITS DID YOU **ACTUALLY** INSPECT?

15. IF YOU DID NOT INSPECT AT LEAST ONE RENTAL UNIT, EXPLAIN WHY NOT.

### **III. LEASE, SECURITY DEPOSIT, APPLICATION, ETC.**

**16. WERE ANY OF THE FOLLOWING SUBJECTS DISCUSSED** *(Please describe how each subject was brought up and what was said about it If a subject was not discussed please check the appropriate box. Please note that "vol." stands for volunteered.)*

SUBJECT	SUBJECT AROSE BECAUSE:	WHAT WAS SAID?
<b>A. LEASE REQUIREMENTS</b> (please note the length of the lease if discussed)	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
<b>B. SECURITY DEPOSIT</b> (please note the charge for the security deposit if discussed)	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
<b>C. RENT SPECIAL AND/OR WAIVING OF FEES</b> (please note the special and/or fee to be waived if discussed)	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
<b>D. APPLICATION AND APPLICATION FEES</b> (please note the fee for the application if discussed)	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
		AGENT SAID:

<b>E. CREDIT CHECK</b> (please note the charge for the credit check if discussed)	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	YOU SAID:
<b>F. ADDITIONAL FEES</b> (i.e. pet fees, parking fees, etc. – <u>please note if these fees are refundable</u> if discussed)	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:
<b>G. BUILDING/UNIT OWNERSHIP</b>	<input type="checkbox"/> AGENT ASKED/VOL. <input type="checkbox"/> YOU ASKED/VOL. <input type="checkbox"/> NOT DISCUSSED	AGENT SAID:
		YOU SAID:



***IV. DEMOGRAPHIC MAKE-UP, NEIGHBORHOOD, ETC.***

17. DID THE HOUSING PROVIDER MAKE ANY REFERENCES TO GENDER IDENTITY, SEX, RACIAL COMPOSITION, OR USE "CODE WORDS" WHEN DESCRIBING THE BUILDING(S) OR COMPLEX? (check one)

☐ YES    ☐ NO    ☐ NOT SURE

IF YES OR NOT SURE, PLEASE EXPLAIN WHAT WAS SAID:

18. DID THE AGENT SPEAK NEGATIVELY ABOUT THE COMPLEX OR NEIGHBORHOOD? ☐ YES    ☐ NO

IF YES, PLEASE EXPLAIN.

19. DID YOU OBSERVE ANY OF THE FOLLOWING: (check yes or no, and "check not sure if they were tenants" if unsure of status)

☐ YES    ☐ NO    MINORITIES                      ☐ NOT SURE IF THEY WERE  
TENANTS

☐ YES    ☐ NO    CHILDREN                                      ☐ NOT SURE IF THEY WERE  
TENANTS

☐ YES    ☐ NO    PERSONS                                      ☐ NOT SURE IF THEY WERE  
TENANTS  
W/ VISIBLE DISABILITIES

IF YOUR RESPONSE WAS **YES** OR **NOT SURE** TO ANY OF THE ABOVE,  
PLEASE EXPLAIN WHERE YOU SAW THEM AND WHAT THEY WERE DOING.

20. WHEN YOU VISITED THE NEIGHBORHOOD, THE RENTAL UNIT WAS IN...

☐ YES    ☐ NO    A. A NOISY AREA (i.e. near a busy street, highway, airport, railroad,  
heavy industry, etc.)

☐ YES    ☐ NO    B. A DETERIORATING AREA (i.e. surrounded by poorly  
maintained houses and yards, etc.)

☐ YES    ☐ NO    C. AN AREA THAT HAD OTHER NEGATIVE FEATURES  
(specify)

21. WERE THERE ANY EQUAL HOUSING SIGNS OR NOTICES VISIBLE ON THE PREMISES? ☐ YES    ☐ NO

22. DID THE HOUSING PROVIDER ASK YOU TO MAKE A DECISION OR ASK YOU WHEN YOU WOULD MAKE A DECISION? ☐ YES ☐ NO

23. DID THE HOUSING PROVIDER INVITE YOU TO CALL BACK? ☐ YES ☐ NO  
IF YES, EXPLAIN.

***IF THE AGENT CONTACTS YOU AFTER YOU HAVE TURNED THIS REPORT FORM IN,  
PLEASE CALL THE TEST COORDINATOR WITH THIS INFORMATION AND COMPLETE A  
FOLLOW-UP CONTACT REPORT FORM.***

***V. REPORT NARRATIVE***

(Please give a detailed description of all interactions with the housing provider. Unless needed for clarity, please do not include any names (yours or the housing provider's)).

**PLEASE INCLUDE ALL EMAIL/TEXT CORRESPONDENCE  
CHRONOLOGICALLY**

COMPLETE NARRATIVE BELOW:

Date: \_\_\_\_\_

## APPENDIX B: ANALYSIS GROUP CODING DICTIONARY

Measure	Survey question	Description	Coding definition	Measure type: survey or new
Asked to be seated	9a	All parts of question 9 were coded in order to capture "helpfulness" gestures of the housing provider.	Coded question 9a: "Did the housing provider that interviewed and helped you personally do any of the following: Asked to be seated." A "yes" to this question was coded as "1", and missing responses were filled in using the report narrative.	Survey
Introduction	9b		Coded question 9b: "Did the housing provider that interviewed and helped you personally do any of the following: Introduced himself/herself to you." A "yes" to this question was coded as "1", and missing responses were filled in using the report narrative.	Survey
Asked for name	9c		Coded question 9c: "Did the housing provider that interviewed and helped you personally do any of the following: Asked your name." A "yes" to this question was coded as "1", and missing responses were filled in using the report narrative.	Survey
Courtesy title	9d		Coded question 9d: "Did the housing provider that interviewed and helped you personally do any of the following: Addressed you by a courtesy title." A "yes" to this question was coded as "1", and missing responses were filled in using the report narrative.	Survey
Shook hand	9e		Coded question 9e: "Did the housing provider that interviewed and helped you personally do any of the following: Shook your hand." A "yes" to this question was coded as "1", and missing responses were filled in using the report narrative.	Survey

Offered literature	9f		Coded question 9f "Did the housing provider that interviewed and helped you personally do any of the following: Offered literature on homes available." A "yes" to this question was coded as "1", and missing responses were filled in using the report narrative. (If the report narrative included instances of the provider showing floorplans or other information to the tester on the computer, this variable was coded as "1".)	Survey
Offered food/drink	9g		Coded question 9g: "Did the housing provider that interviewed and helped you personally do any of the following: Offered you something to drink/eat." A "yes" to this question was coded as "1", and missing responses were filled in using the report narrative.	Survey
Offered business card	9h		Coded question 9h: "Did the housing provider that interviewed and helped you personally do any of the following: Offered you a business card." A "yes" to this question was coded as "1", and missing responses were filled in using the report narrative.	Survey
Other gesture	9i		Coded question 9i: "Did the housing provider that interviewed and helped you personally do any of the following: Asked to be seated." A "yes" to this question was coded as "1".	Survey
Told more units available than partner	12b	This binary variable indicates if a provider informed a tester of a higher number of units available than the provider mentioned was available to the other tester.	This measure was based on responses to question 12b: "How many units were available?" If one tester was told of more available units than the other, this variable was coded as "1". If a tester reported that "multiple" units were available without reporting a figure, we used the narrative to determine or estimate an exact number. If the response was missing or it was otherwise unclear how many units the tester was told was available, we assumed they were told only the number of units they were shown. If there was a discrepancy between the question's response and the narrative, the coding was updated using number of units in the narrative.	Constructed

Shown more units than partner	14	This binary variable indicates if one tester saw a higher number of units than the other tester.	This measure is based on question q14: "How many rental units did you actually inspect?" If the response was missing, it was updated using the report narrative. The response was also adjusted if the narrative mentioned that the provider offered to show the tester an additional unit, but the tester declined inspecting it.	Constructed
Shown more areas than partner	Narrative	This binary variable indicates if a provider showed one tester more areas of the building the other tester. "Areas" are considered to be any locations outside of the rental unit itself, including laundry rooms, outdoor patios, gyms, recreation rooms, mail rooms, etc.	This variable was coded based on the areas listed in the report narrative. This variable did not consider that a tester was shown an area if the provider mentioned a location but did not show it. This variable also does not consider if a tester requested to see an area and was shown it- only unprompted areas were counted.	New
Financial incentive	16c	This is a measure of whether any tester was offered a discount, promotion, or other financial incentive to sign a lease.  <i>This variable aggregates several measures</i>	This measure was coded based on any mention of monetary incentives (question 16c). A financial incentive was considered any discount, promotion, waiver of a fee, or statement that a financial part of the lease was negotiable. The incentive must have been explicitly framed as a <u>reduction from existing prices</u> in order for the measure to have been coded as a "1".	New

		<i>included in the HUD report, including "tester told fees are negotiable", "tester told about incentives", "tester told payments negotiable", "tester offered month-to-month", "tester told deposit or bond is negotiable", and others.</i>		
Non-financial incentive	16c-f	This is a measure of whether any tester was offered a service or amenity to sign a lease.	This measure was coded based on responses to questions 16c-f, which pertain to details of the lease. This measure was coded as "1" if the tester was offered any service or amenity, such as doggy daycare, resident parking, or upgrading features of the apartment. (Free parking was considered a non-financial incentive.)	New
Larger fee than partner	16d, 16f	This variable captures if a tester was informed of a fee that was not mentioned to the other tester, and if a tester was quoted a higher amount for a fee than the other tester.	This measure was coded based on responses to questions 16d and 16f, which pertain to whether fees were discussed (both those associated with the application/signing and ongoing fees). This measure was coded as "1" if one tester was told of a fee that was not mentioned to the other tester, or if the stated amount of a fee was higher for the tester than for the other tester. This measure pertains to fees only- any differences in rental price were either captured in the "financial incentive" or "rental price" variables. (This variable also only pertains to stated fees that are discussed in terms of reductions. If a fee was discussed in the context of a discount, it was captured by the "financial incentive" measure.)	New

Rental price higher than partner		<p>This variable measures if a tester was quoted a higher rental price than the other tester. This measure only pertained to instances where neither tester was offered a discount on the rental price.</p>	<p>This variable was coded as "1" if the rent price was higher than the price quoted for the other tester. This measure only pertained to instances where neither tester was offered a discount- if a discount was offered, it was captured by the "financial incentive" variable.</p> <p>A statement is considered a quoted rent price if it is <u>not framed as a discount</u> from a previous price, e.g. if it is an increase from a previous price or a simply a quoted price. If a rental price was framed as a discount, it was considered a financial incentive, not a rental price.</p> <p>(If one tester was told that the rent included utilities and the other tester was not informed that utilities were included, the latter tester was coded as receiving a higher rental price.)</p>	New
Offered application	Narrative	<p>This variable captures if the provider shared either a paper or electronic copy with the tester.</p>	<p>This measure was coded using the narrative report, and captured any instance where the provider offered a hard copy application or emailed an application to the tester.</p>	New
Negative comment	Q18, Narrative	<p>The variable captures whether the provider made disparaging references or remarks regarding any aspect of the unit or neighborhood. This variable is intended to measure presence of "steering" the tester away from the unit or unit's neighborhood.</p>	<p>This variable was coded based on responses to question 18: "Did the agent speak negatively about the complex or neighborhood?", as well as the report narrative. We considered a wide definition of "negative", and considered subtle references to safety, cleanliness, and noise as negative comments. Negative comments about possible other units that the housing provider could show the tester are included. Because it is considered a measure of "steering", negative comments about other neighborhoods where the unit is not located are not included in this measure.</p>	Constructed

Positive comment	Narrative	This variable captures complimentary statements about any aspect of the unit or neighborhood.	If a comment could be considered purely factual, i.e. describing square footage, it was not considered a positive comment. Positive comments are considered subjective or complimentary statements about any aspect of the unit, building, landlord, neighborhood, neighbors, location, e.g. a statement about the nice view or "good size", or other remarks framed in the positive. (This measure is intended to capture the provider's degree of selling enthusiasm, and does not capture compliments made about the tester.)	New
Follow up	Narrative	This variable indicates whether the provider contacted the tester after the showing, for any reason and via any method.	Based on the narrative, this variable is coded as "1" if the provider followed up with the tester in any way after the showing. (Instances where the provider followed up to tell the tester that the unit was not available were still coded as "1".)	New
Gender Identity	"Tester's Gender Identity"	<i>This variable distinguished transgender and gender non-conforming classes.</i>	<i>For the purposes of distinguishing PC gender identity from the control group and creating a separate dataset of transgender and gender non-conforming individuals, gender identity marked "female" or "male" was coded as "transgender".</i>	<i>Constructed</i>
Offered to help search	Narrative	<i>This variable captures whether the housing provider offered to assist the tester with a general housing search.</i>	<i>If a housing provider offers his or her assistance to the tester during the in-person meeting, this variable is coded as "1". Housing search offers include offers to assist with locating homes outside of the unit(s) relevant to the visit.</i>	<i>Constructed</i>



## APPENDIX C: TABLES 1-4

Table 1: Aggregate Results

Measure	Neither	Both	Control	PC	Difference	Standard error of difference	T-statistic	P-value
	Gross Difference				Net Difference			
Asked to be seated	79%	3%	12%	6%	-6%	7%	-0.8123	0.4226
Introduction	0%	79%	12%	9%	-3%	8%	-0.373	0.7116
<b>Asked for name</b>	<b>12%</b>	<b>48%</b>	<b>30%</b>	<b>9%</b>	<b>-21%</b>	<b>10%</b>	<b>-2.0313*</b>	<b>0.0506</b>
Courtesy title	88%	0%	3%	9%	6%	6%	1.0000	0.3248
Shook hand	0%	88%	3%	9%	6%	6%	1.0000	0.3248
Offered literature	70%	15%	6%	9%	3%	7%	0.4417	0.6617
Offered food/drink	82%	9%	6%	3%	-3%	5%	-0.5714	0.5717
Offered business card	39%	30%	15%	15%	0%	10%	0.0000	1.0000
Other gesture	55%	6%	21%	18%	-3%	11%	-0.2734	0.7863
Told more units available than partner	64%	0%	24%	12%	-12%	10%	-1.1608	0.2543
Shown more units than partner	67%	0%	18%	15%	-3%	10%	-0.2973	0.7681
<b>Shown more areas than partner</b>	<b>67%</b>	<b>0%</b>	<b>30%</b>	<b>3%</b>	<b>-27%</b>	<b>9%</b>	<b>-3.0317***</b>	<b>0.0048</b>
<b>Financial incentive</b>	<b>36%</b>	<b>30%</b>	<b>27%</b>	<b>6%</b>	<b>-21%</b>	<b>9%</b>	<b>-2.2346**</b>	<b>0.0326</b>
Non-financial incentive	58%	3%	24%	15%	-9%	11%	-0.8281	0.4138
Larger fee than partner	39%	6%	24%	30%	6%	13%	0.4658	0.6445
<b>Rental price higher than partner</b>	<b>91%</b>	<b>0%</b>	<b>0%</b>	<b>9%</b>	<b>9%</b>	<b>5%</b>	<b>1.7889**</b>	<b>0.0831</b>
Offered application	45%	18%	21%	15%	-6%	11%	-0.5714	0.5717
<b>Negative comment</b>	<b>85%</b>	<b>3%</b>	<b>0%</b>	<b>12%</b>	<b>12%</b>	<b>6%</b>	<b>2.1009**</b>	<b>0.0436</b>
Positive comment	24%	39%	21%	15%	-6%	11%	-0.5714	0.5717
Offer help w housing search	85%	0%	9%	6%	-3%	7%	-0.4417	0.6617
Follow up	48%	12%	18%	21%	3%	11%	0.2734	0.7863

\*Difference is statistically significant at the 90% level, \*\*at the 95% level, \*\*\*at the 99% level.

N=33

Table 2: After Variable Introduction

<b>After gender identity reveal</b>				
<b>Measure</b>	<b>Difference</b>	<b>T-statistic</b>	<b>P-value</b>	<b>N</b>
Asked to be seated	<b>-14%</b>	<b>-2.1213**</b>	<b>0.0432</b>	<b>28</b>
Introduction	-25%	-1.5275	0.1705	8
Asked for name	<b>-38%</b>	<b>-3.5082***</b>	<b>0.0022</b>	<b>21</b>
Courtesy title	4%	1.0000	0.3265	27
Shook hand	0%	0.0000	1.0000	9
Offered literature	0%	0.0000	1.0000	26
Offered food/drink	0%	0.0000	1.0000	28
Offered business card	4%	0.3278	0.7457	27
Other gesture	-3%	-0.3282	0.7452	29
Told more units available than partner	-4%	-0.3276	0.7460	26
Shown more units than partner	3%	0.3282	0.7452	29
Shown more areas than partner	<b>-32%</b>	<b>-3.3607***</b>	<b>0.0026</b>	<b>25</b>
Financial incentive	<b>-23%</b>	<b>-2.0045*</b>	<b>0.0560</b>	<b>26</b>
Non-financial incentive	-14%	-1.2787	0.2115	29
Larger fee than partner	-4%	-0.2722	0.7878	25
Rental price higher than partner	8%	1.4460	0.1617	24
Offered application	-7%	-0.6255	0.5369	28
Negative comment	<b>10%</b>	<b>1.7974*</b>	<b>0.0831</b>	<b>29</b>
Positive comment	<b>-28%</b>	<b>-2.5570**</b>	<b>0.0204</b>	<b>18</b>
Offer help w housing search	0%	0.0000	1.0000	29
Follow up	-3%	-0.2967	0.7689	29

\*Difference is statistically significant at the 90% level, \*\*at the 95% level, \*\*\*at the 99% level.

Table 3: Results for Pairs Containing Transgender Testers

Measure	Neither	Both	Control	PC	Difference	Standard error of difference	T-statistic	P-value
Asked to be seated	85%	0%	10%	5%	-5%	9%	-0.5675	0.5770
Introduction	0%	80%	10%	10%	0%	10%	0.0000	1.0000
<b>Asked for name</b>	<b>10%</b>	<b>60%</b>	<b>30%</b>	<b>0%</b>	<b>-30%</b>	<b>11%</b>	<b>-2.8536**</b>	<b>0.0102</b>
<b>Courtesy title</b>	<b>85%</b>	<b>0%</b>	<b>0%</b>	<b>15%</b>	<b>15%</b>	<b>8%</b>	<b>1.8311*</b>	<b>0.0828</b>
Shook hand	0%	95%	0%	5%	5%	5%	1.0000	0.3299
Offered literature	70%	15%	5%	10%	5%	9%	0.5675	0.5770
Offered food/drink	90%	5%	5%	0%	-5%	5%	-1.0000	0.3299
Offered business card	40%	25%	10%	25%	15%	13%	1.1425	0.2674
Other gesture	65%	5%	15%	15%	0%	13%	0.0000	1.0000
Told more units available than partner	65%	0%	25%	10%	-15%	13%	-1.1425	0.2674
Shown more units than partner	65%	0%	20%	15%	-5%	14%	-0.3697	0.7157
Shown more areas than partner	65%	0%	30%	5%	-25%	12%	-2.0323	0.0563
Financial incentive	35%	30%	25%	10%	-15%	13%	-1.1425	0.2674
Non-financial incentive	65%	5%	25%	5%	-20%	12%	-1.7097	0.1036
Larger fee than partner	40%	0%	35%	25%	-10%	18%	-0.5675	0.5770
<b>Rental price higher than partner</b>	<b>85%</b>	<b>0%</b>	<b>0%</b>	<b>15%</b>	<b>15%</b>	<b>8%</b>	<b>1.8311*</b>	<b>0.0828</b>
Offered application	45%	10%	30%	15%	-15%	15%	-1.0000	0.3299
Negative comment	95%	0%	0%	5%	5%	5%	1.0000	0.3299
Positive comment	20%	45%	15%	20%	5%	14%	0.3697	0.7157
Offer help w housing search	85%	0%	5%	10%	5%	9%	0.5675	0.5770
Follow up	55%	5%	30%	10%	-20%	14%	-1.4530	0.1625

\*Difference is statistically significant at the 90% level, \*\*at the 95% level, \*\*\*at the 99% level.

N=20

Table 4: Results for Pairs Containing Gender Non-conforming Testers

Measure	Both	Control	Neither	PC	Difference	Standard error of difference	T-statistic	P-value
Asked to be seated	8%	15%	69%	8%	-8%	14%	-0.5620	0.5845
Introduction	77%	15%	0%	8%	-8%	14%	-0.5620	0.5845
Asked for name	31%	31%	15%	23%	-8%	21%	-0.3651	0.7214
Courtesy title	0%	8%	92%	0%	-8%	8%	-1.0000	0.3370
Shook hand	77%	8%	0%	15%	8%	14%	0.5620	0.5845
Offered literature	15%	8%	69%	8%	0%	11%	0.0000	1.0000
Offered food/drink	15%	8%	69%	8%	0%	11%	0.0000	1.0000
<b>Offered business card</b>	<b>38%</b>	<b>23%</b>	<b>38%</b>	<b>0%</b>	<b>-23%</b>	<b>12%</b>	<b>-1.8974</b>	<b>0.0821*</b>
Other gesture	8%	31%	38%	23%	-8%	21%	-0.3651	0.7214
Told more units available than partner	0%	23%	62%	15%	-8%	18%	-0.4330	0.2735
Shown more units than partner	0%	15%	69%	15%	0%	16%	0.0000	0.6727
<b>Shown more areas than partner</b>	<b>0%</b>	<b>31%</b>	<b>69%</b>	<b>0%</b>	<b>-31%</b>	<b>13%</b>	<b>-2.3094</b>	<b>0.0395**</b>
<b>Financial incentive</b>	<b>31%</b>	<b>31%</b>	<b>38%</b>	<b>0%</b>	<b>-31%</b>	<b>13%</b>	<b>-2.3094</b>	<b>0.0395**</b>
Non-financial incentive	0%	23%	46%	31%	8%	21%	0.3651	0.7214
Larger fee than partner	15%	8%	38%	38%	31%	17%	1.7598	0.1039
Rental price higher than partner	0%	0%	100%	0%	0%	0%	.	.
Offered application	31%	8%	46%	15%	8%	14%	0.5620	0.5845
<b>Negative comment</b>	<b>8%</b>	<b>0%</b>	<b>69%</b>	<b>23%</b>	<b>23%</b>	<b>12%</b>	<b>1.8974</b>	<b>0.0821*</b>
Positive comment	31%	31%	31%	8%	-23%	17%	-1.3887	0.1902
Offer help w housing search	31%	31%	31%	8%	-23%	10%	-1.4771	0.1654
<b>Follow up</b>	<b>23%</b>	<b>0%</b>	<b>38%</b>	<b>38%</b>	<b>38%</b>	<b>14%</b>	<b>2.7386</b>	<b>0.0180**</b>

\*Difference is statistically significant at the 90% level, \*\*at the 95% level, \*\*\*at the 99% level.

N=13