



# FEDERAL EVIDENCE AGENDA ON LGBTQI+ EQUITY

*A Report by the*

Subcommittee on Sexual Orientation, Gender Identity, and  
Variations in Sex Characteristics (SOGI) Data

Subcommittee on Equitable Data

*of the*

NATIONAL SCIENCE AND TECHNOLOGY COUNCIL

January, 2023

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The Subcommittee on Equitable Data (SED) was chartered as a means of operationalizing and institutionalizing the work of the Equitable Data Working Group (EDWG) established by the January 20, 2021 Executive Order on *Advancing Racial Equity and Support of Underserved Communities Through the Federal Government*. The SED provides executive departments and agencies a forum for implementing the recommendations of the EDWG in order to achieve its vision for equitable data. Equitable data are those that allow for rigorous assessment of the extent to which Government programs and policies yield consistently fair, just, and impartial treatment of all individuals. Equitable data illuminate opportunities for targeted actions that will result in demonstrably improved outcomes for underserved communities.

### **About this Document**

The Federal Evidence Agenda on LGBTQI+ Equity provides a roadmap for opportunities for the Federal Government to continue to build evidence and leverage data to advance equity for LGBTQI+ people. The learning questions posed in this report will help agencies approach evidence building more effectively and strategically with a clear focus on improving the health and well-being of LGBTQI+ people across the country.

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## Abbreviations and Acronyms

<b>AA and NHPI</b>	Asian American and Native Hawaiian and Pacific Islander
<b>ABS</b>	Annual Business Survey
<b>ACS</b>	American Community Survey
<b>AIDS</b>	Acquired Immunodeficiency Syndrome
<b>ASEC</b>	Annual Social and Economic Supplement
<b>BRFSS</b>	Behavioral Risk Factor Surveillance System
<b>CDC</b>	Centers for Disease Control and Prevention
<b>CPS</b>	Current Population Survey
<b>DOJ</b>	Department of Justice
<b>DOL</b>	Department of Labor
<b>EEOC</b>	Equal Employment Opportunity Commission
<b>EO</b>	Executive Order
<b>EOP</b>	Executive Office of the President
<b>FCSM</b>	Federal Committee on Statistical Methodology
<b>HCPS</b>	Health Center Patient Survey
<b>HHS</b>	Department of Health and Human Services
<b>HIV</b>	Human Immunodeficiency Virus
<b>HMIS</b>	Homelessness Management Information System
<b>LGBTQI+</b>	Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex
<b>NASEM</b>	National Academies of Sciences, Engineering, and Medicine
<b>OMB</b>	Office of Management and Budget
<b>OSTP</b>	Office of Science and Technology Policy
<b>NATS</b>	National Adult Tobacco Survey
<b>NCVS</b>	National Crime Victimization Survey
<b>NHANES</b>	National Health and Nutrition Examination Survey
<b>NHIS</b>	National Health Interview Survey
<b>NIS</b>	National Inmate Survey
<b>NSDUH</b>	National Survey on Drug Use and Health
<b>NSFG</b>	National Survey of Family Growth
<b>NSOAAP</b>	National Survey of Older Americans Act Participants
<b>NSTC</b>	National Science and Technology Council
<b>RFI</b>	Request for information
<b>RHY-HMIS</b>	Runaway and Homeless Youth– Homelessness Management Information System
<b>SAOP</b>	Senior Agency Official for Privacy
<b>SIPP</b>	Survey of Income and Program Participation
<b>SME</b>	Subject matter expert
<b>SOGI</b>	Sexual orientation and gender identity
<b>YRBSS</b>	Youth Risk Behavior Surveillance System

## Introduction

As President Biden noted in Executive Order 14075 (Advancing Equality for Lesbian, Gay, Bisexual, Transgender, and Intersex Individuals),<sup>1</sup> “Our Nation has made great strides in fulfilling the fundamental promises of freedom and equality for lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) Americans, owing to the leadership of generations of LGBTQI+ individuals. In spite of this historic progress, LGBTQI+ individuals and families still face systemic discrimination and barriers to full participation in our Nation’s economic and civic life.”

The Executive Order (EO) directs agencies to address ongoing barriers that LGBTQI+ communities face in education, housing, the foster care system, access to health care, juvenile justice programs, and more. The EO recognizes that in order to advance equity for LGBTQI+ people, the Federal Government must continue to gather the evidence needed to understand the LGBTQI+ community, the barriers they face, and the policy changes the Federal Government can make to enable their health and well-being. The EO therefore requires the creation of a Federal Evidence Agenda on LGBTQI+ Equity (“Evidence Agenda”) to inform the initiation of a coordinated cross-government effort. Increasing this evidence requires federal agencies to promote and engage in inclusive and responsible data collection practices that safeguard privacy, security, and civil rights.

This concept is not new. Since at least the early 1980s, LGBTQI+ advocates have been calling for more and better research to inform federal policy. In 1981, the Centers for Disease Control and Prevention (CDC) published some of its first research on the LGBTQI+ community, a report that addressed early experiences of gay men who had what would later be termed Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS). Throughout the rest of the 1980s, advocates continued to push for additional research on the LGBTQI+ community, primarily with the goal of improving treatment, services, and support for people living with HIV/AIDS.

Those early efforts laid the foundation for recent advances in the collection of sexual orientation and gender identity (SOGI)<sup>2</sup> data on some Federal surveys and administrative forms. The Federal Evidence Agenda on LGBTQI+ Equity builds upon that work and recognizes that while there is already some data demonstrating disparities faced by LGBTQI+ people, further evidence is needed to advance equity for this population.

## Purpose

The purpose of this report is to establish the Evidence Agenda described in EO 14075 and to provide a roadmap for federal agencies as they work to create their own data-driven and measurable SOGI Data Action Plans to help assess, improve, and monitor the health and well-being of LGBTQI+ people over time.

As required by Section 11(b) of EO 14075, the Evidence Agenda shall:

- i. Describe disparities faced by LGBTQI+ individuals that could be better understood through Federal statistics and data collection;

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<sup>1</sup> [Executive Order 14075; Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals](#), 87 Fed. Reg. 37189 (June 15, 2022) (FR Doc. 2022-13391).

<sup>2</sup> While acronyms used by LGBTQI+ communities continue to evolve, we use LGBTQI+ and SOGI throughout this report to be consistent with the Executive Order.

- ii. Identify, in coordination with agency Statistical Officials, Chief Science Officers, Chief Data Officers, and Evaluation Officers, Federal data collections where improved SOGI data collection may be important for advancing the Federal Government’s ability to measure disparities facing LGBTQI+ individuals; and
- iii. Identify practices for all agencies engaging in SOGI data collection to follow in order to safeguard privacy, security, and civil rights, including with regard to appropriate and robust practices of consent for the collection of this data and restrictions on its use or transfer.

Additionally, Section 11(c) of the EO mandates federal agencies develop and implement SOGI Data Action Plans to implement the Evidence Agenda and “detail how the agency plans to use SOGI data to advance equity for LGBTQI+ individuals.” The Evidence Agenda also complements recommendations for federal agencies on best practices for the collection of SOGI data on federal statistical surveys released by the Chief Statistician of the United States under Section 11(e) of the EO.

### About this Evidence Agenda

This Evidence Agenda was developed by the Subcommittee on Sexual Orientation, Gender Identity, and Variations in Sex Characteristics (SOGI) Data (Subcommittee), which is led by staff from the Office of Science and Technology Policy (OSTP) and the Office of Management and Budget’s (OMB) Evidence Team, and operates as part of the National Science and Technology Council’s (NSTC) Subcommittee on Equitable Data.

The Subcommittee includes over forty technical and subject matter experts (SMEs) from more than 20 departments and agencies across the Federal Government, including many individuals who identify as LGBTQI+ and bring lived experience to the work alongside their technical expertise. The Subcommittee was responsible for creating this Evidence Agenda and will also support federal agencies as they develop and implement their SOGI Data Action Plans following publication of this Evidence Agenda.

This Evidence Agenda includes three chapters:

1. **An Overview of LGBTQI+ Data Needs** – This chapter provides an overview of the SOGI-related data needs throughout the Federal Government that, if addressed, could improve the Federal Government’s ability to make data-informed, evidence-based decisions to improve the health and well-being of LGBTQI+ individuals.
2. **Learning Agenda to Advance LGBTQI+ Equity** – This chapter leverages the Learning Agenda<sup>3</sup> structure to address the critical question: “What additional evidence do we, as a Federal Government, need to advance equity for and improve the well-being of LGBTQI+ people?” Using this central focus, this Learning Agenda identifies a series of overarching and illustrative questions that will guide the Federal Government’s efforts to understand, support, and improve the lives of LGBTQI+ individuals and families.
3. **Guidelines for Collecting SOGI Data on Federal Administrative Forms** – This chapter identifies important guidelines for collecting SOGI data on federal administrative forms, like applications for benefits and services. Forms are often how the public interacts most directly

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<sup>3</sup> Learning agendas are “systematic plans for identifying and addressing priority questions relevant to the programs, policies, and regulations of the agency” (OMB Memorandum M-19-23). Learning Agendas are required by the Foundations for Evidence-Based Policymaking Act of 2018.



with the government, and while the data collected on these forms can supplement statistical surveys and administrative data retrieved from other sources, their primary goal is to help provide benefits, services, identification, grants, contracts, or federal employment. Because of this dual purpose, this chapter considers the safeguards agencies might use to enable robust SOGI data collection on administrative forms where applicable while protecting individual privacy, security, and civil rights.

Each of these chapters can stand alone, but together, they provide a roadmap for how the Federal Government can and should build evidence to advance LGBTQI+ equity, including priority evidence gaps to be filled; data needs to meet these evidence gaps; and guidelines to inform agencies as they collect, store, use, analyze, report, and share data from administrative contexts. Informed by a range of internal and external engagement, the Evidence Agenda is rooted in scientific integrity and letting the priority evidence-building questions drive the data needs. It takes a holistic and long-term view of building and using evidence while also addressing shorter- and intermediate-term evidence needs. As such, the Evidence Agenda should be monitored and refined over time to ensure it meets its intended purpose and incorporates new empirical findings as they unfold.

### **Community Engagement**

Meaningful community engagement, both external and internal to government, was essential to developing an effective and thoughtful Evidence Agenda. To bring a range of knowledge, insights, and experiences to bear, the Subcommittee undertook three sets of engagement activities which informed the creation of this Evidence Agenda.

First, OSTP issued a Request for Information (RFI) on August 24, 2022.<sup>4</sup> This RFI asked for public input on a range of questions regarding collecting and using SOGI data while maintaining privacy and security. OSTP received 70 responses from individuals and organizations, representing over 200 national, state, and local LGBTQI+ organizations; research firms and think tanks; professional industry groups; academics and universities; and individuals from the community.

Second, the Subcommittee held a series of listening sessions with more than 50 individuals, organizations, data specialists, community advocates, and academics, representing a broad range of lived experience and issue-area expertise. These listening sessions covered a range of topics, including nuanced information about the needs of LGBTQI+ people, current available research on the community, and privacy and confidentiality considerations; this information was used to inform all three aspects of the Evidence Agenda.

Finally, the Subcommittee engaged with federal SMEs, including Evaluation Officers, Chief Data Officers, and Statistical Officials, to identify and discuss gaps in evidence needed to advance LGBTQI+ equity as well as potential federal data sets that could be used to answer the illustrative questions in the Learning Agenda. The Subcommittee's work was also informed by the many SMEs in the Subcommittee itself, many of whom brought lived experience to the work alongside substantial expertise in SOGI measurement, data collection more broadly, policies and programs that serve LGBTQI+ individuals and families, and in-depth knowledge of this population.

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<sup>4</sup> [Request for Information: Federal Evidence Agenda on LGBTQI+ Equity, 87 Fed. Reg. 52083 \(August 24, 2022\) \(FR Doc. 2022-18219\)](#).

Note that throughout this report, the Subcommittee uses the generic term “commenters” to refer to the people who provided input on the content of the report. Where a more specific term is necessary to clarify the source of the input, the report uses more precise language.

### **Moving Forward**

The Evidence Agenda represents a unique opportunity to improve the health and well-being of LGBTQI+ people. For the first time, the Federal Government has laid out a roadmap to systematically and strategically further build the evidence needed to inform policies and programs that will improve the lives of LGBTQI+ individuals and their families. By identifying those questions that, when answered, will help our government better serve this population, the Evidence Agenda serves as a call to action for federal agencies and the broader external community. Moreover, it provides guidelines and tools for federal agencies as they approach this work to ensure that they are doing so in an inclusive and responsible way.

This document is not meant to be an end point in the Federal Government’s path to improving SOGI data collection. We expect improvement to be a continuous process, and as the next part of that process, in coming months the Subcommittee expects to continue its work by:

- Supporting federal agencies in creating their SOGI Data Action Plans, which are required by EO 14075;
- Providing tools and templates to agencies to facilitate their SOGI data work, including information about risk assessments used in determining appropriate data elements to include in surveys and forms, policy templates, and replicable trainings for data practitioners;
- Supporting coordinated user research for agencies that want to pilot context-specific SOGI collection in administrative data collections; and
- Ensuring staff with cross-agency oversight authority are familiar with the best practices and recommendations contained in this and other aligned documents.

This Evidence Agenda is, at its heart, a plan, and now begins the hard work of moving from planning to action to help make equity for LGBTQI+ people a reality.

## Chapter 1: An Overview of LGBTQI+ Data Needs

Collection of quality data is essential for evidence-based policymaking. Currently, there is a need for the Federal Government to improve and expand its efforts to collect information on sexual orientation and gender identity (SOGI), including data on intersex populations. Doing so will better inform and facilitate policy decisions designed to understand and address disparities for LGBTQI+ people. The Subcommittee on SOGI Data Collection (Subcommittee) was charged with developing a framework to identify disparities — noticeable and usually significant inequities — in the experiences of LGBTQI+ people that could be illuminated via data collection efforts.

There are numerous SOGI-related data needs throughout the Federal Government that, if addressed, could improve the Federal Government's ability to make data-informed, evidence-based decisions. To better understand SOGI data needs, the Subcommittee gathered input from subject matter experts (SMEs), listening session participants (both internal and external to government), and respondents to a request for information (RFI) via a Federal Register Notice. Information and feedback collected through these mechanisms are organized into four themes in this chapter: (1) data types, (2) collection and publication of SOGI data, (3) topical data needs, and (4) additional SOGI data considerations.

In addition to the four themes, the Subcommittee heard several common principles during the data gathering process:

- **SOGI data are demographic data.** SOGI data should be considered basic, essential demographic information and treated on par with other demographic data. In general, SOGI data should be collected when other demographic characteristics like race, ethnicity, and disability status are collected for statistical purposes or for the purpose of equitably distributing resources. Collecting, using, and protecting this information may involve unique considerations; agencies are responsible for complying with all applicable laws and policies, as they are with collection and publication of other demographic information. Chapter 3 highlights some of the data stewardship and privacy practices that agencies should incorporate into their efforts to collect SOGI data.
- **Data collection must start immediately.** Especially in the context of federal surveys, recommendations for SOGI data measures and successful data collection methods exist, are well-documented, and have been successful in federal data collection efforts.<sup>5</sup> Just as continued research is necessary to improve the quality of race, ethnicity, disability, and other demographic data collection, the Federal Statistical System should continuously strive to improve its SOGI data collection methods, but in most circumstances, the Federal Government has enough knowledge to responsibly begin collecting SOGI data now.
- **SOGI data have the most utility when they are disaggregated.** Because differences and disparities among subgroups within the LGBTQI+ population are pronounced, SOGI data should be disaggregated to the degree that standard data stewardship practices (policies that ensure data are accessible, usable, safe, and trusted) allow and in accordance with applicable privacy law and policy.

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<sup>5</sup> As noted in Chapter 3 of this report, there is a less robust literature on appropriate measures for collecting SOGI data in administrative contexts.

- **SOGI data must be used to serve LGBTQI+ people.** Collection of SOGI data is necessary, but data collection alone is not sufficient to address the disparities experienced by LGBTQI+ people. Federal agencies must commit to using the SOGI data they collect to better serve the LGBTQI+ community. For example, while collection of data on LGBTQI+ employment discrimination is important for understanding the lived experience of LGBTQI+ people, it is equally critical that agencies like the Department of Justice (DOJ) and the Equal Employment Opportunity Commission (EEOC) utilize those data for enforcement of existing discrimination protections, and that agencies like the Department of Labor (DOL) use those data for more effectively designing labor force programs to serve LGBTQI+ people.
- **The value of SOGI data is unlocked by analysis.** Even in the limited places where SOGI data are currently collected, federal agencies do not always conduct in-depth analyses of data on LGBTQI+ people. When relevant, SOGI data should be used to assess access to and experiences with federal programs and services and disparities in the application and impact of policies. In addition, in accordance with the recommendations of the Equitable Data Working Group, agencies should explore how to expand opportunities for LGBTQI+ scholars to conduct their own equity analyses and contribute to the body of evidence to inform the equitable design of government policies and programs.<sup>6</sup>
- **Integrate the needs of LGBTQI+ people in privacy, training, and public trust work.** In alignment with the Federal Data Strategy, the Federal Government should engage in activities that specifically address SOGI data in efforts to protect data and privacy, train data collectors, and develop public trust. For example, agencies should integrate LGBTQI+-related concepts into efforts to “Regularly assess and address public confidence in the value, accuracy, objectivity, and privacy protection of federal data to make strategic improvements, advance agency missions, and improve public messages about planned and potential uses of federal data.”<sup>7</sup>

### Data Types: Quantity, Quality, and Understanding What Works

The types of data used by the Federal Government to inform policy decision-making can be understood as:

- a) Data that helps us understand the quantity of people who have a particular experience or characteristic (“quantity” or “prevalence data”),
- b) Data that helps us understand how people experience systems differently (“quality” or “difference data”), and
- c) Data that helps us understand whether policies and interventions work for different populations (“understanding what works” or “assessment data”).

Quantity or prevalence data can be especially valuable in our efforts to describe populations, examine key characteristics of a population, and track changes in communities over time. Quality or difference data can help us understand both the causes and consequences of differences in experiences, which in turn can help us define and refine the types of interventions that might help to eradicate disparities over time. Assessment data, or data on which interventions work for a community, can be used to gauge successes, challenges,

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<sup>6</sup> Equitable Data Working Group. (2022). *A Vision for Equitable Data: Recommendations from the Equitable Data Working Group*. <https://www.whitehouse.gov/wp-content/uploads/2022/04/eo13985-vision-for-equitable-data.pdf>

<sup>7</sup> Federal Data Strategy Development Team. (2020). *Federal Data Strategy 2020 Action Plan*. President’s Management Agenda. <https://strategy.data.gov/overview/>

opportunities, and failures of systems, policies, and programs. Each of these types of data are essential for evidence-based policymaking and program development.

### *Quantity/Prevalence Data*

Information about the size of a population of interest is pivotal for evidence-based policymaking and program development. Although several federal surveys collect limited data on the LGBTQI+ community, additional information is needed on the size of LGBTQI+ populations. This will enable the Federal Government to better describe LGBTQI+ populations and to further understand changes in the experiences of LGBTQI+ people over time. Prevalence data is also an essential component in understanding subgroups within LGBTQI+ populations.

It is important to collect prevalence data on LGBTQI+ people through large, nationally representative demographic surveys. In the Federal Statistical System, there are currently about a dozen existing nationally representative surveys that ask *sexual orientation* questions and fewer that ask questions about *gender identity*. However, most of these surveys are focused on a particular topic like health, education, or crime, and do not provide comprehensive information about the LGBTQI+ population, such as population size or characteristics of LGBTQI+ respondents. No nationally representative surveys collect data about variations in sex characteristics or intersex people.

Collection of SOGI data in large-scale, nationally representative federal demographic surveys, such as the Decennial Census and American Community Survey, would enable more accurate counts of the LGBTQI+ population. Surveys on this scale would provide vital information about LGBTQI+ populations that could be examined in conjunction with other demographic factors such as age, education, income, geographic location, race, and ethnicity; this would allow decision-makers to better understand differences and disparities between LGBTQI+ and non-LGBTQI+ people and within LGBTQI+ populations. Improved understanding is an important first step to better ensure the needs of LGBTQI+ people are met. However, large demographic surveys are not the only place where counts of prevalence are important. There is also a need for improved data that helps to count LGBTQI+ people within administrative systems. Administrative data, health registries, and other records systems may be valuable tools for understanding the prevalence of LGBTQI+ people within systems that attempt to collect data on all system participants.

### *Quality/Difference Data*

While knowing the quantity of people who share a common characteristic or experience can help us to understand the scope of a need, understanding how people experience systems differently can help us ensure the needs of LGBTQI+ populations are met. For example, knowing that nearly a million young people under the age of 18 experience homelessness every year can help us understand the quantity of resources that might be necessary to meet the needs of those young people. However, knowing that as many as 40 percent of those young people experiencing homelessness identify as LGBTQI+ — a much higher rate than estimates of prevalence in the general population — may help us design programs and services that are tailored to the causes and consequences of homelessness for LGBTQI+ youth.<sup>8</sup>

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<sup>8</sup> For more information on the number and characteristics of young people experiencing homelessness, see: [National Clearinghouse on Homeless Youth & Families. \(2019\). Facts and Figures About Runaway and Homeless Youth.](https://rhyclearinghouse.acf.hhs.gov/blog/2019/03/facts-and-figures-about-runaway-and-homeless-youth-0) Administration for Children and Families Family & Youth Services Bureau. <https://rhyclearinghouse.acf.hhs.gov/blog/2019/03/facts-and-figures-about-runaway-and-homeless-youth-0>

Despite the value of data in addressing disparities faced by LGBTQI+ people, the Federal Government needs to collect further information on such disparities. The available data touches only on a narrow range of issue areas, such as differences in physical, mental, and behavioral health with an overrepresentation in a few topical areas such as HIV/AIDS and suicidality. Where these data do exist, such as from data sources like the National Health Interview Survey or the National Crime Victimization Survey, additional data could increase understanding of the causes and consequences of the disparities and provide critical information to inform more effective services and supports for LGBTQI+ communities.

While large-scale data collections may be crucial for identifying disparities, smaller, more in-depth surveys, qualitative data collections, and community-based participatory research are just as important for gathering detailed information. These nuanced data sources can help explain why certain phenomena occur, can help determine the scope of particular disparities, and can aid in creating a more complete picture of the lived experiences of LGBTQI+ people. Detailed data are particularly important for understanding resilience and successful community-based service strategies for LGBTQI+ communities.

### *Understanding What Works/Assessment Data*

For the Federal Government to effectively serve LGBTQI+ people, it must further understand what policies and programs are best suited to meet the needs of the LGBTQI+ community. Most federal, state, Tribal, and local programs do not currently collect SOGI data on their participants, and thus have limited ability to quantitatively assess how successful their programs are at meeting the needs of LGBTQI+ people. Evidence-based policymaking is most effective when it adapts to ongoing feedback and evidence on what is and is not working, for whom, and under what conditions.

For data to better inform policies that address inequities, the Federal Government needs additional information that reveals systemic disparities that LGBTQI+ communities face in existing programs or in their daily lives. To get that type of data, LGBTQI+ research must look not just at individual characteristics and behaviors, but rather at patterns at the community level. Data on the impacts of systems and existing policies can help to assess how LGBTQI+ individuals are interacting with federal programs and agencies and to better understand where challenges or disparities exist in accessing or maintaining contact with federal programs, or where LGBTQI+ people are underserved within those programs.

SOGI data can also be used to identify policies and programs that are working well for LGBTQI+ people. Federal agencies should consider prioritizing assessments of programs and services for LGBTQI+ people in areas where known disparities exist, such as in education, housing, caregiving, employment, immigration, and military life. Many of these assessments will rely on administrative data.<sup>9</sup> Integrating SOGI data collection into these administrative data sets is urgent as data collected before and after policy or programmatic change can help agencies evaluate the efficacy of that change for a community of interest.

### **Collection and Publication of SOGI Data**

Although we lack prevalence data sufficient to describe the number of LGBTQI+ people in the United States, non-governmental estimates are instructive in highlighting potential considerations that may be relevant to the collection and publication of data on the LGBTQI+ community. The most recent estimates

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<sup>9</sup> For the purposes of this report, administrative data are data used to administer Federal programs.

from Gallup suggest that about seven percent of the adult population self-identifies as LGBTQI+.<sup>10</sup> Other populations of similar size – such as the Asian American (AA) and Native Hawaiian and Pacific Islander (NHPI) communities – have historically found it difficult to access the disaggregated data that are critical to clarifying disparities within their populations given existing data stewardship standards.<sup>11</sup> Both the importance of disaggregation and strategies for addressing data stewardship challenges are important considerations in the collection and publication of SOGI data.

### *Disaggregated Data*

Because differences among subgroups within the LGBTQI+ population are pronounced, SOGI data should be disaggregated to the degree that standard data stewardship practices allow and in accordance with applicable privacy law and policy. As a general principle, data should be collected and presented with sufficient detail that meaningful differences between diverse groups can be understood. When data on various LGBTQI+ subgroups are combined, the resulting data may be misleading. This could result in less effective policies and programs, especially for subgroups within the community.

For example, income data about the LGBTQI+ community is often published in the aggregate.<sup>12,13,14,15,16</sup> These data show that same-sex married couples have a higher median household income than different-sex married couples. However, when these data are disaggregated, it becomes apparent that female same-sex married couples have a higher poverty rate (5 percent) than both different-sex and male same-sex married-couple households. Further disaggregation and detailed data from other sources show pronounced disparities for LGBTQI+ people of color, single LGBTQI+ people, transgender people, and LGBTQI+ people with disabilities.

Robust data on LGBTQI+ people will help policy and program staff make better decisions about how to serve people in the LGBTQI+ community, especially when those data help them to examine the different experiences of LGBTQI+ women, bisexual people, transgender people, non-binary people, and intersex people.

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<sup>10</sup> Jones, J. M. (2022). *LGBT Identification in U.S. Ticks Up to 7.1%*. Gallup.

<https://news.gallup.com/poll/389792/lgbt-identification-ticks-up.aspx>

<sup>11</sup> See, e.g., White House Initiative on Asian Americans and Pacific Islanders Interagency Working Group Data and Research Subcommittee. (March 2016) *Best Practices for the Disaggregation of Federal Data on Asian Americans and Pacific Islanders*. [https://nces.ed.gov/fCSM/pdf/WHIAAPI\\_2016\\_spread\\_508c.pdf](https://nces.ed.gov/fCSM/pdf/WHIAAPI_2016_spread_508c.pdf)

<sup>12</sup> The Williams Institute. (2019). *LGBT Demographic Data Interactive*.

<https://williamsinstitute.law.ucla.edu/visualization/lgbt-stats/?topic=LGBT#economic>

<sup>13</sup> Prudential Financial. (2017). *The LGBT Financial Experience*.

<http://corporate.prudential.com/media/managed/PrudentialLGBT2016-2017.pdf>

<sup>14</sup> Aegon Center for Longevity and Retirement. (2017). *LGBT: Retirement Preparations Amid Social Progress*.

Aegon N. V. <https://www.aegon.com/contentassets/a53f9dc01d4f4723b84e475bf564c09b/lgbt-retirement-research-aegon-2018.pdf>

<sup>15</sup> National Academies of Sciences, Engineering, and Medicine; Division of Behavioral and Social Sciences and Education; Committee on Population; Committee on Understanding the Well-Being of Sexual and Gender Diverse Populations. (2020). Economic Well-Being. In J. White, M. J. Sepúlveda, and C. J. Patterson (Eds.), *Understanding the Well-Being of LGBTQI+ Populations* (pp. 253-285). The National Academies Press. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK566083/>

<sup>16</sup> Scherer, Z., Anderson, L. (2021). *Larger Share of People in Same-Sex Couples Have Graduate or Professional Degrees Than People in Opposite-Sex Couples*. U.S. Census Bureau.

<https://www.census.gov/library/stories/2021/04/how-people-in-same-sex-couples-compare-to-opposite-sex-couples.html>

Improving our understanding of the compounding impact of multiple identities on disparities is essential for good, data-driven policymaking. For example, individuals who face multiple barriers or forms of discrimination may face worse outcomes and should therefore be considered in any data collection effort. This means that LGBTQI+ data are most informative when analyzed in concert with other demographic categories, such as race, age, geography, and disability status.

Pronounced disparities have been uncovered in analyses that explore differences between LGBTQI+ people of different racial and ethnic identities, in different geographies, with different types of disabilities, and of different ages. These types of differences sometimes become even more notable as they are traced across time as shown in some longitudinal studies. While it can be difficult to conduct these types of detailed analyses on some populations due to small sample sizes, it is critical that the Federal Government endeavors to address these challenges in ways that promote public trust by incorporating appropriate safeguards in order to most effectively design policy solutions to ensure that underserved communities experience equal treatment.

Experiences across geographic locations can similarly vary significantly. As such, data should be collected and analyzed at the smallest geographies possible. There are large differences in experiences and outcomes by region, metropolitan area, rural/urban settings, and geographically isolated areas. It is important to collect data that allow for analyses of these differences. In addition, it is necessary to report data on smaller geographies, like Census tracts, neighborhoods, villages, and other communities, to evaluate community-based programs, interventions, and policies.

To more effectively create evidence-based policies and programs, timelier and more repeated SOGI data collection is needed. Cross-sectional data and longitudinal data allow for examining changes and trends over time. This will enable better evaluation of new policies, programs, and procedures by providing information both before and after implementation.

### *Overcoming Statistical Limitations*

Methods used successfully for other similarly sized populations, such as combining data over a period of years, presenting larger geographies, or combining smaller groups together, can be used for SOGI data. However, there is a risk that less-nuanced analyses may inadvertently lead to misinterpretation of findings and inaccurate conclusions for evidence-based policy and program development. To address the limitations of small population data, multiple agencies and data sources collecting similar information at varying time intervals, granularity, and geography may need to pool data to allow for more accurate analyses and interpretation of results. Although there are challenges to collecting data on populations of this size, these challenges can and should be overcome and should not be used as an excuse to avoid or delay SOGI data collection.

Recently, the Federal Committee on Statistical Methodology (FCSM) published a searchable catalog of federal data sets that include disaggregated data about AA and NHPI populations. Given the similarities in the size of the AA and NHPI population and the estimated size of the LGBTQI+ population, this catalog could serve as an instructive starting point for data sets where disaggregated data on the LGBTQI+ community should be feasible.



## Topical Data Needs

Because there is a wide range of differences and disparities related to LGBTQI+ people's lives and myriad policy and programmatic implications, data collection needs to span a variety of topics. While the specific subjects identified by commenters are too numerous to list, two points stood out in the input received: (1) there is a need for additional research or nuanced approaches to data collection on some LGBTQI+ subpopulations; and (2) there is a need to prioritize a focus on LGBTQI+ data collection in particular settings and about certain experiences to facilitate effective program and policy implementation.

### *Further Research*

Though much of the community input regarding the recommendations in the 2022 National Academies of Sciences, Engineering, and Medicine (NASEM) Consensus Study Report *Measuring Sex, Gender Identity, and Sexual Orientation*<sup>17,18</sup> observed that the recommendations provide a strong basis for SOGI data collection, several commenters identified two areas for further research. Aligned with the NASEM recommendations, some commenters recommended further question development and testing on how to ask questions about intersex populations and people with variations in sex characteristics. Similarly, some commenters strongly recommended additional research and testing on gender identity questions that include non-binary response options. However, many commenters consistently made clear that these areas of future research – along with continued testing of SOGI questions to account for evolving terminology – should not delay the Federal Government's progress on including SOGI data collection on surveys and forms.

In addition to the further research needed on measuring these populations, some commenters also noted that additional research on question translation would be beneficial for surveys and administrative data collections that are translated into languages other than English. Like the input received regarding continued testing of SOGI questions generally, many commenters strongly suggested that forward momentum should not be delayed while additional translation research is conducted.

Connected to these evolving SOGI data research needs, some commenters expressed that further research and unique privacy considerations might be applicable to contexts where surveys or forms collect data primarily from young people and/or older adults. For example, there may be unique privacy considerations for older adults in residential care facilities where caregivers have access to data or where parents or guardians automatically have access to data collected on or about adolescents and young adults. At the same time, response options and question formats may need to be adjusted for surveys and forms that collect data primarily from young people or older adults. Ultimately, there is a need for both nationally representative data that captures these populations and also for more focused data that addresses their specific disparities and needs.

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<sup>17</sup> National Academies of Sciences, Engineering, and Medicine; Division of Behavioral and Social Sciences and Education; Committee on National Statistics; Committee on Measuring Sex, Gender Identity, and Sexual Orientation. (2022). *Measuring Sex, Gender Identity, and Sexual Orientation* (N. Bates, M. Chin, and T. Becker, Eds.). The National Academies Press. <https://doi.org/10.17226/26424>

<sup>18</sup> The National Institutes of Health (NIH) commissioned the National Academies of Sciences, Engineering, and Medicine (NASEM) to develop the 2022 report on Measuring Sex, Gender Identity, and Sexual Orientation.

### *Civil Rights and Program Implementation*

Some commenters described data needed for enforcement of civil rights protections in parallel with the protections themselves – data about LGBTQI+ people’s experiences in schools are needed to implement and enforce nondiscrimination protections in educational settings; data about LGBTQI+ people’s experiences in carceral settings were necessary to implement and enforce laws prohibiting discriminatory policing practices, the Prison Rape Elimination Act, and laws prohibiting discriminatory treatment in prisons and jails. Federal agencies would benefit from ensuring that they have sufficient data on LGBTQI+ people in the contexts in which they have a responsibility to implement and/or enforce civil rights protections, such as in the contexts of housing, health care, education, incarceration, employment, residential care, social services, and lending and other financial services.

Similar data needs were described related to how federal agencies implement programs. For example, data on homelessness and housing instability among LGBTQI+ people would help agencies better implement homelessness and housing programs. Some commenters also raised the need for additional data on people in rural areas, people in the immigration system, people who are incarcerated, and young people in out-of-home care, among many other groups. These comments were often connected to specific federal agency programs that provide services or supports in those contexts. Federal agencies would benefit from ensuring that they have sufficient data on LGBTQI+ people in the contexts in which they have a responsibility to implement programs. Such data not only help to identify disparities, but also to identify which programs are most effective at building equity.

### **Additional SOGI Data Considerations**

Although this chapter of the report is primarily focused on the types of data that need to be collected and the key features of that data, the following related considerations are important to the successful collection, analysis, use, and reporting of SOGI data.

#### *Data Access and Availability*

Data availability refers to both access and ease of use. Currently, data from many sources are archived without clear or easy ways to request access. Agencies should ensure that there is a clear process for making SOGI data available to external researchers, for example by providing restricted access to SOGI data so that data users can leverage these data sets to produce more data products about the LGBTQI+ community.

Even publicly available data can be underutilized when it is stored in large, complicated data sets that take specialized data skills or resources to analyze, so data sources should be accompanied by interactive data products and infographics that provide summaries and the opportunity to break the data down into subgroups. The Census Household Pulse Survey interactive tools website<sup>19</sup> and the National Institutes of Health *All of Us* Data Browser website<sup>20</sup> are good examples of interactive data products and infographics that give non-technical users an overview of the data.

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<sup>19</sup> U.S. Census Bureau. (2022). *Household Pulse Survey Interactive Tool*. <https://www.census.gov/data-tools/demo/hhp/#/>

<sup>20</sup> *All of Us* Research Program. (2022). *Data Browser*. National Institutes of Health. <https://databrowser.researchallofus.org/>

*Confidentiality, Privacy, and Protection from Disclosure*

Assuring and maintaining confidentiality and privacy is essential when collecting any demographic data, particularly data on underserved populations like LGBTQI+ communities. Privacy protections are a key component in the Federal Government's efforts to build and maintain public trust, which are in turn essential for participation in surveys and programs. Disclosure risks and sensitivity have sometimes been used as reasons to not collect SOGI data. However, these concerns should not be used as a default barrier to data collection. It is possible to collect better SOGI data and information to inform policy while balancing these protections.

For surveys, research indicates that people are generally willing to answer SOGI questions and will answer SOGI questions at similar rates to answering other demographic questions.<sup>21,22,23</sup> For administrative forms, federal agencies should consider where existing policies and practices are insufficient to protect these data given inconsistent nondiscrimination protections and the proliferation of state and local laws that target LGBTQI+ people, as well as local limitations in the adoption of effective data collection practices. Where relevant, agencies should provide particular consideration to the risk of reidentification for individuals that may not have publicly disclosed their sexual orientation or gender identity. As with other data, policies and practices regarding confidentiality, privacy, and protection from improper disclosure, including those related to accountability, apply to SOGI data collection.

*Training and Communication*

All staff and contractors who collect and use SOGI data on behalf of the Federal Government from all types of data sources, including surveys, administrative forms, and clinical data, should be trained in the appropriate collection and use of SOGI data. This will help assure that staff collecting demographic data are in fact asking SOGI questions and that the questions are being asked appropriately. Training will also help hold staff who collect and use SOGI data accountable for confidentiality and privacy requirements and responsibilities. In addition to training, communication strategies and materials about SOGI data collection are needed to help respondents understand the questions, the need for the data, how the data will be used, and how their privacy and confidentiality will be protected.

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<sup>21</sup> Ellis, R., Virgile, M., Holzberg, J. L., Nelson, D. V., Edgar, J., Phipps, P., Kaplan, R. (2018). *Assessing the Feasibility of Asking About Sexual Orientation and Gender Identity in the Current Population Survey: Results from Cognitive Interviews* (Report No.: Survey Methodology #2018-06). U.S. Census Bureau.

<https://www.census.gov/library/working-papers/2018/adrm/rsm2018-06.html>

<sup>22</sup> Cahill, S., Singal, R., Grasso, C., King, D., Mayer, K., Baker, K., & Makadon, H. (2014). Do Ask, Do Tell: High Levels of Acceptability by Patients of Routine Collection of Sexual Orientation and Gender Identity Data in Four Diverse American Community Health Centers. *PloS one*, 9(9), e107104.

<https://doi.org/10.1371/journal.pone.0107104>

<sup>23</sup> Fredriksen-Goldsen, K. I., & Kim, H.-J. (2015). Count Me In: Response to Sexual Orientation Measures Among Older Adults. *Research on Aging*, 37(5), 464–480. <https://doi.org/10.1177/0164027514542109>

### *Additional Methodological Research*

SOGI data collection should use existing recommended measures and data collection methods. However, ongoing methodological research is needed to continue to refine SOGI-related measures. The NASEM report on SOGI measurement, as well as reports by the FCSM Measuring SOGI Research Group, highlight examples of areas for additional testing and evaluation.<sup>24</sup> Important methodological areas that need attention include analysis of open-ended response options and standardization and interoperability of questions across data sources. In addition, development of standard definitions to be used in both data collection and dissemination will help to provide clarity to data users.

### **Conclusions**

SOGI data collection can and should become part of standard demographic data collection throughout federal agencies. These data must be analyzed and reported on so that agencies can improve their evidence-based policy and programmatic decision-making. In the following sections of the report, specific research questions laid out in a Learning Agenda format and guidelines for appropriately collecting SOGI data in administrative contexts provide an approach for moving forward on these goals in a way that is effective, aligned with Federal Government data collection requirements, and safe for respondents.

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<sup>24</sup> See, for example, Morgan, R., Dragon, C., Daus, G., Holzberg, J., Kaplan, R., Menne, H., Symens Smith, A., Spiegelman, M. (2020). *Updates on Terminology of Sexual Orientation and Gender Identity Survey Measures*. (FCSM 20-03.) Federal Committee on Statistical Methodology.  
[https://www.fcsm.gov/assets/files/docs/FCSM\\_SOGI\\_Terminology\\_FY20\\_Report\\_FINAL.pdf](https://www.fcsm.gov/assets/files/docs/FCSM_SOGI_Terminology_FY20_Report_FINAL.pdf)

## Chapter 2: Learning Agenda to Advance LGBTQI+ Equity

### Introduction

A Learning Agenda is a systematic plan for identifying and addressing priority questions relevant to the programs, policies, and regulations of an agency.<sup>25</sup> As a strategic evidence-building plan, a Learning Agenda broadly identifies big problems, issues, or questions and provides a roadmap for developing the evidence needed to solve them. A Learning Agenda enables us to ask: what is it that we need to do, what do we need to know to do it best, and what do we wish we knew? In response to the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act), federal agencies published their first-ever Learning Agendas.<sup>26</sup>

The concept of a Learning Agenda — a strategic evidence-building plan that identifies priority questions needed to meet a set of objectives — is useful beyond the setting of an individual agency. In 2022, the Federal Government released two government-wide Learning Agendas – the American Rescue Plan Equity Learning Agenda and the President’s Management Agenda Learning Agenda.<sup>27</sup> Each lays out a series of questions for which the Federal Government seeks answers as it strives to achieve specific goals.

This government-wide Federal Evidence Agenda for LGBTQI+ Equity leverages the Learning Agenda framework to address the critical question: “What additional evidence do we, as a Federal Government, need to more effectively advance equity for and improve the well-being of LGBTQI+ people?” Using this question as its central focus, this Learning Agenda includes a series of overarching questions each with a set of detailed illustrative questions that, as they are answered, will assist the Federal Government’s efforts to understand, support, and improve the lives of LGBTQI+ people.

Central to the development of any Learning Agenda is community engagement. As stated in OMB Memorandum M-21-27, “The benefits of robust stakeholder engagement [in developing a Learning Agenda] cannot be overstated... Robust stakeholder engagement should advance equity and meet the needs of underserved communities, and cannot be accomplished without intentional interactions with diverse stakeholders. The exchange of perspectives, ideas, and information that this process provides allows [agency] staff to better understand how its policies, programs, and procedures affect and are experienced by recipients, the challenges those recipients face, and suggestions for improvement.”<sup>28</sup> As noted in the introduction to this Federal Evidence Agenda, the Subcommittee undertook a process rooted in meaningful engagement with internal and external parties with an emphasis on inclusively engaging a range of perspectives from individuals with lived experience. This Learning Agenda reflects those activities.

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<sup>25</sup> Office of Mgmt. & Budget, Exec. Office of the President. (2019). OMB M-19-23, Phase 1 Implementation of the Foundations for Evidence-Based Policymaking Act of 2018: Learning Agendas, Personnel, and Planning Guidance. <https://www.whitehouse.gov/wp-content/uploads/2019/07/M-19-23.pdf>

<sup>26</sup> Agencies’ Learning Agendas are available at <https://www.evaluation.gov/evidence-plans/learning-agenda/>

<sup>27</sup> Ibid.

<sup>28</sup> Office of Mgmt. & Budget, Exec. Office of the President. (2021). OMB M-21-27, Evidence-Based Policymaking: Learning Agendas and Annual Evaluation Plans. <https://www.whitehouse.gov/wp-content/uploads/2021/06/M-21-27.pdf>

### Structure

This Learning Agenda will help drive federal evidence-building and improved data collection around four broad topics: Health, Healthcare, and Access to Care; Housing Stability and Security; Economic Security and Education; and Safety, Security, and Justice. We recognize that there are many domains that could be included in this Learning Agenda and prioritized these four topics based on feedback received during listening sessions with external individuals and organizations, responses to the Request for Information, and feedback from federal staff about where additional evidence would help them better serve LGBTQI+ people. By their nature as iterative and living documents, Learning Agendas can and should evolve over time as evidence is generated, new questions emerge, and priorities shift. As agencies undertake activities to answer the questions in this Learning Agenda, we expect that it will likewise evolve.

Across these four topics, we identified thirteen overarching questions. Each overarching question represents a broad theme that summarizes and prompts a set of detailed, empirically oriented illustrative questions. The illustrative questions are presented in sections that follow, along with motivating background, and are examples of questions that agencies can tailor to better support evidence-building based on their expertise and familiarity with their programs and policies. In addition, the overarching questions are not an exhaustive list of all topics that are important to the Federal Government. Agencies should develop their own questions about their policies and programs as they relate to LGBTQI+ people, including, as appropriate, to the federal workforce. Each question should consider LGBTQI+ subpopulations and the disparities among these subpopulations, such as youth, older adults, people with different races and ethnicities, people from different geographies, people with disabilities, and other groups. In addition, the role of systems and institutions and how they affect the experiences and outcomes of LGBTQI+ people should be considered as agencies undertake evidence-building activities.

#### *Health, Healthcare, and Access to Care*

1. To what extent can the Federal Government help protect and strengthen equitable access to high-quality and affordable healthcare for LGBTQI+ people across the lifespan?
2. To what extent can the Federal Government safeguard and improve health conditions and outcomes for LGBTQI+ people?

#### *Housing Stability and Security*

3. How can the Federal Government increase housing stability and security for LGBTQI+ people?
4. How can the Federal Government reduce the incidence of housing-related discrimination experienced by LGBTQI+ people?

#### *Economic Security and Education*

5. How can the Federal Government promote equitable outcomes for LGBTQI+ people in income, economic well-being, and the workplace?
6. How can the Federal Government promote equitable educational opportunities and outcomes and experiences for LGBTQI+ people?
7. How can the Federal Government promote equitable access to and engagement in federal programs, benefits, and funding opportunities for LGBTQI+ people?

### *Safety, Security, and Justice*

8. How can the Federal Government support equal access for LGBTQI+ people to shared public space, especially public spaces that provide services like transportation?
9. How can the Federal Government help ensure equal treatment of LGBTQI+ youth and promote inclusive environments for them?
10. To what extent can the Federal Government understand LGBTQI+ children, youth, and families that touch the child welfare and foster care systems, improve any potential disparities in treatment while in care, and address potential disparate outcomes after leaving these systems?
11. What can be done to reduce the disproportionately high rate of violent crime committed against LGBTQI+ people?
12. To what extent do LGBTQI+ people have different experiences inside the criminal justice system compared to non-LGBTQI+ people?
13. To what extent can the Federal Government promote inclusive environments and equitable outcomes for LGBTQI+ people in the immigration and asylum systems?

Following the discussion of questions within these four topics, the Learning Agenda discusses potential data sources.

### **From Planning to Action**

This Learning Agenda is a broad roadmap, and further scoping and implementation will rely on the expertise and resources of agencies, their Learning Agendas, and their SOGI Data Action Plans, as mandated by Executive *Order 14075*. We do not expect that agencies will be able to answer these questions immediately or all at once. While some questions may be answered in the more immediate term, others may take considerably longer. Further, the questions here reflect our understanding of evidence needs at this moment in time. However, we expect that the specific research questions that agencies answer as they build this critical evidence may vary depending on context, data needs, and other important factors.

As agencies seek to build additional evidence to advance LGBTQI+ equity, it is imperative that they do so in a way that is inclusive and respectful of the communities being studied. Agencies are encouraged to conduct community engagement, participatory research, listening sessions or focus groups, technical working groups, and one-on-one consultations with LGBTQI+ people and SMEs, and to integrate a thorough consideration of the lived experiences of those affected by agency policies into their decision-making.<sup>29</sup>

### **Health, Healthcare, and Access to Care**

Disparities in physical and mental health outcomes between LGBTQI+ and non-LGBTQI+ populations have been well documented to be related to interpersonal and structural stigmatization; minority stress exposures, such as discrimination; and other social, political, and economic determinants of health. For example, the disparities in different parts of LGBTQI+ youths' experiences, like cumulative minority stress,

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<sup>29</sup> Office of Mgmt. & Budget, Exec. Office of the President. (2021). OMB M-21-27, Evidence-Based Policymaking: Learning Agendas and Annual Evaluation Plans. <https://www.whitehouse.gov/wp-content/uploads/2021/06/M-21-27.pdf>

leads to increased suicide risk, rather than being an innate characteristic of LGBTQI+ youth.<sup>30</sup> Increasing SOGI data collection would enable the Federal Government to better understand the extent of these disparities and the impact of determinant factors among LGBTQI+ individuals and families. Furthermore, LGBTQI+ individuals experience health disparities related to intersecting identities like their race, ethnicity, age, and disability status.<sup>31</sup>

LGBTQI+ people experience substantial discrimination throughout the U.S. healthcare system. In a 2017 survey, 16 percent of LGBT people reported encountering discrimination based on sexual orientation or gender identity when seeking medical care.<sup>32</sup> The 2015 U.S. Transgender Survey found that 33 percent of transgender people who had seen a healthcare provider in the previous year reported at least one negative experience related to being transgender, such as verbal harassment, physical assault, or refusal of treatment.<sup>33</sup>

Laws, policies, and procedures that provide access to affordable, comprehensive, and affirming healthcare services and health insurance coverage to LGBTQI+ individuals and families promote the health and well-being of LGBTQI+ people by addressing needs at both the individual and structural levels.<sup>34</sup> There are particular subgroups within the LGBTQI+ communities that experience unique and specific health challenges, including people living with HIV, veterans, formerly incarcerated people, people who have experienced homelessness, and others. Better understanding the unique challenges these subgroups face is critical if we want to improve overall health and well-being across the LGBTQI+ community.

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<sup>30</sup> Green, A. E., Price, M. N., & Dorison, S. H. (2021). Cumulative minority stress and suicide risk among LGBTQ youth. *American journal of community psychology*, 69(1-2), 157–168. <https://doi.org/10.1002/ajcp.12553>

<sup>31</sup> National Academies of Sciences, Engineering, and Medicine; Division of Behavioral and Social Sciences and Education; Committee on Population; Committee on Understanding the Well-Being of Sexual and Gender Diverse Populations. (2020). *Understanding the Well-Being of LGBTQI+ Populations* (J. White, M. J. Sepúlveda, and C. J. Patterson, Eds.). The National Academies Press. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK566083/>

<sup>32</sup> National Public Radio, Robert Wood Johnson Foundation, and Harvard T.H. Chan School of Public Health. (2017). *Discrimination in America: Experiences and Views of LGBTQ Americans*. <https://legacy.npr.org/documents/2017/nov/npr-discrimination-lgbtq-final.pdf>.

<sup>33</sup> James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., Anafi, M. (2016). *The Report of the 2015 U.S. Transgender Survey*. National Center for Transgender Equality. <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>

<sup>34</sup> National Academies of Sciences, Engineering, and Medicine; Division of Behavioral and Social Sciences and Education; Committee on Population; Committee on Understanding the Well-Being of Sexual and Gender Diverse Populations. (2020). *Understanding the Well-Being of LGBTQI+ Populations* (J. White, M. J. Sepúlveda, and C. J. Patterson, Eds.). The National Academies Press. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK566083/>



**1. To what extent can the Federal Government protect and strengthen equitable access to high-quality and affordable healthcare for LGBTQI+ people across the lifespan?**

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*Illustrative Questions*

- To what extent do federal policies and programs affect choice, affordability, and enrollment among LGBTQI+ individuals and families in high-quality healthcare coverage?
- To what extent do federal programs and policies improve quality of healthcare services for LGBTQI+ people?
- To what extent do federal programs and policies support and promote gender-affirming care and improved health outcomes for transgender, intersex, and non-binary individuals?
- To what extent do federal programs and policies strengthen and expand access to mental and behavioral health services, primary care, and preventive services for LGBTQI+ people?
- What role do local, state, and federal laws play in restricting or enhancing equitable access to quality and affordable healthcare for LGBTQI+ individuals and families?
- To what extent do restrictions and criminalization of healthcare receipt affect health outcomes for LGBTQI+ people?
- To what extent do LGBTQI+ people experience disparate rates of access to health insurance coverage? Does coverage for LGBTQI+ people differ compared to other insured people?
- To what extent do LGBTQI+ people face disproportionate denials of health insurance claims? To what extent do these denials impact health outcomes for this population?
- Which federal programs and policies advance equitable access of culturally and clinically competent health care to various vulnerable subpopulations, such as LGBTQI+ older adults or LGBTQI+ youth engaged in the foster care system?
- How can disparities experienced by LGBTQI+ youth be mitigated to reduce suicide risk among various subgroups?

**2. To what extent can the Federal Government safeguard and improve health conditions and outcomes for LGBTQI+ people?**

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*Illustrative Questions*

- To what extent are improvements to federal capabilities needed to predict, prepare for, respond to, and recover from public health emergencies and threats to LGBTQI+ people in the nation and across the globe?
- How effective are federal programs and policies at protecting LGBTQI+ people from infectious disease and preventing non-communicable disease through development and equitable delivery of effective, innovative, and readily available treatments, therapeutics, medical devices, and vaccines?
- How do federal policies and programs enhance promotion of healthy behaviors and wellness among LGBTQI+ people to reduce occurrence of and disparities in preventable injury, illness, and death?

- How effective are federal programs and policies at mitigating the impacts of occupational and environmental factors, including climate change, on health outcomes among LGBTQI+ people?
- What training do medical providers receive in cultural competency and health care for LGBTQI+ people? To what extent does this training affect care and health outcomes for LGBTQI+ patients?
- What barriers do LGBTQI+ minors and LGBTQI+ adults with disabilities face in accessing health services that require participation from guardians?
- To what extent do elder LGBTQI+ people experience differential treatment and services in long-term care settings? What effect, if any, do these disparities in treatment and services have on their well-being?
- To what extent do health outcomes for LGBTQI+ people vary by geographic region?
- To what extent do health outcomes for LGBTQI+ people vary by demographic characteristics, including, but not limited to, race and ethnicity, age, and whether the individual has a disability?
- What progress has been made in achieving national, state, and local health objectives for LGBTQI+ youth?
- What improvements would strengthen public health surveillance, epidemiology, and laboratory capacity to understand and equitably address diseases and conditions that impact LGBTQI+ people?

### Housing Stability and Security

Having safe, stable, and affordable housing is foundational to well-being for children, youth, and adults, and we know that the costs and consequences of homelessness and housing instability are high. For LGBTQI+ people, the challenges of homelessness and housing instability may be even more acute. Growing evidence suggests that LGBTQI+ people face additional challenges relative to their non-LGBTQI+ peers who experience housing instability, including consequences from rejection by their families (particularly for youth), overrepresentation in the foster care system, direct and indirect discrimination, challenges finding temporary placements that align to their identity, and lasting effects from long-standing inequities like higher rates of poverty and lower rates of homeownership.<sup>35,36</sup> There is also evidence documenting the discrimination that LGBTQI+ people face when seeking to rent or buy a home.<sup>37</sup>

Fully understanding rates of homelessness is, for all populations, a challenging task. This is especially true for LGBTQI+ people. There is limited evidence on, for example, the prevalence of homelessness among LGBTQI+ adults, though some studies, like the U.S. Transgender Survey, have addressed homelessness for specific communities within the population. Point-in-time counts, like the Department of Housing and Urban Development's Point-In-Time estimates, also fill in part of the picture, but may miss large

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<sup>35</sup>Fraser, B., Pierse, N., Chisholm, E., & Cook, H. (2019). LGBTQI+ Homelessness: A Review of the Literature. *International journal of environmental research and public health*, 16(15), 2677. <https://doi.org/10.3390/ijerph16152677>

<sup>36</sup>Romero, A. P., Goldberg, S. K., Vasquez, L. A. (2020). *LGBT People and Housing Affordability, Discrimination, and Homelessness*. The Williams Institute. <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Housing-Apr-2020.pdf>

<sup>37</sup>Ibid.

proportions of this population. In contrast, homelessness among LGBTQI+ youth has received far more attention in the existing evidence base. This body of research shows that LGBTQI+ youth are much more likely to experience homelessness than their non-LGBTQI+ peers, and that these experiences are often correlated with higher rates of substance abuse, poor mental health, physical and sexual violence, risky sexual activity, survival transactional sex, and increased likelihood of entering the foster care system.<sup>38,39</sup> Likewise, LGBTQI+ older adults also experience particular disparities in housing stability and security.

### **3. How can the Federal Government increase housing stability and security for LGBTQI+ people?**

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#### *Illustrative Questions*

- What is the prevalence of homelessness among LGBTQI+ adults? How does this compare to their non-LGBTQI+ peers?
- How does the prevalence of homelessness vary among subgroups within LGBTQI+ populations (e.g., by age, by race and ethnicity, for particular populations such as youth in the foster system, by geography, etc.)?
- What barriers do LGBTQI+ individuals and families face in accessing homelessness services, especially federal services related to shelter access and housing affordability? Do those barriers vary among subgroups within the LGBTQI+ population (e.g., transgender or non-binary individuals, LGBTQI+ families, younger or older LGBTQI+ people, LGBTQI+ people in urban or rural areas)?
- What are the experiences of LGBTQI+ people during episodes of housing instability?
- Which approaches and/or strategies are effective in reducing homelessness and/or increasing access to safe and stable housing for LGBTQI+ people?
- How do housing outcomes among LGBTQI+ youth vary across geographic areas? What factors contribute to or are associated with better or worse outcomes?
- What is the rate of home ownership among LGBTQI+ people? How does this compare to their non-LGBTQI+ peers?
- Are there differences in rates of homeownership among different groups within the LGBTQI+ population (e.g., transgender or non-binary individuals, LGBTQI+ people of different races and ethnicities)?
- What factors contribute to home ownership rates among LGBTQI+ people?
- How does rent burden differently impact LGBTQI+ people?
- How do the housing experiences of elderly LGBTQI+ people differ from elderly non-LGBTQI+ people (e.g., aging in place, social supports, housing insecurity and stability, home equity, and reverse mortgages)?

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<sup>38</sup> DeChants, J., Green, A. E., Price, M. N., Davis, C. (2021). *Measuring Youth Sexual Orientation and Gender Identity*. The Trevor Project. <https://www.thetrevorproject.org/research-briefs/measuring-youth-sexual-orientation-and-gender-identity/>

<sup>39</sup> O'Neill, K. K., Wilson, B. D. M., Herman, J. L. (2020). *Homeless Shelter Access Among Transgender Adults*. The Williams Institute. <https://williamsinstitute.law.ucla.edu/publications/trans-homeless-shelter-access/>

**4. How can the Federal Government reduce the incidence of housing-related discrimination experienced by LGBTQI+ people?**

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*Illustrative Questions*

- To what extent do LGBTQI+ people experience discrimination when renting or buying a home?
- Are there differences in rates of reporting discrimination when renting or buying a home among different groups within the LGBTQI+ population (e.g., transgender, non-binary individuals, youth vs. older populations, etc.)?
- What other types of discrimination do LGBTQI+ people face related to housing (e.g., in long-term care facilities or in rent burden)?
- To what extent do LGBTQI+ people face barriers in access to mortgage financing? To what extent do these barriers differ among different subgroups (e.g., transgender individuals, non-binary individuals, low-income LGBTQI+ people)?
- What policies, programs, or interventions are effective to counter housing-related discrimination for LGBTQI+ people?

### **Economic Security and Education**

Executive Order 14075 notes that “LGBTQI+ individuals and families still face systemic discrimination and barriers to full participation in our Nation’s economic and civic life. These disparities and barriers can be the greatest for transgender people and LGBTQI+ people of color.” Similarly, specific groups of LGBTQI+ people, like those who have a disability, can face an array of barriers to full participation in the workforce.

Assessments of economic security generally use data such as income (at the individual level) and poverty (at the household level) which are heavily driven by employment. LGBTQI+ people can face discriminatory barriers to equity in employment and earnings that result in lower pay for similar qualifications or greater difficulties in finding and retaining a job.<sup>40</sup> Because earnings depend in part on a person’s job-related skills and knowledge, expanding access to equitable educational opportunities for LGBTQI+ individuals will likely advance their economic security. Better educational outcomes can result from an inclusive academic environment that is free of discrimination, harassment, and abuse against LGBTQI+ individuals. Economic security is also fostered by having access to loans, such as those with which to start a small business, and by building wealth.

Evidence on income, poverty, employment, and levels of education for LGBTQI+ populations is obtained from multiple data sources. For example, based on survey data from 35 states collected from 2014 to 2017 in the Behavioral Risk Factor Surveillance System (BRFSS), LGBT people as a group have an estimated poverty rate of about 22 percent, exceeding the poverty rate estimated for cisgender straight people of about

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<sup>40</sup> Sears, B., Mallory, C., Flores, A. R., Conron, K. J. (2021). *LGBT People’s Experiences of Workplace Discrimination and Harassment*. The Williams Institute. <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Workplace-Discrimination-Sep-2021.pdf>

16 percent.<sup>41</sup> The 2015 U.S. Transgender Survey found that transgender people in the survey had an unemployment rate that was three times greater than the rate for the U.S. population—15 versus 5 percent.<sup>42</sup> The survey also found that the “majority of respondents who were out or perceived as transgender while in school (K–12) experienced some form of mistreatment,” including verbal or physical attacks and sexual assault.<sup>28</sup> Of these, about one-sixth (17 percent) report leaving school as a result of their mistreatment.

Government programs can and do support economic security for LGBTQI+ people, especially among low-income families. According to a 2017 survey conducted by the Center for American Progress, LGBTQ respondents and their families were more likely to participate in the Supplemental Nutrition Assistance Program or Medicaid or to receive public housing assistance in the prior year compared to non-LGBTQ respondents, in part because they face higher rates of poverty and economic insecurity.<sup>43</sup>

## **5. How can the Federal Government promote equitable outcomes for LGBTQI+ people in income, economic well-being, and the workplace?**

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### *Illustrative Questions*

- What are earnings, incomes, unemployment rates, and labor force participation rates for LGBTQI+ people? How do related outcomes differ across sexual orientation and gender identities and for LGBTQI+ people who also identify as people of color? How do they differ across different occupation categories such as science, technology, engineering, and mathematics occupations?
- How prevalent are various forms of job-related discrimination, harassment, or retaliation against LGBTQI+ people, such as discrimination in hiring, in wages, in equal employment opportunity, in fair treatment, in promotion or advancement, or in termination?
- What is the distribution of family incomes and poverty rates for families or households that include LGBTQI+ individuals?
- What are the income and poverty rates for LGBTQI+ people based on age? To what extent do LGBTQI+ older adults experience differential rates of poverty?
- Do LGBTQI+ people or LGBTQI+-owned businesses face discrimination as entrepreneurs when they seek loans with which to launch a business or compete for federal and other contracting opportunities?
- What types and levels of wealth or assets are LGBTQI+ people able to build at different stages of their life course compared to non-LGBTQI+ people?
- What are the regional or local incidences of employment or income differences for LGBTQI+ populations? Do we observe differences in certain states, regions, or the urban/rural divide?

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<sup>41</sup> Badgett, M. V. L., Choi, S. K., Wilson, B. D. M. (2019). *LGBT Poverty in the United States: A study of differences between sexual orientation and gender identity groups*. The Williams Institute. <https://williamsinstitute.law.ucla.edu/publications/lgbt-poverty-us/>

<sup>42</sup> James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., Anafi, M. (2016). *The Report of the 2015 U.S. Transgender Survey*. National Center for Transgender Equality. <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>

<sup>43</sup> Rooney, C., Whittington, C., Durso, L.E. (2018). *Protecting Basic Living Standards for LGBTQ People*. Center for American Progress. <https://www.americanprogress.org/article/protecting-basic-living-standards-lgbtq-people/>

**6. How can the Federal Government promote equitable educational opportunities and outcomes for LGBTQI+ people?**

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*Illustrative Questions*

- What is the distribution of educational attainment among LGBTQI+ people?
- How prevalent are various types of discrimination, harassment, bullying, or physical abuse experienced by LGBTQI+ people at different ages or levels of schooling? How do those experiences affect their educational outcomes?
- What institutional contexts, policies, or practices promote a positive academic environment and contribute to higher rates of LGBTQI+ student retention and graduation? What individual-level, family-level, or community-level protective factors do LGBTQI+ people employ that help them to succeed in education and the workforce?
- What are the incidences of exclusionary school discipline (including out-of-school suspension and expulsion) or chronic absence experienced by LGBTQI+ people at different ages or levels of schooling?
- What training is required or provided for teachers and school staff on creating welcoming and safe school environments and supporting equitable academic outcomes?
- To what extent does inclusion of LGBTQI+ experiences in teacher/staff training vary across geographic areas and school levels?

**7. How can the Federal Government promote equitable access to and engagement in federal programs, benefits, and funding opportunities for eligible LGBTQI+ people?**

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*Illustrative Questions*

- What are the rates of participation for LGBTQI+ people in federal benefits programs, and how do these rates compare to their non-LGBTQI+ peers?<sup>44</sup> Do these participation rates differ by geographic units such as states, regions, or the urban/rural divide?
- What social, economic, and programmatic factors can account for observed differences between LGBTQI+ people and their non-LGBTQI+ peers in observed rates of participation in federal programs, benefits, and funding opportunities? In observed engagement rates?
- How well do LGBTQI+ populations understand the federal programs and benefits they are eligible for and how to access them? How are understanding levels impacted by factors such as low literacy and language access needs?

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<sup>44</sup> Examples of such programs include the Supplemental Nutrition Assistance Program (SNAP); Temporary Assistance for Needy Families (TANF); Medicaid; the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); unemployment insurance; Supplemental Security Income; Social Security Disability Insurance; Head Start and Early Head Start; benefits in various forms for veterans; and the Earned Income Tax Credit, among others.

- To what extent do award rates differ for LGBTQI+ applicants to federal funding opportunities, holding other characteristics constant? Do these rates differ for subgroups of the LGBTQI+ population?
- How do discrimination and lack of cultural competency in healthcare and human services affect LGBTQI+ people's ability to apply for benefits?
- How do federal agencies communicate to and tailor communications about their programs and benefits to LGBTQI+ people?
- To what extent does having identity documents that do not reflect an individual's affirmed name or gender affect access to benefits and programs? To what extent can the Federal Government mitigate barriers related to acquiring or updating identity documents?
- To what extent do LGBTQI+ people experience challenges in receiving benefits compared to their non-LGBTQI+ peers?
- To what extent do LGBTQI+ older adults experience disparate access to benefits and services?
- To what extent do LGBTQI+ people report discrimination or mistreatment when accessing benefits? Do rates of discrimination or mistreatment experienced by LGBTQI+ people differ from rates experienced by non-LGBTQI+ people? Do rates of discrimination or mistreatment experienced by LGBTQI+ people of color differ from rates experienced by other LGBTQI+ people or from non-LGBTQI+ people of color?
- To what extent do LGBTQI+ minors or LGBTQI+ people with disabilities face barriers in accessing federal programs and benefits that require participation from guardians?
- To what extent does collection and use of SOGI data affect the customer experiences of LGBTQI+ populations when accessing federal services and programs?
- What is the likelihood among LGBTQI+ populations to avoid seeking services or programmatic access due to concerns about being asked questions about sexual orientation or gender identity or due to other concerns around processes?

## Safety, Security, and Justice

Executive Order 14075 states that attacks against LGBTQI+ people “threaten [their] basic personal safety” and that the Federal Government must work to improve the safety of these persons. The 2013 Violence Against Women Reauthorization Act, the 2009 Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, and other federal laws established protections for persons who experience violent crime and identify as LGBT. Research indicates that lesbian, gay, and bisexual (LGB) people experience violent victimization, specifically intimate partner violence and rape or sexual assault, at a rate higher than that of heterosexual people.<sup>45, 46, 47</sup> This pattern is also true for transgender people compared to cisgender people.<sup>37, 38</sup>

In 2016, the majority of prisoners in the United States identified as straight and cisgender.<sup>48</sup> However, incarcerated LGB adults are more likely to experience sexual victimization compared to straight inmates.<sup>49</sup> Additionally, a greater percentage of youth who identified as LGB or something other than heterosexual reported sexual victimization in a juvenile facility compared to heterosexual youth. This pattern also held for transgender youth compared to cisgender youth reporting sexual victimization in a facility.<sup>50</sup>

LGBTQI+ people encounter a significant amount of harassment and exclusion when performing everyday tasks in society, such as walking down the street or accessing public transportation. LGBT adults are more likely than heterosexual and cisgender adults to experience street harassment. More than half (57%) of LGBT adults reported verbal forms of harassment compared to 37 percent of heterosexual and cisgender adults, and 45 percent of LGBT adults have experienced physically aggressive forms of harassment compared to 28 percent of heterosexual and cisgender adults.<sup>51</sup> The U.S. Transgender Survey also found that transgender people face high rates of harassment and unequal treatment in public places, such as retail stores, hotels, and government offices. In this survey, 31 percent of respondents indicated they have been denied services, 24 percent were harassed, two percent were physically assaulted, and 20 percent indicated

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<sup>45</sup> Krebs, C., Lindquist, C., Berzofsky, M., Shook-Sa, B., Peterson, K., Planty, M., Langton, L., Stroop, J. (2016). *Campus Climate Survey Validation Study Final Technical Report* (Report No. NCJ 249545). U.S. Department of Justice Bureau of Justice Statistics. <https://bjs.ojp.gov/content/pub/pdf/ccsvsfr.pdf>

<sup>46</sup> Truman, J., Morgan, R. (2022). *Violent Victimization by Sexual Orientation and Gender Identity, 2017-2020* (Report No. NCJ 304277). U.S. Department of Justice Bureau of Justice Statistics. <https://bjs.ojp.gov/content/pub/pdf/vvsogi1720.pdf>

<sup>47</sup> Walters, M. L., Chen, J., Breiding, M. J. (2013). *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Findings on Victimization by Sexual Orientation*. Centers for Disease Control and Prevention National Center for Injury Prevention and Control. [https://www.cdc.gov/violenceprevention/pdf/nisvs\\_sofindings.pdf](https://www.cdc.gov/violenceprevention/pdf/nisvs_sofindings.pdf)

<sup>48</sup> Beatty, L. G., Snell, T. L. (2021). *Profile of Prison Inmates, 2016*. U.S. Department of Justice Bureau of Justice Statistics. <https://bjs.ojp.gov/content/pub/pdf/ppi16.pdf>

<sup>49</sup> Beck, A. J., Berzofsky, M., Caspar, R., Krebs, C. (2013). *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12*. U.S. Department of Justice Bureau of Justice Statistics. <https://bjs.ojp.gov/content/pub/pdf/svpjri1112.pdf>

<sup>50</sup> Field, M. B., and Davis, E. (2020). *Victim, Perpetrator, and Incident Characteristics of Sexual Victimization of Youth in Juvenile Facilities, 2018 – Statistical Tables* (Report No. NCJ 255446). U.S. Department of Justice Bureau of Justice Statistics. <https://bjs.ojp.gov/content/pub/pdf/vpicsvyjf18st.pdf>

<sup>51</sup> Kearn, H. (2014). *Unsafe and Harassed in Public Spaces: A National Street Harassment Report*. Stop Street Harassment. <https://www.stopstreetharassment.org/wp-content/uploads/2012/08/2014-National-SSH-Street-Harassment-Report.pdf>



their fear of mistreatment caused them to avoid public places in the past year.<sup>52</sup> Unequal access to bathrooms in public spaces is also a significant problem for transgender people. Nine percent of those surveyed have been denied access to a restroom, 12 percent were verbally harassed, one percent were physically attacked, and one percent sexually assaulted when using public restrooms. Additionally, 59 percent indicated they have avoided using public restrooms in the past year out of fear for confrontations or other issues that might arise.<sup>53</sup>

A growing percentage of Americans identify as LGBTQI+, and younger generations are far more likely than older generations to identify as LGBTQI+.<sup>54</sup> Many LGBTQI+ young people report feeling unsafe or unwelcome in their schools, communities, and families.<sup>55</sup> Because LGBTQI+ youth are more likely than their cisgender and heterosexual peers to experience stigma, discrimination, family disapproval, and social rejection, they are at significantly higher risk of violent victimization, substance use, depression, and suicidality.<sup>56,57</sup> Better understanding the experiences of LGBTQI+ youth is essential for ensuring that they receive equal treatment and experience inclusive environments in and outside of school. However, nationally representative data on the number, demographic characteristics, and experiences of LGBTQI+ youth are limited.<sup>58</sup>

Experiences of harassment can begin at young ages. Despite programs enacted to protect the rights of LGBTQI+ students,<sup>59</sup> LGBTQI+ youth and young adults are at higher risk of bullying, harassment, and violent victimization than their heterosexual peers. The Youth Risk Behavior Survey (YRBS) examined trends in LGB student harassment and violent victimization between 2015 and 2019 and found LGB youth had higher risk of victimization than their heterosexual peers.<sup>60</sup> During this five-year period, no change in

<sup>52</sup> James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., Anafi, M. (2016). *The Report of the 2015 U.S. Transgender Survey*. National Center for Transgender Equality. <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>

<sup>53</sup> Ibid.

<sup>54</sup> Jones, J. M. (2022). *LGBT Identification in U.S. Ticks Up to 7.1%*. Gallup. <https://news.gallup.com/poll/389792/lgbt-identification-ticks-up.aspx>.

<sup>55</sup> Kahn, E., Johnson, A., Lee, M., Miranda, L. (2018). *2018 LGBTQ Youth Report*. Human Rights Campaign. <https://hrc-prod-requests.s3-us-west-2.amazonaws.com/files/assets/resources/2018-YouthReport-NoVid.pdf>

<sup>56</sup> Institute of Medicine; Board on the Health of Select Populations; Committee on Lesbian, Gay, Bisexual, and Transgender Health Issues and Research Gaps and Opportunities. (2011). *The Health of Lesbian, Gay, Bisexual, and Transgender People: Building a Foundation for Better Understanding*. The National Academies Press. <https://doi.org/10.17226/13128>

<sup>57</sup> Kann, L., McManus, T., Harris, W. A., Shanklin, S. L., Flint, K. H., Queen, B., Lowry, R., Chyen, D., Whittle, L., Thornton, J., Lim, C., Bradford, D., Yamakawa, Y., Leon, M., Brener, N., & Ethier, K. A. (2018). Youth Risk Behavior Surveillance - United States, 2017. *Morbidity and mortality weekly report. Surveillance summaries (Washington, D.C.: 2002)*, 67(8), 1–114. <https://doi.org/10.15585/mmwr.ss6708a1>

<sup>58</sup> Spock, A., Popkin, R., & Barnhart, C. (2022). Strategies to Improve Measurement of Sexual Orientation and Gender Identity Among Youth. *The Journal of Adolescent Health: official publication of the Society for Adolescent Medicine*, 71(6), 662–664. <https://doi.org/10.1016/j.jadohealth.2022.09.009>

<sup>59</sup> Division of Adolescent and School Health, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention. (2019). *School Health Profiles 2018: Characteristics of Health Programs among Secondary Schools*. Centers for Disease Control and Prevention. <https://www.cdc.gov/healthyyouth/data/profiles/pdf/2018/CDC-Profiles-2018.pdf>

<sup>60</sup> Johns, M. M., Lowry, R., Haderxhanaj, L. T., Rasberry, C. N., Robin, L., Scales, L., Stone, D., & Suarez, N. A. (2020). Trends in Violence Victimization and Suicide Risk by Sexual Identity Among High School Students - Youth Risk Behavior Survey, United States, 2015-2019. *MMWR supplements*, 69(1), 19–27. <https://doi.org/10.15585/mmwr.su6901a3>

harassment and victimization (i.e., forced sex, sexual dating violence, bullying at school, electronic bullying, feeling unsafe at school, threats or injury with a weapon at school) was found except when it came to physical dating violence, which decreased from nearly 18 percent to just over 13 percent. The U.S. Transgender Survey also found high rates of harassment and violence against transgender students.<sup>61</sup> Over half of K-12 transgender students surveyed (54%) experienced verbal harassment, 24 percent had been physically attacked, and 13 percent were sexually assaulted. LGBTQI+ young adults encounter similar experiences in post-secondary education.<sup>62</sup> The U.S. Transgender Survey found nearly a quarter (24%) of transgender college students were verbally, physically, or sexually assaulted. Another study found that 33 percent of LGBTQ adults experienced bullying, harassment, or assault at college compared to 19 percent of non-LGBTQ adults.<sup>63</sup>

There are subgroups of LGBTQI+ populations that warrant further attention in the safety and security space, including children and youth in the foster care, juvenile and criminal justice, and immigration systems. Youth in foster care are among the most vulnerable in the United States. This vulnerability is compounded for LGBTQI+ youth who interact with the child welfare system, including LGBTQI+ youth who have stays in the foster care system. Existing evidence documents that LGBTQI+ youth are overrepresented in foster care, have worse experiences in the system than their non-LGBTQI+ peers, and are at risk for poor outcomes once they have left care. For example, LGBTQI+ youth in foster care have a much higher likelihood of being placed in a group home and have a higher average number of foster care placements than their peers.<sup>64</sup> They are also much more likely to run away from foster care placements, increasing the risk of homelessness, and are significantly more likely to report suicidality.<sup>65</sup>

The United States does not track the number of LGBTQI+ immigrants, but it is estimated that 1.2 million LGBT immigrants are living in the United States.<sup>66</sup> LGBTQ undocumented immigrants experience high rates of hate crimes but may be reluctant to report these experiences out of fear of deportation.<sup>67</sup> Fear of interaction with law enforcement places LGBTQI+ immigrants at a higher risk of additional victimization

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<sup>61</sup> James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., Anafi, M. (2016). *The Report of the 2015 U.S. Transgender Survey*. National Center for Transgender Equality.

<https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>

<sup>62</sup> James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., Anafi, M. (2016). *Executive Summary of the Report of the 2015 U.S. Transgender Survey*. National Center for Transgender Equality.

<https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>

<sup>63</sup> Conron, K. J., O’Neill, K. K., Goldberg, A. E., Guardado, R. (2022). *Experiences of LGBTQ People in Four-Year Colleges and Graduate Programs*. The Williams Institute.

<https://williamsinstitute.law.ucla.edu/publications/lgbtq-colleges-grad-school/>

<sup>64</sup> Wilson, B. D. M., Cooper, K., Kastanis, A., Nezhad, S. (2014). *Sexual and Gender Minority Youth in Foster Care: Assessing Disproportionality and Disparities in Los Angeles*. The Williams Institute.

<https://williamsinstitute.law.ucla.edu/publications/sgm-youth-la-foster-care/>

<sup>65</sup> U.S. Government Accountability Office. (2022). *Foster Care: Further Assistance from HHS Would be Helpful in Supporting Youth’s LGBTQ+ Identities and Religious Beliefs* (Report No. GAO-22-104688).

<https://www.gao.gov/assets/gao-22-104688.pdf>

<sup>66</sup> Goldberg, S. K., Conron, K. J. (2021). *LGBT Adult Immigrants in the United States*. The Williams Institute.

<https://williamsinstitute.law.ucla.edu/publications/lgbt-immigrants-in-the-us/>

<sup>67</sup> Waters, E., Jindasurat, C., Wolfe, C. (2016). *Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-Affected Hate Violence in 2015*. National Coalition of Anti-Violence Programs. [https://avp.org/wp-content/uploads/2017/04/ncavp\\_hvreport\\_2015\\_final.pdf](https://avp.org/wp-content/uploads/2017/04/ncavp_hvreport_2015_final.pdf)

and may prevent them from accessing protections for survivors of violence that would allow them to lawfully remain in the United States.<sup>68</sup>

**8. How can the Federal Government support equal access for LGBTQI+ people to shared public space, especially public spaces that provide services like transportation?**

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*Illustrative Questions*

- To what extent do LGBTQI+ people feel safe in public spaces? What factors contribute to their feelings of safety?
- What types of social barriers do LGBTQI+ people experience to participating safely in their communities?
- How do feelings of safety and security affect LGBTQI+ people's participation in society?

**9. How can the Federal Government help ensure equal treatment of LGBTQI+ youth and promote inclusive environments for them?**

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*Illustrative Questions*

- What are the trends in risk behaviors among LGBTQI+ youth compared with their non-LGBTQI+ peers?
- Which school- and community-based supports for LGBTQI+ youth are effective at reducing risk behaviors among youth?
- Which school- and community-based supports for LGBTQI+ youth are effective at increasing or supporting positive behaviors among youth?

**10. To what extent can the Federal Government understand LGBTQI+ children, youth, and families that touch the child welfare and foster care systems, improve any potential disparities in treatment while in care, and address potential disparate outcomes after leaving these systems?**

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*Illustrative Questions*

- To what extent do the experiences of LGBTQI+ youth that led them to be in contact with the foster care system differ from their non-LGBTQI+ peers?
- To what extent do the relationships between the experiences of LGBTQI+ foster youth (e.g., number of placements, placement in a group home, kinship placements) and their outcomes differ from those of their non-LGBTQI+ peers?

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<sup>68</sup> Gruberg, S. (2017). *How Police Entanglement with Immigration Enforcement Puts LGBTQ Lives at Risk*. The Center for American Progress. <https://www.americanprogress.org/article/police-entanglement-immigration-enforcement-puts-lgbtq-lives-risk/>

- To what extent are there disparities in experiences and outcomes of specific subgroups of LGBTQI+ foster youth, including transgender or non-binary foster youth, LGBTQI+ youth living in rural areas, or LGBTQI+ youth of color, during and after their time in care?
- What programs, services, or other approaches are effective in improving outcomes for LGBTQI+ youth who come into contact with the child welfare system?
- To what extent do LGBTQI+ families that come into contact with the child welfare system experience differential treatment and disparate outcomes?
- To what extent do rates of removal differ for LGBTQI+ parents? Do these rates differ amongst specific subgroups of LGBTQI+ parents (e.g., by race or ethnicity or for individuals with disabilities)? What, if anything, contributes to these rates of removal?

**11. What can be done to reduce the disproportionately high rate of violent crime committed against LGBTQI+ people?**

*Illustrative Questions*

- To what extent do LGBTQI+ people experience a higher rate of intimate partner violence or domestic violence compared to the general population?
- To what extent do LGBTQI+ people experience bias-motivated hate crimes?
- What have been effective or promising practices that prevent or interrupt violent crime targeting LGBTQI+ people?
- To what extent do LGBTQI+ people utilize crime victim service assistance compared to the general population?
- To what extent do LGBTQI+ students experience bullying compared to the general student population?
- How effective are bullying interventions for LGBTQI+ youth compared to non-LGBTQI+ youth?

**12. To what extent do LGBTQI+ people have different experiences inside the criminal justice system compared to non-LGBTQI+ people?**

*Illustrative Questions*

- To what extent do LGBTQI+ people have different experiences with law enforcement than non-LGBTQI+ people?
- To what extent do LGBTQI+ people have different experiences with the correctional system (e.g., prisons, jails, juvenile facilities) than non-LGBTQI+ people?
- What are the differences in rates of recidivism for LGBTQI+ people compared to non-LGBTQI+ people?
- To what extent do intake assessments and safe housing policies impact rates of violence and victimization for LGBTQI+ people in incarceration?
- To what degree and in what forms do LGBTQI+ adults in incarceration experience victimization as compared to the total population of people in incarceration?

- To what extent do LGBTQI+ young people in incarceration experience more victimization compared to all young people in incarceration? Does this differ by type of facility (e.g., facilities that primarily house adults vs. those that house youth)?
- What have been effective or promising practices that improve the conditions of confinement in jails and prisons for LGBTQI+ persons?
- To what extent does law enforcement engage with LGBTQI+ stakeholders to solicit their recommendations on how law enforcement officials can improve their investigative, prosecutorial, and victim services response?

**13. To what extent can the Federal Government promote inclusive environments and equitable outcomes for LGBTQI+ people in the immigration and asylum systems?**

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*Illustrative Questions*

- How many immigrants in the United States identify as LGBTQI+?
- To what extent are LGBTQI+ people's experiences of harassment and victimization impacted by their immigration status?
- To what extent do the outcomes of asylum seekers and refugees differ for subpopulations that identify as LGBTQI+?

**Potential Data Sources**

The Federal Government sponsors many nationally representative data collections that are used by policymakers to inform decision-making. The U.S. Census Bureau alone administers 130 surveys annually.<sup>69</sup> Many of these demographic, housing, health, education, transportation, justice, and business surveys are used to answer illustrative questions for departments and agencies, including some questions related to demographic groups defined by age, disability status, and race and ethnicity. Some of these surveys already include questions related to SOGI, which support current and ongoing evidence-building activities focused on LGBTQI+ populations. However, most surveys do not collect SOGI data, and no nationally representative survey collects information on intersex identity and variations in sex characteristics, limiting the Federal Government's ability to answer many of the illustrative questions posed above. Some of the illustrative questions would benefit from a qualitative exploration, requiring new data collections. Other questions may benefit from federal program agencies adding SOGI items to their administrative data collections.

In 2016, a federal interagency working group completed a report that identified eleven surveys that collect data on *sexual orientation*, including identity, attraction, and behavior, and gender identity: the Health Center Patient Survey (HCPS), National Adult Tobacco Survey (NATS), National Health and Nutrition Examination Survey (NHANES), National Health Interview Survey (NHIS), National Inmate Survey

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<sup>69</sup> U.S. Census Bureau, U.S. Department of Commerce. (2022). *List of All Surveys and Programs*. <https://www.census.gov/programs-surveys/surveys-programs.html>

(NIS), National Crime Victimization Survey (NCVS), National Survey of Family Growth (NSFG), Youth Risk Behavior Surveillance System (YRBSS), National Survey on Drug Use and Health (NSDUH), National Survey of Older Americans Act Participants (NSOAAP), and BRFSS. Most of these surveys were fielded by the U.S. Department of Health and Human Services (HHS).<sup>70</sup> Across all federal statistical agencies, the number of federal surveys that do not collect SOGI data far outnumbered the eleven surveys that did collect SOGI data in 2016.

More recently, in 202, NASEM published a study that described the state of data collection on SOGI and intersex status in 47 data collections, including federally supported surveys and other data systems.<sup>71</sup> The study identified several federal surveys that collect SOGI data, including more than a half dozen that were not included in the 2016 federal interagency report cited above. Even so, the National Academies study went on to conclude that, “There are many publicly and privately sponsored data collections...in which SOGI data are not yet collected.”

Federal surveys and surveillance systems that could potentially collect SOGI data include some that are administered by HHS. Although HHS has historically included SOGI items on its surveys more often than other Departments, to address some of the illustrative questions posed above, HHS could consider which surveys or surveillance systems to prioritize for collecting additional SOGI data. In 2017 and 2019, the CDC piloted a single-item question about transgender identity in an optional module for the state and local YRBS which monitors health behaviors that contribute to the leading causes of death, disability, and social problems. Cognitive interviews indicated the question performed well, and it was included on the optional question list of the YRBS for use along with a binary sex question.<sup>72</sup>

Major demographic surveys conducted by the U.S. Census Bureau include the American Community Survey (ACS), which is the largest federal survey, the Current Population Survey (CPS) and its Annual Social and Economic Supplement (ASEC), the Survey of Income and Program Participation (SIPP), and the Annual Business Survey (ABS). Such surveys build evidence that link demographic data to such key characteristics as geographic places of residence (ACS), unemployment and labor force participation rates (CPS), annual earnings and family poverty rates (ASEC), receipt of program benefits (SIPP), and business ownership (ABS), all while assuring survey respondents that their personal information remains confidential. Currently, results on income and poverty rates for same-sex married couples can be estimated using the ASEC because the survey’s household roster collects information on each household member’s relationship to the householder. Similarly, the ACS is able to obtain information about same-sex couples,<sup>73</sup> and the American Housing Survey collects information on same-sex couples and marriage. However, neither the CPS nor the ACS collect information on LGBTQI+ individuals who are not part of a couple,

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<sup>70</sup> Federal Interagency Working Group on Improving Measurement of Sexual Orientation and Gender Identity in Federal Surveys. (2016). *Current Measures of Sexual Orientation and Gender Identity in Federal Surveys*. Office of Management and Budget. [https://www.fcsm.gov/assets/files/docs/current\\_measures\\_20160812.pdf](https://www.fcsm.gov/assets/files/docs/current_measures_20160812.pdf)

<sup>71</sup> National Academies of Sciences, Engineering, and Medicine; Division of Behavioral and Social Sciences and Education; Committee on National Statistics; Committee on Measuring Sex, Gender Identity, and Sexual Orientation. (2022). *Measuring Sex, Gender Identity, and Sexual Orientation* (N. Bates, M. Chin, and T. Becker, Eds.). The National Academies Press. <https://doi.org/10.17226/26424>

<sup>72</sup> Division of Adolescent and School Health. (2021). *YRBSS Frequently Asked Questions*. Centers for Disease Control and Prevention. [www.cdc.gov/healthyyouth/data/yrbs/faq.htm#anchor\\_1592502798](http://www.cdc.gov/healthyyouth/data/yrbs/faq.htm#anchor_1592502798)

<sup>73</sup> Walker, L., Taylor, D. (2021). *Same-Sex Couple Households: 2019* (Report No. ACSBR-005). U.S. Census Bureau. <https://www.census.gov/library/publications/2021/acs/acsbr-005.html>

nor does the ABS. While it is designed as a health survey, the National Health Interview Survey (National Center for Health Statistics) is the only large, recent, nationally representative data source with information on both sexual orientation and earnings at the individual level.<sup>74</sup>

Some illustrative questions in this Learning Agenda may be addressed best by relating SOGI information to data collected in other surveys or surveillance systems, in alignment with the Equitable Data Working Group’s recommendation to “catalyze existing Federal infrastructure to leverage underused data.”<sup>75</sup> Because CDC’s YRBS includes a question on sexual identity, it supports analysis of LGB individuals and their responses to items in six categories of health-related behaviors. The Runaway and Homeless Youth – Homelessness Management Information System (RHY-HMIS) is an administrative data system that includes a voluntary question on sexual orientation, but not gender identity. The Homelessness Management Information System (HMIS) does ask about an individual’s gender, which helps to identify LGBTQI+ individuals experiencing homelessness.

To address other illustrative questions, federal agencies are encouraged to identify which surveys, surveillance systems, or program administrative data systems are most appropriate for collecting SOGI data. Such considerations are integral to the development SOGI Data Action Plans, as mandated by Executive Order 14075.

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<sup>74</sup> Carpenter, C. S., & Eppink, S. T. (2017). Does It Get Better? Recent Estimates of Sexual Orientation and Earnings in the United States. *Southern Economic Journal*, 84(2), 426–441. <https://www.jstor.org/stable/26633351>

<sup>75</sup> Equitable Data Working Group. (2022). *A Vision for Equitable Data: Recommendations from the Equitable Data Working Group*. <https://www.whitehouse.gov/wp-content/uploads/2022/04/eo13985-vision-for-equitable-data.pdf>

### Chapter 3: Guidelines for Collecting SOGI Data on Forms and in Other Administrative Contexts

As laid out in the earlier chapters of this document, there are many areas in which LGBTQI+ people experience disparities and a broad range of learning questions about LGBTQI+ people that are relevant to the programs, policies, and regulations of federal agencies. While information about the LGBTQI+ community may be sourced from many types of evidence, the Federal Government uses two primary vehicles to source information for much of its evidence-based policy decisions: surveys and administrative forms.<sup>76</sup> While survey data are collected by federal agencies to summarize the experiences, needs, attitudes, and opinions of respondents, they can be limited in scope and utility for comprehensive examinations of barriers and disparities in the receipt and utilization of federal benefits, programs, and funding opportunities. Expanding SOGI data collection to federal administrative forms may fill in the gaps left by surveys in the identification of disparities in order to further advance equity for LGBTQI+ individuals. Still, careful consideration is needed throughout the implementation process.

While a thorough review of all federal administrative forms was beyond the Subcommittee's scope, the guidelines described in this chapter provide federal agencies with recommendations on the collection of SOGI data in federal administrative contexts while minimizing potential harm to LGBTQI+ people. Because there has already been extensive research on SOGI measurement by other experts and federal committees, particularly for survey data,<sup>77</sup> recommendations on question and response format are also generally beyond the scope of this Subcommittee. However, this chapter does generally recommend consistency, when possible, to facilitate interoperability across federal data collections as described below.

Federal administrative forms are used in many settings to collect information from people who are seeking benefits, services, and funding opportunities from federal agencies; for identification; and/or for employment with the Federal Government. Historically, most of these forms have offered only binary response categories (male and female) when asking respondents for information about their sex, have incorrectly asked for *sex assigned at birth* when asking for *gender* or *gender identity* would be more appropriate, and have excluded demographic questions about *sexual orientation*. Taken together, these historical practices have not allowed LGBTQI+ individuals to accurately self-identify and have largely prevented the use of these data for equity analyses that include information about impacts of programs on LGBTQI+ people.

As agencies move forward in the design and implementation of their SOGI Data Action Plans, it is critical to consider how SOGI data could and should be collected on federal administrative forms. However, this cannot be done without careful consideration of the implications for LGBTQI+ people who have already faced or may face heightened discrimination. As such, guidelines for the inclusion of SOGI data collection on federal administrative forms are necessary to implement SOGI Data Action Plans while seeking to minimize harm.

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<sup>76</sup> Agencies get and use data from other sources, for example vital statistics like birth and death certificates or state-collected information, but our focus here is new and existing administrative data collection directly from individuals.

<sup>77</sup> National Academies of Sciences, Engineering, and Medicine; Division of Behavioral and Social Sciences and Education; Committee on National Statistics; Committee on Measuring Sex, Gender Identity, and Sexual Orientation. (2022). *Measuring Sex, Gender Identity, and Sexual Orientation* (N. Bates, M. Chin, and T. Becker, Eds.). The National Academies Press. <https://doi.org/10.17226/26424>



To identify guidelines for this chapter, Subcommittee members conducted a brief review of the state of SOGI collection on federal administrative forms, exploring existing privacy protections and best practices for collecting these data in administrative contexts. As described in the introduction to this document, the Subcommittee solicited comments from the public through a Request for Information and conducted listening sessions with SMEs that included advocacy groups, legal and privacy experts, government data collection experts, and SOGI researchers.

Collectively, the Subcommittee's findings echoed a need to improve the collection of SOGI data and to ensure that when SOGI data is collected, it should be done while minimizing potential harm. With this in mind, the five guidelines presented below provide a framework for integrating SOGI data into existing collections using administrative forms that federal agencies can use when developing and implementing their SOGI Data Action Plans. These guidelines are aimed at voluntary collection of SOGI information from adults. The Subcommittee recommends continued research and work for special populations, such as young people and people who are incarcerated.

**Guideline 1: Ensure relevant data are collected and privacy protections are properly applied.**

Like other demographic data that are collected by the Federal Government, SOGI data must be protected across the data lifecycle in accordance with applicable laws, regulations, and policies. However, federal agencies should consider where existing policies and practices are insufficient to protect LGBTQI+ people given inconsistent nondiscrimination protections and the proliferation of state and local laws that target LGBTQI+ people, as well as local limitations in the adoption of effective data collection practices.

Most SMEs and commenters explained that SOGI data should be treated like other demographic data in its privacy protections, collection, storage, analysis, reporting, and access. However, many also noted existing privacy protections may not be sufficient to protect LGBTQI+ people who are completing federal administrative forms to access services, benefits, funding opportunities, and/or employment due to challenges related to inconsistencies in legal protections across the United States. Moreover, the possibility of reidentification is heightened for populations the size of the LGBTQI+ community which could increase risk for LGBTQI+ people.

Steps to minimize privacy risk are important to reduce the likelihood of reidentification or mishandling of this information, and they may differ depending on the circumstances. To assess and address these risks, federal agencies should engage relevant agency experts on data governance, including agency counsel, the Senior Agency Official for Privacy (SAOP), and the Chief Data Officer.

Robust SOGI data is critical for the Federal Government in continuing to move forward with more effective and evidence-informed decision-making. As agencies consider their strategy for improving SOGI data collection, they should be thoughtful about their collection approach to ensure that relevant data are collected and that privacy protections are properly applied. Recommendations in service of that goal include:

- **Agencies should conduct a robust analysis to determine which forms and other data collection instruments should include SOGI and/or sex or gender questions.** While this process should ultimately be designed to improve SOGI data collection as required under the Executive Order, a risk assessment, which is customary for federal data collections,<sup>78</sup> may help in determining where SOGI data collection should occur. As part of this process, agencies should scrutinize existing questions on forms that solicit a respondent’s gender or sex, including those that offer a binary set of response options (i.e., male or female), to understand if the information is currently used consistent with the guidelines in this document. In alignment with burden reduction guidance, agencies should articulate a clear explanation for why this information is needed and how it will be used both in determining whether to add SOGI questions and whether to remove binary sex/gender questions from existing forms.
- Consistent with the Paperwork Reduction Act, agencies should **assess whether the questions related to SOGI data only solicit information necessary for meeting the form’s stated purpose.** For example, in most contexts, *sex assigned at birth* is not the demographic variable of interest or impact. Instead, it would be more appropriate for most forms to collect information about the respondent’s *gender*.<sup>79</sup> However, in certain cases (e.g., clinical contexts), *sex assigned at birth*, *gender identity*, and/or *intersex status* may be particularly beneficial, for instance, by aiding a clinician in accurately reading and interpreting laboratory tests.
- **Agencies should consider whether ancillary information, such as gendered titles or salutations (for example, Mr., Ms., Mrs., etc.), is relevant to the form’s stated purpose.** Agencies should consider removing questions related to salutations or adding gender-neutral options (e.g., Mx.) on administrative forms when this information is not required by statute or regulation. These data elements are not necessary for effective communication with the public and may be inaccurate or exclusionary for many individuals.
- In conducting the content assessments addressed above, **agencies should scrutinize whether the format of the question proposed for a collection is the most appropriate for their data needs.** For example, in some situations, a two-step gender identity question allows for the passive identification of people of transgender experience by asking about their *sex assigned at birth* and *current gender*. In situations where the agency determines that a two-step gender identity question is appropriate, the agency should utilize *current gender* and *sex assigned at birth*. Where possible, questions about gender should be inclusive and always allow for self-identification beyond the binary of *male* and *female*. Note that *sex assigned at birth* alone, when not coupled with a question about the respondent’s *gender*, should be avoided.
- **Agencies should consider collecting demographic information from a respondent in a way that clearly separates information needed to receive services, benefits, funding opportunities, or employment from their demographic characteristics.** Options may include soliciting demographic information on a separate section of a form, on a separate form, or through a separate process other than the form used to solicit services, benefits, or employment.
- **Agencies should examine and consider privacy risks, including any that are unique to SOGI data, when making decisions about collecting and sharing such data.** Agencies should take

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<sup>78</sup> Please see, for example, [Appendix II to OMB Circular No. A-130](#).

<sup>79</sup> Due to case law built on the legal concept of “Sex Discrimination,” the term “sex” is often used when the desired information is gender (how a person experiences and is perceived by the world).

appropriate steps to deidentify data and consider the privacy risks associated with sharing such data inside and outside the agency. If the safety, health, or well-being of LGBTQI+ people could be negatively impacted, avoid sharing these data. In particular, when SOGI data are shared with non-agency partners or personnel, agencies should be aware of additional risk to LGBTQI+ people and consider additional protections commensurate to the risk, especially in light of the inconsistent nondiscrimination protections and the proliferation of state and local laws that target LGBTQI+ people, as well as local limitations in the adoption of effective data collection practices. Additionally, agencies should conduct a risk assessment to determine whether to include SOGI questions on forms, as they do when considering whether to include other demographic questions on information collections.

- **Agencies should provide mechanisms for individuals to request appropriate access to and amendment of SOGI data.** Doing so not only creates potential for more accurate data by creating a pathway for updating information (for example, when someone transitions), but also gives individuals another tool to understand and manage what data agencies have about them.

## **Guideline 2: Prevent adverse adjudication.**

Absent an explicit statutory or regulatory requirement, SOGI data should not be used to inform the adjudication of decisions regarding services, benefits, or employment. Among other things, SOGI information should never be used to penalize, deny, delay, or adversely adjudicate decisions regarding services, benefits, or employment when responses do not align with supplemental documentation, existing information collected on other forms, or historical information the agency has on file.

Many commenters raised concerns about the misuse of SOGI data in the provision of services, benefits, funding opportunities, or employment decisions, especially when these data did not match existing records or other documentation when used for identity resolution or review purposes. Many administrative forms are a part of a broader set of documentation or ecosystem of processes that an individual is navigating as they interact with a federal agency. Many types of administrative forms, particularly those involving the solicitation of a service or benefit, require that the agency adjudicate the accuracy of the information provided by the respondent, including the respondent's identity.

For many reasons, an individual's SOGI data on one administrative form may differ from other forms or records – this may include differing from previous forms they have submitted to the agency, identity documents they have provided to the agency, or information about the respondent that is present in other databases that the agency may use. Agencies should explicitly and affirmatively ensure that a respondent will not experience adverse adjudication nor face unnecessary procedural delays related to clarifying or curing a perceived discrepancy on a form.

Moreover, SOGI data should not be used to inform decisions regarding services, benefits, funding opportunities, or employment, unless information about the gender of applicants is necessary to determine

eligibility. For example, some housing and education programs remain gender-segregated, and these programs may use gender information to inform decisions about applicant eligibility. Absent a statutory or regulatory requirement to use these data for decision-making, SOGI data should not be used in this manner.

Additional considerations are outlined below:

- Agencies should not interpret inconsistencies in SOGI information provided by applicants as falsification or errors in need of clarification or correction, including when using this information for dataset matching or identity vetting. There are many reasons why a respondent may have inconsistent documentation. Evolving identities, existing protections, and/or lack of opportunity to provide more nuanced responses may lead to inconsistencies, particularly in regard to gender identity and the historic use of binary gender or sex categories (e.g., male or female) as a default. Agencies might include a check box to for individuals to indicate if the gender marker has changed on their forms from prior paperwork.<sup>80</sup>
- Agencies should be aware that a respondent may not know whether they will be penalized for seemingly inconsistent SOGI documentation, even when the discrepancy has no bearing on the agency’s use of the information. When there is a reasonable likelihood that the administrative form and accompanying documentation involves discrepancies, the agency should clearly communicate that the current form response is the “controlling” data point and the respondent will not be penalized for any perceived inconsistency.
- If an agency has an explicit statutory or programmatic requirement to use SOGI information to adjudicate the provision of a service or benefit, it should clearly explain on the form itself whether or how the provision of a service or adjudication of a request could be impacted by the respondent’s response to any SOGI questions. For example, gender identity information could be used in a situation for identity verification or in vetting for benefits, like in the case of health insurance approval for a specific procedure.
- Non-penalty and clarity about when the information may be used to adjudicate provision of a service or benefit is particularly important for gender or sex questions.
- When using SOGI data for matching purposes, agencies should provide documentation to respondents and personnel explaining the use of the data field and any inconsistencies between information collected and other systems that retain that information to better inform the respondent regarding the most appropriate response option.

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<sup>80</sup> Please see, for example, [U.S. Department of State Form DS-11, Application for a U.S. Passport](#).

**Guideline 3: Make responses voluntary.**

Providing SOGI data should be voluntary wherever feasible. When SOGI information is solicited, ensure that (1) a respondent can make an informed decision about whether to provide this information based on its intended uses, potential risks, and their privacy preferences; and (2) that the respondent can choose to provide a non-response or otherwise make a case-specific decision not to disclose their status.

As noted above and reiterated frequently by some commenters, disclosing SOGI data may put respondents at risk in ways disclosure of some other demographic information does not. Many LGBTQI+ people live in communities where their safety, security, and well-being may be compromised if their sexual orientation, gender identity, or sex characteristics are disclosed. As such, absent statutory or regulatory requirements, SOGI data should never be required.

Making SOGI questions on forms voluntary can help by giving respondents the choice of whether to provide that information about themselves. For respondents to make informed decisions about whether to disclose their SOGI, an agency should ensure that respondents know how SOGI information will be used and shared, and that they can choose to opt out of answering these questions if they feel uncomfortable or otherwise prefer not to disclose. For example, in accordance with applicable laws, regulations, and policies, agencies should:

- **When collecting SOGI data, provide respondents with appropriate notice about the protections afforded to the data and how the information might be used or shared in an identifiable manner.** The explanation should describe any potential disclosure to other federal agencies; state, local, Tribal, or Territorial Governments; third-party organizations; or individuals with a personal or legal relationship to the respondent (such as a family member or a doctor). This will help the respondent make an informed decision about disclosing SOGI information on a specific administrative form.
- **Consider how SOGI information is collected or recorded, including potential intermediaries between the respondent and the agency, and how that might impact whether a respondent provides this information or is able to provide their consent.** This includes understanding the role of non-federal actors responsible for collecting SOGI information for federal purposes, the use of proxies (third parties recording responses on behalf of the respondent or subject), and even the physical environment in which a respondent might provide the information. Where it can be avoided,<sup>81</sup> SOGI information should not be collected by proxy on administrative forms without the individual's consent. When proxy reporting is required, evidence-based approaches should be used.
- **Rely on evidence-based approaches when considering which data collection modalities (e.g., interviews, online, or in-person forms) help individuals to feel comfortable and confident self-identifying their SOGI information.** Respondents may vary in their willingness

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<sup>81</sup> Examples of situations when proxy reporting can't be avoided are limited and include collection of form responses for incapacitated individuals and young children. See introduction to this chapter for additional details.

to provide this information freely, voluntarily, and accurately depending on modality and privacy concerns.

**Guideline 4: Rely on self-attestation.**

No documentation should be required to provide proof of SOGI information.

SOGI data reflect a respondent's own sense of identity and should not warrant additional documentation or physical examination for verification. Physical examinations are never appropriate for identity documentation.

Historically, particularly in circumstances related to the provision of identity documents, certain agency forms have required secondary documentation or evidence to validate a respondent's selected gender (for example, birth certificates, medical letters, or court orders). Some commenters suggested that agency practices should be reviewed in order to eliminate this undue burden on respondents, especially since additional verification documentation is rarely required to prove membership in other demographic categories (e.g., race or ethnicity).

**Guideline 5: Be consistent and intentional.**

Agencies should scrutinize existing and new forms for consistency in their terminology when collecting and reporting SOGI information. While agencies should be open to evolving construction of SOGI questions and available response options, agencies should be mindful of the interoperability of resulting data sets and should work to facilitate effective aggregation of responses to support analyses.

Agencies should be consistent and clear in the collection of SOGI data across their applications, forms, and systems. Consistency in SOGI data collection may also increase user trust and reduce confusion when filling out administrative forms within or across agency programs. It can also help to maximize the quality of the information collected and to facilitate future use of the information by agency personnel or other colleagues. The additional considerations below are offered to enhance interoperability of SOGI data:

- When SOGI information is solicited, agencies should ensure that there are available response options such that a respondent can choose to truthfully (if not precisely) respond to the question. While recognizing that terminology and forms continue to evolve, agencies should aim for internal consistency in SOGI questions, definitions, fields, or other elements associated with the collection or communication of this information. Considerations include providing

interoperable SOGI questions and response categories across administrative forms and systems, consistent messaging, appropriate use of metadata and other flags that map across forms or technology-based systems, and data dictionaries that clearly define the terms when used for research or analytical purposes.

- When an agency determines that it is appropriate to collect (or continue to collect) SOGI data on a particular administrative form, it should ensure that the available response categories provided to a respondent are broader than a binary set of responses. For example, avoid “male” vs. “female” or “heterosexual” vs. “gay” without providing additional options for respondents who do not identify with these categories.
- Agencies should de-conflate questions that ask about gender and sex and should generally presume that gender (which reflects a person’s identity) is the appropriate information to collect. Agencies should similarly ensure that collection of *sexual orientation*, *sex assigned at birth*, *gender identity*, and *sex characteristics* on administrative forms is conducted in a terminologically consistent manner. In rare circumstances where an agency needs to collect all this information on one form, that agency should update relevant instructions, data fields, and other systems to clearly distinguish them and their intended uses. If only one construct is allowed for gender, for example, agencies should solicit *gender identity* instead of *sex assigned at birth*.
- As needed, agencies should consider conducting user testing to ensure SOGI questions are easily understandable and to assess their inclusion on administrative forms. Where practicable, user testing should be conducted before deployment of new or modified SOGI data collections.
- Building on the existing evidence base, SOGI questions for use on administrative forms might warrant ongoing testing since the specific questions and response categories that best fit a specific form at a specific agency may continue to evolve. Continued testing should not prevent or deter agencies from moving forward with implementing SOGI data collection as soon as possible. Consistency is an important goal, but flexibility is also needed as agencies evolve to be more inclusive in their SOGI data collection practices. In the absence of user testing, agencies should rely on already available research and best practices or collaborate with other federal agencies with the capacity to support user testing.
- Depending on the nature of the administrative form and its associated processes, agencies may face a variety of resource and design constraints both related to how they might collect gender information as well as how their information technology systems might process or code non-binary responses. When improving a system’s ability to record and store non-binary gender information, for example, agencies should be aware of external systems it may interface with that cannot yet process non-binary responses. This should not hinder an agency from moving forward with collecting information about non-binary gender identities. Agencies may find it appropriate to urge external partners to update their systems as well.

The guidelines above, while not exhaustive, provide practices for agencies to consider as they move forward with collecting SOGI data on administrative forms and implementing their SOGI Data Action Plans. Agencies are encouraged to consider additional protections above and beyond those offered here to the extent to which they seek to balance the need for collecting SOGI data with minimizing the risks of harm to LGBTQI+ individuals seeking access to benefits, services, funding opportunities, and/or

employment from the Federal Government. However, as heard consistently in our listening sessions and in responses to the RFI, these data can and should be collected under many circumstances to advance equity. Thus, agencies should have a goal of moving towards appropriate ways to safely collect, store, use, report, and share SOGI data to facilitate equity analyses. Finally, these guidelines should be reviewed routinely as SOGI data collections are expanded as additional considerations may emerge during the implementation and evaluation of SOGI data collections.



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