

RECOMMENDATIONS FOR ATI WORK GROUP

The following are recommendations developed and approved, with consensus, by the Gender and Sexual Orientation Ad Hoc Committee. The lived experience and expertise shared by Committee members was consistent with what we know through data about system-involved people who identify as cisgender women, LGBTQ+, and/or TGI and these recommendations are a starting point to address the drivers of incarceration and revolving door of the criminal legal system.

INTERCEPT 0: Holistic and Decentralized Community-Based System of Care: Prevention and Reentry

Modification to Approved Recommendation 3: Expand family reunification models and connect families to low-cost or no-cost parenting groups. **Family reunification models and parenting groups should be evidence-informed and have demonstrated they are correlated with better outcomes for participants and their children. These resources should be provided by community organizations and there should be ready availability of resources tailored to the unique needs of cisgender women who identify as mothers as well as LGBTQ+ and TGI parents.**

Modification to Approved Recommendation 15: Create a system that contributes to and/or offsets the cost to family members and caregivers for housing loved ones within their home or in the community through options such as tax credits, stipends, vouchers, motel conversions, or partial pay options. **Utilize this system to address the cost of family members caring for the child of an incarcerated loved one, including transportation assistance to support the child visiting their parent in jail to maintain a strong relationship, and to support cisgender women, LGBTQ+ people, and TGI people who act as caregivers of children, elderly family or loved ones.**

Issue/Analysis
According to the National Transgender Discrimination Survey and the lived experiences shared in the Ad Hoc Committee, many LGBTQ+ / TGI people struggle from a young age with receiving the support needed from loved ones and communities because of gender identity or sexual orientation. This lack of support at a critical time in development increases the chances of trauma, homelessness, poverty, and juvenile/criminal legal system involvement. ¹
New Recommendation
1. Collaborate with the communities most impacted by incarceration to create outreach campaigns for families and support networks on affirming gender identity and queerness as well as community support options. This will help prevent trauma and promote stronger social support networks for LGBTQ+ / TGI people.

Alternatives to Incarceration Work Group
Draft Recommendations on People who Identify as LGBTQ, TGI and/or cisgender women

Issue/Analysis
Outside of Criminal Court, people who identify as cisgender women, LGBTQ+ and/or TGI are often on the brink of crisis as they litigate cases in the broader Superior Court system (e.g. primary caretakers seeking custody of children). These cases often involve sensitive issues of trauma, domestic violence, and parenting. For some, like women who served in the military, the cost and stress of litigation can lead to homelessness, crisis, and ultimately criminal legal system involvement. While tailored, supportive services might be offered through diversion in Criminal Court, this help is often too late to prevent crisis. As such, the broader system of LA County Superior Courts are potential intervention sites for offering services and preventing full-blown crises that drive criminal legal system involvement.
New Recommendation
2. Offer tailored services to people throughout the LA County Superior Court system – such as Family, Children’s, Reentry, Criminal, etc. Courts to address reunification with their children, housing, employment, fines/fees, and health needs to prevent crises that lead to involvement in the criminal system. These services should be tailored to people who identify as cisgender women, LGBTQ+, and TGI. Offer peer advocates described in recommendation 6 to help navigate all court processes.

Issue/Analysis
Based on data related to cisgender women and the lived experiences shared in the Ad Hoc Committee, many of the common charges cisgender women, LGBTQ+ people, and TGI people face relate to lack of access to affordable and accessible public transportation (e.g. driving on a suspended license, DUI, fare evasion, failure to appear for court). Inability to access transportation prevents people from going to court, work, and services, which can directly and indirectly lead to criminal legal system involvement. ²
New Recommendation
3. Provide greater access and options for subsidized public transportation in order to reduce arrests and recidivism for common charges related to lack of transportation.

Issue/Analysis
Based on data related to cisgender women and the lived experiences shared in the Ad Hoc Committee, many of the common charges cisgender women, LGBTQ+ people, and TGI people face relate to substance use (e.g. possession of a controlled substance, DUI). Many people self-medicate to manage trauma but more information could be useful to identify the root causes of the varied offenses. A harm reduction, “care first” approach calls for a public health lens in developing solutions and not the standard punitive strategies often used in the criminal legal system that can have severe attendant consequences like deportation, loss of custody, inability to get employment, cycling in and out of incarceration, etc. ³
New Recommendation
4. Reduce the adverse impact that the severity of substance use charges (e.g. possession of a controlled substance, DUI) have on people who identify as cisgender women, LGBTQ+, and/or TGI. Assess and develop public health and urban planning interventions (e.g. access to subsidized public transportation, safe consumption sites) to mitigate the risks of these charges.

Alternatives to Incarceration Work Group
Draft Recommendations on People who Identify as LGBQ, TGI and/or cisgender women

Issue/Analysis
Today, Los Angeles County is experiencing an unprecedented level of homelessness. A large percentage of this population struggle with problematic drug use, recent data estimates that 2 million people use substances in an unhealthy manner in LA County, and the cause that has contributed most to the overall increase in the homeless mortality rate is <u>drug/alcohol overdose</u> . The <u>intersection of homelessness and drug use</u> among special populations (women, people of color, LGBQ +/TGI, sex workers, etc) makes these groups extremely vulnerable and susceptible to violence. It is crucial, we invest in new and emerging strategies that can help address problematic drug use as one of the key components towards getting out of homelessness. Safe consumption sites can provide that opportunity. Safe consumption sites will serve as a hospitable and hygienic place where people who use drugs can come and consume their pre-obtained drugs under medical supervision, reducing the stigma and dangers associated with public drug use. But above all, these sites will act <u>as a single point of entry</u> to connect the most marginalized communities to wrap around services including health care, mental health, substance treatment and other external services. Safe consumption sites have been effective at improving the lives of people who use drugs as well as the public safety and health of communities by building trust and creating engagement. ⁴
New Recommendation
5. Create safe consumption sites that will act as service hubs and be a part of the decentralized system of care.

INTERCEPT 1: Community Response and Intervention Services

Issue/Analysis
People who identify as cisgender women, LGBQ+, and/or TGI often end up in crisis and in the criminal system because of unmet behavioral health needs. ⁵ For those who are parents, getting help can mean family separation and the loss of a child to the foster care system leading to added trauma for the parent and child. There are often loved ones who are willing to support the child through the crisis while awaiting reunion with their parent, but the child welfare system can create barriers to this and exacerbate stress for all. Crisis responders can play a unique role in supporting family unity and preventing the trauma to parent and child of separation.
New Recommendation
6. Ensure that response teams (e.g. MDT, PMRT, etc.) have the capacity to (a) minimize and/or eliminate a child's trauma and family separation; and (b) connect caregivers to community-based support services, including immigration services.

INTERCEPT 2: Law Enforcement

Issue/Analysis

Alternatives to Incarceration Work Group
Draft Recommendations on People who Identify as LGBTQ, TGI and/or cisgender women

According to the Office of the Inspector General, in January 2018, there were thirty-five pregnant people incarcerated at CRDF.⁶ Based on information shared in the Ad Hoc Committee meetings, while many pregnant/lactating people are unofficially diverted instead of incarcerated, there are closer to 50-65 pregnant people incarcerated at CRDF at any given time. Despite laws to the contrary, some pregnant people in jail are subjected to shackling and use of force that undermines health and are separated from community support that is critical to family unity and wellness.⁷ Moreover, some of those diverted have to use and pay for ankle monitoring that limits reintegration into the community and creates significant financial burdens that undermine economic stability.

New Recommendation

7. Ensure that pregnancy, lactation and postpartum needs are distinguished as an indicator for pre-arrest and/or pre-booking diversion, promoting warm introductions to appropriate community-based services such as harm reduction strategies and parenting services.

Issue/Analysis

Prostitution/solicitation remains a common charge that leads to the booking of cisgender women into L.A. County Jail, according to local data, and there is a large racial disparity. Black women are disproportionately impacted, as it is the most common booking charge they face, and they comprise 16% of women booked for the charge – the largest percentage by far.⁸ Based on conversations in the Ad Hoc Committee, this is also a common reason for arrest among people who identify as LGBTQ+ and TGI, as sex work relates to survival. Prostitution/solicitation is a charge for which people cycle in and out of jail in short time periods that can undermine stability without meaningful access to services.

New Recommendation

8. Reassess law enforcement practices and policies on arrests/bookings for sex work, especially given the racial disparities with respect to black women. Prioritize pre-arrest diversion of cisgender women, LGBTQ+ people, and TGI people engaged in sex work with connection to job training and placement programs and peer outreach workers who can offer voluntary services rooted in harm reduction.

Issue/Analysis

In all groups of the Ad Hoc Committee, people reported deep trauma stemming from interactions with law enforcement in which participants and/or loved ones experienced discrimination, harassment, excessive force, and/or assault – particularly due to gender identity or sexual orientation. This is consistent with national data, especially with respect to LGBTQ+ people and interactions with law enforcement.⁹ Participants communicated that they did not know the proper channels to report abuse and were often not believed when they reported violations. They felt that probation officers shared many of the same biases and discriminatory approaches, particularly around gender identity and sexual orientation, leading to the impression that such officers were focused merely on punishment and sanctions, not wellness.

New Recommendation

Alternatives to Incarceration Work Group
Draft Recommendations on People who Identify as LGBTQ, TGI and/or cisgender women

9. Ensure that the LA County Civilian Oversight Commission, the Office of the Inspector General, L.A. County Probation Oversight and other related bodies have the consistent presence of people equipped to address the negative treatment of LGBTQ+ / TGI people and cisgender women by law enforcement. Establish clear documentation and discipline processes when there are violations for homophobic, transphobic, and/or misogynistic harassment or assaults by law enforcement.

Issue/Analysis

People who identify as cisgender women, LGBTQ+, and/or TGI – particularly those who are people of color – are arrested for offenses that are widely described as “quality of life” offenses related to survival in the face of poverty, homelessness, and trauma.¹⁰ Arrest and prosecution for these offenses create a web of consequences (e.g. fines and fees that people are unable to pay, convictions that prevent employment, loss of parental rights) that fuels the revolving door of the criminal legal system rather than addressing root causes of system involvement and promoting wellness.

New Recommendation

10. Decriminalize drug use, public intoxication, fare evasion, driving without a license, licensing suspensions, licensing revocation and/or other quality of life "crimes" and survival "crimes." Until this is fully implemented, individuals should not be arrested, booked or prosecuted for these offenses but instead law enforcement should ensure individuals are connected to harm reduction services.

INTERCEPT 4: Jail Custody and Court Process

Issue/Analysis

LA County incarcerates around 3,000 cisgender women over the age of 50 each year, many of whom face low-level charges. Also, many incarcerated cisgender women, LGBTQ+ people, and TGI people have varying but serious health needs that require intensive care and cannot adequately be treated in jail. Compassionate release allows people incarcerated facing imminent death, advancing age, or debilitating medical conditions to secure early release.¹¹ Programs that focus on diverting aging and medically fragile individuals from the criminal system also decrease costs associated with housing individuals in a jail setting since MediCal and Medicare coverage is more accessible and cost effective through a community based approach.

New Recommendation

11. Review and update the existing LA County compassionate release program to facilitate and expedite the release of individuals whose medical needs are not adequately addressed in the jail, including but not limited to: individuals with terminal diagnoses, chronic diseases, disabilities and individuals who are pregnant, lactating and/or postpartum.

Issue/Analysis

Alternatives to Incarceration Work Group
Draft Recommendations on People who Identify as LGBQ, TGI and/or cisgender women

Many in the Ad Hoc Committee reported not knowing what diversion options currently exist in L.A. Criminal Court and noted that LGBQ+ and TGI people are often the most marginalized in terms of access to useful information for a robust defense. Participants suggested that more public information on diversion could allow loved ones, service providers, defenders, and incarcerated people to increase access to available ATI opportunities.

New Recommendation

12. Create a simple and real-time map of diversion options and eligibility criteria to share with the public and all system actors so that people and their support networks can help identify eligibility for diversion. The map should note available options tailored to cisgender women, LGBQ+ people, and TGI people.

Issue/Analysis

LGBQ + / TGI people in the Ad Hoc Committee reported feeling like they had to engage in significant self-advocacy in the pursuit of justice and that public defenders' offices could use support in understanding the unique needs of LGBQ+ and TGI clients for better representation.

New Recommendation

13. Hire peer navigators, direct service providers and lawyers focused on LGBQ+ and TGI clients at the public defenders' offices to maximize connections to alternatives to incarceration and diversion throughout the court process.

Issue/Analysis

Many people – particularly cisgender women, LGBQ+ people, and TGI people – cannot attend court dates during normal business hours because of important obligations like childcare responsibilities or tenuous employment with inflexible scheduling. This may be one reason that failure to appear charges are so common among cisgender women booked into L.A. County jail.¹²

New Recommendation

14. Implement flexible court appearance times, such as late starts, weekends and non-business hours or the ability to check in via phone when an appearance by the accused person is not necessary.

Issue/Analysis

Alternatives to Incarceration Work Group
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Traffic Court and driving-related charges have significant consequences for community engagement, economic stability, and criminal system involvement. Traffic Court imposes fines and fees that people cannot afford to pay. Some avoid court because they know they cannot pay; some cannot attend court because of transportation issues or important life obligations. The resulting license suspensions and warrants for failure to appear impede people’s ability to work and care for loved ones and expose them to criminal arrests largely because of issues related to poverty and the need to get around Los Angeles. These consequences are exacerbated for cisgender women, LGBTQ+ people, and TGI people, who already suffer greater barriers to financial stability than others. Additionally, there are racial disparities in booking cisgender women for driving on a suspended/revoked license charges, as it is one of the most common reasons for bookings for black and Latina cisgender women.

New Recommendation

15. Identify drivers of license suspensions and create mechanisms, in collaboration with Traffic Court, to prevent LGBTQ+ people, TGI people, and cisgender women from losing their licenses due to inability to pay tickets and from being arrested, booked or prosecuted for failures to appear related to unpaid tickets and license suspensions.
- a. Collaborate with system actors to reduce the number of arrests, bookings, and racial disparities that exist for driving with a suspended/revoked license.
 - b. Create or expand community events, including childcare, to clear warrants for failures to appear without threat of arrest. These events can be in conjunction with existing expungement clinics. Create mechanisms to clear warrants for failures to appear via phone or internet to facilitate easy access for those who cannot attend in-person events.
 - c. Build a unit at the public defenders’ offices that helps people address warrants for failures to appear along with attendant consequences (e.g. removing license suspension, unpaid tickets, impounded cars, criminal case representation, etc.).

INTERCEPT 5: Pre-Release and Release

Issue/Analysis

Thousands of people are returning home from state prison to L.A. County, including to county jail. Between June 2017 and June 2018, over 11,000 people were released from CDCR prisons and returned to L.A. County. As the county with the largest number of people returning from CDCR facilities, Los Angeles should proactively collaborate with the State to more effectively coordinate care for its returning county residents, and to access future funding opportunities for reentry services. Currently, there is some degree of assessing and release planning started within CDCR for people on parole supervision, but analogous services do not yet exist pre-release for people who will be on probation supervision. The lack of coordinated release planning is straining the system and failing its people, including the incarcerated people who need services tailored to their needs and returning address.¹³

New Recommendation

16. Improve, where possible, care coordination, information sharing and release planning with CDCR for a) people returning to Los Angeles County from CDCR prisons; and b) people incarcerated in LA County jails for state parole violations. In all instances, provide gender-affirming care and services tailored to the needs of cisgender women, LGBTQ+ people, and TGI people.

INTERCEPT 6: Supervision in the Community

Note: The Ad Hoc Committee will contribute to the current work of the ATI Work Group addressing Intercept 6. The prevalence of supervision violations amongst cisgender women – and particularly black women – urgently needs to be addressed. This includes receiving information from Probation regarding the reasons for violations (e.g. technical violations vs. new arrest), which we currently do not have. Moreover, the median time cisgender women spend incarcerated for supervision violations is thirteen days – more than twice the general median time. This length of time can severely harm pillars of stability and ultimately a household. More information is needed regarding the reasons for length of incarceration. Finally, we do not have data about LGBTQ+ / TGI people on probation but anecdotal information suggests many of the same issues as for cisgender women.

INFRASTRUCTURE

Modification of Approved Recommendation 60: Utilize data-driven tools (e.g., Race Forward’s Community Benefits Agreement and Racial Impact Tool, or Advancement Project’s JENI/JESI, etc.) to create processes for equitable resource and contract distribution with program offices across health and social service departments. **These** processes should prioritize remedying racial and geographic disparities while also taking into account cultural, gender, **sexual orientation**, and special populations’ needs. Involve County and impacted communities in equitably distributing and leveraging resources to sustain community health.

Issue/Analysis
For people who identify as cisgender women, LGBTQ+, and/or TGI, there is a lack of data that would help identify the drivers of incarceration, racial disparities, and possible solutions to reduce incarceration and improve wellness. Gender information is often collected in a binary way, erasing transgender and gender-non-conforming people who often suffer greatly while incarcerated and likely experience disparities in arrests, prosecutions, ATI opportunities, and outcomes. People in the Ad Hoc Committee though felt that simply changing protocol to include questions about gender identity or sexual orientation would be inappropriate without consideration of safety and ethics. There were concerns about law enforcement asking for information, since most did not feel safe interacting with law enforcement and felt revealing this information could further undermine safety while incarcerated. People were uncomfortable with mandatory questions, as some people are not “out” or do not publicly identify as LGBTQ+ / TGI. Additionally, people wanted community members to have access to this data and some say in how it would be used.
New Recommendation
17. Design a process that enables a public university (or universities) to collect detailed data, including gender (including non-binary) and sexual orientation demographics under conditions of voluntary and safe disclosure. Collaborate with university data scientists and researchers on statistically valid methods. The goal is to produce data that can inform future efforts to develop alternatives to incarceration and evaluate what programs and interventions are operating as intended and which have a disparate impact.

APPENDIX A

Issue analysis for Recommendation 16

Thousands are returning home from state prison to LA County, including to county jail

Between June 2017-June 2018, 11,085 people were released from CDCR prisons and returned to LA County, their "county of commitment." Los Angeles received the largest number of people leaving state prison, with San Bernardino (3,300) a very distant second.¹

About half of those returning to LA County were on parole supervision (6,176; 55.7%), with 4,909 more people (44.3%) on probation supervision. There is some degree of assessing and release planning started within CDCR for people on parole supervision, but analogous services do not yet exist pre-release for people who will be on probation supervision. Probation is piloting video conferencing pre-release to discuss some release planning and terms of one's supervision.

People on parole supervision are incarcerated in LA County jail for parole violations. Currently, people on parole supervision with mental health conditions are mostly seen at CDCR-funded and operated Parole Outpatient Clinics, not community mental health providers or DMH providers. These systems also use different electronic health records systems, so data sharing and communication is often fragmented.

The state is starting to reinvest in in pre-release planning and reentry services

Governor Newsom's FY 2019-2020 budget² included \$71.3 million General Fund in 2019-2020, \$161.9 million General Fund in 2020-2021, and \$164.8 million General Fund in 2021-2022 to implement integrated substance use disorder treatment. The program includes "the use of medication-assisted treatment (MAT) to treat inmates with opioid and alcohol use disorders, a redesign of the current cognitive behavioral treatment curriculum, the development and management of inmate treatment plans, as well as *substance use disorder-specific pre-release transition planning*."

The enacted budget also includes \$33 million General Fund in 2019-2020, increasing to \$37 million General Fund ongoing in 2020-2021, dedicated to competitive reentry grants for community-based organizations to assist formerly incarcerated individuals transitioning into the community. These programs "will support linking individuals upon release from prison to healthcare, housing and employment services."

LA County should increase collaborative efforts with the state

As the county with the largest number of people returning from CDCR facilities, Los Angeles should proactively collaborate with the State to more effectively coordinate care for its returning county residents, and to access future funding opportunities for reentry services.

¹ https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2019/08/DataPoints_062018.pdf

² <http://ebudget.ca.gov/2019-20/pdf/Enacted/BudgetSummary/PublicSafety.pdf>

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Currently, there is no systematized referral method for reentry services for people leaving CDCR custody. Instead, the 0.5-2 FTE mental health release planners at each prison are tasked with release planning for people returning to any of California's 58 counties; medical release planning counterparts mostly do not exist yet, as their positions are funded by the newly enacted budget. The lack of coordinated release planning is straining the system and failing its people, including the incarcerated people who need services tailored to their needs and returning address; CDCR release planners who are expected to be knowledgeable about ever-changing resources available in each county; and LA's network of reentry and homeless service providers who are asked to constantly react to serving people with multiple urgent needs without the benefit of planning or preparation.

¹ National Transgender Discrimination Survey, February 2016, cited at <http://www.lgbtmap.org/file/lgbt-criminal-justice.pdf> at p. 9.

² See Cisgender Women Data Handout, produced by Vera Institute of Justice & Million Dollar Hoods for the ATI Work Group.

³ See Cisgender Women Data Handout and LGBTQ+ Data Handout, produced by Vera Institute of Justice & Million Dollar Hoods for the ATI Work Group.

⁴ See, e.g. County of Los Angeles Public Health. (2019). Recent Trends in Mortality Rates and Causes of Death Among People Experiencing Homelessness in Los Angeles County. Retrieved from http://publichealth.lacounty.gov/chie/reports/HomelessMortality_CHIEBrief_Final.pdf

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United States of America v. Safe House et al, Case No. 2:19-cv-00519-GAM (E.D. Pa. 10/2/19) http://blog.petrieflom.law.harvard.edu/wpcontent/uploads/2019/10/gov.uscourts.paed_.552726.133.0-safehouse.pdf.

⁵ See Cisgender Women Data Handout and LGBTQ+ Data Handout, produced by Vera Institute of Justice & Million Dollar Hoods for the ATI Work Group. <https://oig.lacounty.gov/Portals/OIG/Reports/2-2-18%20OIG%20Report%20Back%20on%20Pregnant%20Prisoners.pdf?ver=2018-02-07-141008-730>

⁶ <https://oig.lacounty.gov/Portals/OIG/Reports/2-2-18%20OIG%20Report%20Back%20on%20Pregnant%20Prisoners.pdf?ver=2018-02-07-141008-730>

⁷ *Reproductive Health Behind Bars in California*, January 2016, available at www.aclunc.org/ReproductiveHealthBehindBars_Report.

⁸ See Cisgender Women Data Handout, produced by Vera Institute of Justice & Million Dollar Hoods for the ATI Work Group at p.3.

⁹ See LGBTQ+ Data Handout, produced by Vera Institute of Justice & Million Dollar Hoods for the ATI Work Group.

¹⁰ See Cisgender Women Data Handout and LGBTQ+ Data Handout, produced by Vera Institute of Justice & Million Dollar Hoods for the ATI Work Group.

¹¹ *Everywhere and Nowhere: Compassionate Release in the States*, June 2018, available at <https://famm.org/wp-content/uploads/Exec-Summary-Report.pdf>.

¹² See Cisgender Women Data Handout, produced by Vera Institute of Justice & Million Dollar Hoods for the ATI Work Group.

¹³ See Appendix A for more information.