



May 11, 2018

Jennifer Truman
Bureau of Justice Statistics
810 Seventh Street NW
Washington, DC 20531

Submitted via email: Jennifer.Truman@ojp.usdoj.gov

RE: Revisions to the National Crime Victimization Survey [OMB Number 1121–0111]

Dear Ms. Truman:

The National Crime Victimization Survey (NCVS) is a vital source of crime data for our nation. It was designed with three goals in mind: “to develop detailed information about the victims and consequences of crime, to estimate the number and types of crimes not reported to police, and to provide uniform measures of selected types of crime.”¹ The survey collects information from victims of nonfatal crimes such as robbery, aggravated assault, rape, and sexual assault. Respondents provide personal, sensitive information, including age, sex, marital status, and whether they have been a victim of crime. In July 2016, the NCVS began asking victims 16 and older about their sexual orientation and gender identity (SOGI).² The survey is vital for informing policy related to all forms of violence, including the allocation of federal and state funding for crime prevention and crime victim services.

As such, we, the undersigned organizations, are writing to oppose the Bureau of Justice Statistics’ (BJS) proposal to raise the minimum age for respondents of the NCVS to be asked about their sexual orientation and gender identity from 16 to 18, erasing the experiences of LGBTQ youth. As LGBTQ and allied organizations, we are collectively experts on the LGBTQ community and the disparities this population faces. Speaking from both public education and research standpoints, we are well-suited to address the need for increased LGBTQ data collection. Developing high-quality data that more fully explore and facilitate understanding of the circumstances of teenage LGBTQ crime victims in the United States today is essential if federal, state, local, and nongovernmental entities are to adequately and efficiently serve the LGBTQ community. More of these data on the experiences and needs of LGBTQ youth are needed – not less. This is especially true given the increasing LGBTQ American population, as well as increasing crime victimization of that community.³ Plus, having more data allows for a better understanding of crime trends and it can better inform evidence-based policies and practices, shedding light on what new approaches might be needed to combat crime and provide victim services.

We need more data on the LGBTQ community and crime victimization – not less.

Data on the LGBTQ community in general is already lacking. The data that have been collected on SOGI reveal that LGBTQ people face unique challenges. For example, older LGBT people are more likely to suffer from depression, mental distress, smoking, and excessive drinking than are their non-LGBT peers.⁴

They are also more likely to be disabled.⁵ These disparities are exacerbated by the fact that LGBT people are twice as likely to lack health insurance as non-LGBT people.⁶ LGBT people are also more likely to experience food insecurity and rely on government food assistance.⁷ These challenges demonstrate the importance of including sexual orientation and gender identity in federal surveys, so that policymakers can better address the needs of the LGBTQ community.

This need for data is especially apparent in the crime victimization context because LGBT people are at a much higher risk of violence compared to non-LGBT people.⁸ What data does exist, such as data from the 2010 National Intimate Partner and Sexual Violence Survey, suggest that LGB individuals experience sexual violence and intimate partner violence at higher rates than their non-LGB counterparts.⁹ Gay and bisexual men experience sexual violence other than rape at rates double those of heterosexual men.¹⁰ Bisexual women are particularly at risk, with nearly half reporting being raped in their lifetimes.¹¹ There were 1,200 incidents of hate crimes motivated by sexual orientation or gender identity-based bias in 2016 according to FBI statistics.¹² The transgender community is particularly vulnerable to violence. The 2015 U.S. Transgender Survey found that nearly half of respondents reported being sexually assaulted at some point in their lives.¹³

LGBTQ teenagers are also victims of violence. According to GLSEN's 2015 National School Climate Survey, 27% of LGBTQ students reported being physically harassed at school based on their sexual orientation, and about a fifth of LGBTQ students reported being physically harassed based on their gender identity.¹⁴ These percentages were 13% and 9.4% respectively for reporting physical assault.¹⁵ The Youth Risk Behavior Survey (YRBS) found that LGB students were twice as likely to report being threatened by or injured with a weapon on school grounds compared to non-LGB students.¹⁶ It is essential that DOJ understand the demographics of violence against the LGBTQ community as a whole, especially when available statistics show that young members of the LGBTQ community are victims of violence.

The claim that collection of SOGI data from 16 and 17 year-old victims should cease due to “sensitivity of these questions for adolescents” is unfounded.

Studies have shown that for adolescents questions about sexual orientation “are no more sensitive or more likely to be skipped than other sexual risk behavior questions.”¹⁷ Any claims of concern about nonresponse rates rendering data inaccurate or unusable are not grounded in reality.¹⁸ The Federal Interagency Working Group on Improving Measurement of Sexual Orientation and Gender Identity in Federal Surveys found that “[m]ost surveys incorporating SOGI items have not found higher nonresponse rates than other ‘sensitive’ questions, such as personal or household income.”¹⁹ A study of Behavioral Risk Factor Surveillance System responses found that refusal rates for sexual orientation questions are actually much lower than refusal rates for questions on income.²⁰ Another recent study at community health centers supports these results, finding that a majority of people agreed that collecting SOGI data is important and will respond to such questions.²¹ Even BJS when conducting cognitive testing to add SOGI questions found that 16 and 17 year-olds were “able to understand and answer these questions without difficulty.”²²

The Interagency Working Group warned of exactly what is occurring here, where the “perceived sensitivity of questions can affect the willingness of survey practitioners to include SOGI questions even when inclusion of these measures would support agency mission and data needs.”²³ The SOGI questions are not unusually sensitive, especially considering the crime victimization disclosures the rest of the NCVS asks for. As noted, the NCVS collects data on rape and sexual assault.²⁴

As mentioned, several other federal surveys already collect SOGI data as well.²⁵ Not only has NCVS successfully collected SOGI data on teenage respondents since 2016, the CDC's National YRBS successfully includes respondents as young as 13 and has included sexual orientation measures since 2015.²⁶ In 2015, more than 15,500 youth from across the country filled out the YRBS survey on their own, anonymously at school.²⁷ Even before that, an increasing number of jurisdictions included sexual orientation measures on their YRBSs since the mid-1990s.²⁸

Furthermore, population-based surveys have shown that younger people are more likely to identify as LGBT than older people at every age group.²⁹ This is probably due to lesser sense of social stigma and greater openness and comfort with sharing sexual and gender identities publicly. As a result, BJS's pure speculation about the "potential sensitivities" of youth cannot justify the proposed action here. Surveys have been voluntarily and confidentially asking adolescents about LGBTQ status for years. Any individual who is not comfortable responding to a question about their sexual orientation has the option to not respond.

There is no burden in asking 16- and 17-year-olds about their SOGI status.

The agency's estimate of the burden of the proposed collection of information is correct. There is "no impact" on the estimated survey burden or the annual number of respondents. However, the claim that the validity of the methodology and the assumptions used in making this revision will have no impact on the results is disingenuous, if not outright hostile to LGBTQ youth. DOJ offers no reasoning or justification for removing the question other than "potential sensitivity." In removing the sexual orientation and gender identity questions for 16- and 17-year-olds DOJ harms the utility of available information and will not be able to reach young LGBTQ people in crime prevention or resolution. LGBTQ victims deserve to be counted.

Collecting these data is feasible. Best practices exist for asking SOGI questions,³⁰ and two reports "Best Practices for Asking Questions about Sexual Orientation on Surveys"³¹ and "Best Practices for Asking Questions to Identify Transgender and Other Gender Minority Respondents on Population-Based Surveys"³² reflect expert consensus. BJS already followed those best practices when crafting the current SOGI questions.

Most federal surveys including, for example, the NCVS, ask questions about many other aspects of identity, such as race. SOGI data should be routinely collected as well for all respondents, including teenagers. Gathering data on how their various identities interact provides important information about whether and how programs are appropriately serving people who have experienced multiple and different forms of stigma.³³

In conclusion, instead of removing these questions, BJS could instead focus on ways to improve data collection and make it easier for youth to respond to these critical surveys. Collecting data on sexual orientation and gender identity, particularly from youth, will not only help ensure that the most vulnerable victims have access to the services and supports they need, but it may also lead to reduced crime rates and safer communities.³⁴ Continuing to collect these data will also provide a better understanding of crime victimization and aide policymakers and systems providers in designing evidence-based policies and interventions to protect victims and prevent further crime.

Sincerely,

Arizona Coalition to End Sexual and Domestic Violence
Center for American Progress
CenterLink: The Community of LGBT Centers
Charlottesville NOW
Equality California
Equality North Carolina
FORGE, Inc.
Gender Spectrum
GLSEN
Illinois Accountability Initiative
Jacobs Institute of Women's Health
Mazzoni Center
The Montrose Center
National Coalition of Anti-Violence Programs
National Council of Jewish Women
National LGBTQ Task Force
National Women's Health Network
PFLAG National
People For the American Way
Resource Center
Sexuality Information and Education Council of the United States
Trans Pride Initiative
The Trevor Project

¹ ICPSR, "National Crime Victimization Survey (NCVS) Series," available at <https://www.icpsr.umich.edu/icpsrweb/ICPSR/series/95> (last accessed May 9, 2018).

² John Paul Brammer, "Justice Department Wants to Remove Questions for LGBTQ Teens from Crime Survey," *NBC News*, April 23, 2018, available at <https://www.nbcnews.com/feature/nbc-out/justice-department-wants-remove-questions-lgbtq-teens-crime-survey-n865361>.

³ Kellan Baker and Laura Durso, "Filling in the Map: The Need for LGBT Data Collection" (Washington: Center for American Progress, 2015), available at <https://www.americanprogress.org/issues/lgbt/news/2015/09/16/121128/filling-in-the-map-the-need-for-lgbt-data-collection/>. See also Haeyoun Park and Iaryna Mykhyalshyn, "L.G.B.T. People Are More Likely to Be Targets of Hate Crimes Than Any Other Minority Group," *The New York Times*, June 16, 2016, available at <https://www.nytimes.com/interactive/2016/06/16/us/hate-crimes-against-lgbt.html>.

⁴ Karen I. Fredriksen-Goldsen and others, "The Aging and Health Report: Disparities and Resilience among Lesbian, Gay, Bisexual, and Transgender Older Adults," (Seattle: Institute for Multigenerational Health, University of Washington, 2011), available at <http://www.age-pride.org/wordpress/wp-content/uploads/2011/05/Full-Report-FINAL-11-16-11.pdf>.

⁵ Ibid.

⁶ Kellan Baker and Laura E. Durso, "Why Repealing the Affordable Care Act Is Bad Medicine for LGBT Communities," (Washington: Center for American Progress, 2017), available at <https://www.americanprogress.org/issues/lgbt/news/2017/03/22/428970/repealing-affordable-care-act-bad-medicine-lgbt-communities/>.

⁷ Taylor N. T. Brown, Adam P. Romero, and Gary J. Gates, "Food Insecurity and SNAP Participation in the LGBT Community," (California: The Williams Institute at UCLA School of Law, 2016), available at <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Food-Insecurity-and-SNAP-Participation-in-the-LGBT-Community.pdf>.

⁸ Park and Mykhyalshyn, "L.G.B.T. People Are More Likely to Be Targets of Hate Crimes Than Any Other Minority Group." See also Mikel L. Walters, Jieru Chen, and Matthew J. Breiding, "The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Findings on Victimization by Sexual Orientation," (Atlanta: National Center for Injury Prevention and Control,

2013), available at https://www.cdc.gov/violenceprevention/pdf/nisvs_sofindings.pdf; Federal Bureau of Investigation, “Table 1: Incidents, Offenses, Victims, and Known Offenders by Bias Motivation, 2016” in 2016 Hate Crime Statistics, available at <https://ucr.fbi.gov/hate-crime/2016/tables/table-1> (last accessed May 9, 2018).

⁹ National Center for Injury Prevention and Control, “NISVS: An Overview of 2010 Findings on Victimization by Sexual Orientation,” available at https://www.cdc.gov/violenceprevention/pdf/cdc_nisvs_victimization_final-a.pdf (last accessed May 9, 2018).

¹⁰ Ibid.

¹¹ Ibid.

¹² Federal Bureau of Investigation, “Table 1: Incidents, Offenses, Victims, and Known Offenders by Bias Motivation, 2016.”

¹³ Sandy E. James and others, “The Report of the 2015 U.S. Transgender Survey” (Washington, DC: National Center for Transgender Equality, 2016), available at <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.

¹⁴ Joseph G. Kosciw and others, “The 2015 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual, Transgender, and Queer Youth in Our Nation’s Schools” (New York: GLSEN, 2016), available at <https://www.glsen.org/article/2015-national-school-climate-survey>.

¹⁵ Joseph G. Kosciw and others, “The 2015 National School Climate Survey.”

¹⁶ Lauren Musu-Gillette and others, “Indicators of School Crime and Safety: 2017” (Washington: National Center for Education Statistics and Bureau of Justice Statistics, 2018) available at <https://www.bjs.gov/content/pub/pdf/iscs17.pdf>.

¹⁷ Elizabeth M. Saewyc, “Measuring sexual orientation in adolescent health surveys: Evaluation of eight school-based surveys,” *Journal of Adolescent Health* 35 (4) (2004): 345.e1–345.e15, available at <https://www.jahonline.org/article/S1054-139X%2804%2900161-2/fulltext>.

¹⁸ Ibid.

¹⁹ Federal Interagency Working Group on Improving Measurement of Sexual Orientation and Gender Identity in Federal Surveys, “Current Measures of Sexual Orientation and Gender Identity in Federal Surveys” (2016), available at https://s3.amazonaws.com/sitesusa/wp-content/uploads/sites/242/2014/04/WorkingGroupPaper1_CurrentMeasures_08-16.pdf.

²⁰ Nicole A. VanKim and others, “Adding Sexual Orientation to Statewide Public Health Surveillance: New Mexico’s Experience,” *American Journal of Public Health* 100 (12) (2010): 2392–2396, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2978164/>.

²¹ Sean Cahill and others, “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) (2014): e107104, available at <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0107104>.

²² Bureau of Justice Statistics, “Testing Sexual Orientation and Gender Identity Questions for the National Crime Victimization Survey” (2013), available at https://paa.confex.com/paa/2016/mediafile/ExtendedAbstract/Paper9224/PAA%202016%20extended%20abstract_Truman.pdf.

²³ Federal Interagency Working Group on Improving Measurement of Sexual Orientation and Gender Identity in Federal Surveys, “Evaluations of Sexual Orientation and Gender Identity Survey Measures: What Have We Learned?” (2016), available at https://s3.amazonaws.com/sitesusa/wp-content/uploads/sites/242/2014/04/Evaluations_of_SOGI_Questions_20160923.pdf.

²⁴ Bureau of Justice Statistics, “Questionnaires,” in Data Collection: National Crime Victimization Survey (NCVS), available at <https://www.bjs.gov/index.cfm?ty=dcdetail&iid=245#Questionnaires> (last accessed May 9, 2018).

²⁵ Baker and Durso, “Filling in the Map.”

²⁶ Laura Kann et al., Sexual Identity, Sex of Sexual Contacts, and Health-Related Behaviors Among Students in Grades 9–12—United States and Selected Sites, 2015, 65 MORBIDITY & MORTALITY WEEKLY REPORT 1, 11, 15 (Aug. 12, 2016), <https://www.cdc.gov/mmwr/volumes/65/ss/pdfs/ss6509.pdf>.

²⁷ *Id.* at 3–4.

²⁸ *Id.*; see also Laura Kann and others, “Sexual Identity, Sex of Sexual Contacts, and Health-Risk Behaviors Among Students in Grades 9–12 — Youth Risk Behavior Surveillance, Selected Sites, United States, 2001–2009,” (Atlanta: Centers for Disease Control and Prevention, 2011), available at <https://www.cdc.gov/mmwr/pdf/ss/ss60e0606.pdf>.

²⁹ Gary J. Gates, “In US, More Adults Identifying as LGBT,” *Gallup*, January 11, 2017, available at <http://www.gallup.com/poll/201731/lgbt-identification-rises.aspx>.

³⁰ Kellan Baker, Laura E. Durso, and Aaron Ridings, “How to Collect Data About LGBT Communities” (Washington: Center for American Progress, 2016), available at <https://www.americanprogress.org/issues/lgbt/reports/2016/03/15/133223/how-to-collect-data-about-lgbt-communities>.

³¹ The Sexual Minority Assessment Research Team, “Best Practices for Asking Questions about Sexual Orientation on Surveys” (2009), available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/SMART-FINAL-Nov-2009.pdf>.

³² The GenIUSS Group, “Best Practices for Asking Questions to Identify Transgender and Other Gender Minority Respondents on Population-Based Surveys” (2014), available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/geniuiss-report-sep-2014.pdf>.

³³ Baker, Durso, and Ridings, “How to Collect Data About LGBT Communities.”

³⁴ See: Jesse Jannetta and Cameron Okeke, “Strategies for Reducing Criminal and Juvenile Justice Involvement” (Washington: Urban Institute, 2017), available at https://www.urban.org/sites/default/files/publication/94516/strategies-for-reducing-criminal-and-juvenile-justice-involvement_2.pdf.