



May 1, 2018

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

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

RE: 83 FR 15634, Revision of National Crime Victimization Survey

Dear Ms. Truman,

On behalf of the Campaign for Youth Justice (CFYJ), we write to offer comments on the Department of Justice's Bureau of Justice Statistics' (BJS) proposal to raise the minimum age for respondents of the National Crime Victimization Study (NCVS) to be asked about their sexual orientation and gender identity from 16 to 18.

CFYJ is a national organization whose mission is to end the practice of prosecuting, sentencing, and incarcerating youth under the age of 18 in the adult criminal justice system. The strategic goals of CFYJ are to reduce the total number of youth prosecuted in the adult criminal justice system and to decrease the harmful impact of trying youth in adult court. In this line of work, we are all too aware that many youth who wind up in the justice system are often first victims of crime and exposed to trauma themselves. This is why we are concerned by the BJS proposal to raise the age for respondents of the NCVS to be asked about their sexual orientation and gender identity given that LGBTQ youth are particularly vulnerable to violence and other crimes.¹

The NCVS "is the nation's primary source of information on criminal victimization."² The survey, which has been administered since 1973, 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

¹ See HUMAN RIGHT WATCH, "LIKE WALKING THROUGH A HAILSTORM": DISCRIMINATION AGAINST LGBT YOUTH IN U.S. SCHOOLS (2016), available at <https://www.hrw.org/report/2016/12/07/walking-through-hailstorm/discrimination-against-lgbt-youth-us-schools> (finding that LGBT youth are "...more than twice as likely as non-LGBT youth to be physically attacked at school..."); Sarah Barr, *Discrimination Lands Many LGBT Youth in the Justice System, New Report Says*, JUVENILE JUSTICE INFORMATION EXCHANGE (Aug. 25, 2016), <https://jjie.org/2016/08/25/discrimination-lands-many-lgbt-youth-in-the-justice-system-new-report-says/> ("For example, family stigma or mistreatment in the child welfare system can mean youth run away and stay on the streets, making it more likely they will encounter law enforcement. Similarly, students who are bullied in school because of their sexual orientation or gender identity may be more likely to miss class or drop out. They then could face charges such as truancy or otherwise come in contact with the justice system.").

² *Data Collection: National Crime Victimization Survey (NCVS)*, BUREAU OF JUSTICE STATISTICS, <https://www.bjs.gov/index.cfm?ty=dcdetail&iid=245> (last visited Apr. 27, 2018).



orientation and gender identity.³ The survey is one of the main sources of data on crime, including unreported crime, and 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.

There are myriad reasons LGBTQ people—particularly young people, those of color, gender non-conforming people, and individuals who are not safely out to their families—might want to avoid reporting a crime to the police.⁴ By adding the questions regarding sexual orientation and sexual identity, statuses that have been identified as factors affecting victimization risk, policymakers can have a more accurate picture of crime victims and properly allocate funds for crime prevention and victim support.⁵ It also provides the opportunity to examine the relationship between LGBTQ status and the nature of their contact with law enforcement, thus providing policymakers with the opportunity to find ways to strengthen these relationships and increase the likelihood that LGBTQ people will report crimes and have access to appropriate victim services.⁶

BJS asserts it is requesting this change due to “concerns about the potential sensitivity of these questions for adolescents.”⁷ However, it is important to note that not only are the questions regarding sexual orientation and gender identity voluntary, the responses are also confidential.⁸ Further, similar questions are asked in other federally-administered surveys, including the Youth Risk Behavior Survey and the National Survey of Family Growth, both of which include respondents younger than 16.⁹ Instead of removing these questions, BJS could instead focus on ways to improve data collection and how to 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 create safer communities.¹⁰ Continuing to collect this data will also provide a better understanding of crime victimization and aide

³ John Paul Brammer, *Justice Department Wants to Remove Questions for LGBTQ Teens from Crime Survey*, NBC NEWS (Apr. 23, 2018, 1:56 PM), <https://www.nbcnews.com/feature/nbc-out/justice-department-wants-remove-questions-lgbtq-teens-crime-survey-n865361>.

⁴ MOVEMENT ADVANCEMENT PROJECT & CENTER FOR AMERICAN PROGRESS, UNJUST: HOW THE BROKEN CRIMINAL JUSTICE SYSTEM FAILS LGBT PEOPLE OF COLOR (2016), available at <http://www.lgbtmap.org/policy-and-issue-analysis/criminal-justice-poc> (finding that LGBT people of color often face unfair treatment from the criminal justice system).

⁵ Lynn Langton, Michael Planty, & James P. Lynch, *Second Major Redesign of the National Crime Victimization Survey*, 16 *Criminology & Public Policy* 4, 1057 (2017), available at https://ccjs.umd.edu/sites/ccjs.umd.edu/files/pubs/langton_et_al-2017-criminology_public_policy.pdf.

⁶ *Id.* at 1058.

⁷ 83 FR 15634 (proposed Apr. 11, 2018).

⁸ Brammer, *supra* note 3.

⁹ Press Release, Williams Institute, DOJ Proposes Roll Back of Data Collection on Crime Victimization of LGBT Youth (Apr. 11, 2018), available at <https://williamsinstitute.law.ucla.edu/press/press-releases/doj-proposes-roll-back-of-data-collection-on-crime-victimization-of-lgbt-youth/>.

¹⁰ See JESSE JANNETTA & CAMERON OKEKE, URBAN INST., STRATEGIES FOR REDUCING CRIMINAL AND JUVENILE JUSTICE INVOLVEMENT 3 (2017), available at <https://www.urban.org/sites/default/files/publication/94516/strategies->



policymakers and systems providers in designing evidence-based policies and interventions to protect victims and prevent further crime.

We urge BJS not to raise the minimum age for respondents to be asked about their sexual orientation and gender identity and to continue to collect this critical data as part of the NCVS. Please feel free to contact us with any questions.

Sincerely,

A handwritten signature in black ink that reads "Rachel Marshall". The signature is written in a cursive, flowing style.

Rachel Marshall
Federal Policy Counsel
rmarshall@cfyj.org

A handwritten signature in black ink that reads "Marcy Mistrett". The signature is written in a cursive, flowing style.

Marcy Mistrett
Chief Executive Officer
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[for-reducing-criminal-and-juvenile-justice-involvement_2.pdf](#) (“Though public discourse on crime often discusses victims and perpetrators as entirely separate groups, the same youth are often at greatest risk of being both victimized and involved in criminal behavior. There is a significant overlap, for example, between those at risk of committing and being victims of gun violence (Papachristos and Wildeman 2014); and access to firearms escalates the lethality of violence (Bieler et al. 2016).”).