

Invisible Bodies: LGBTQIA Youth in the Juvenile Legal System

By Alithia Zamantakis

University of Utah

Scholars and activists alike have called attention to the inequitable conditions through which people of color are funneled into the prison industrial complex. It is imperative to understand how this conversation relates to LGBTQIA identities within particular locales. This project examines the intersections of race, gender, sexual orientation, socioeconomic class, and age as they relate to LGBTQIA youth in Utah in the juvenile legal system, using Hirschi's Theory of Social Bonds to analyze the ways in which community prevents "deviant" behavior. In order to understand these unique experiences, semi-structured interviews were conducted. The study is a qualitative report of the experiences of these youth. The interviews find that socioeconomic class more than any other identity played an immense factor for these youth in entering into the juvenile legal system. They also reveal that community aids in the rehabilitation and reorientation process. These results support further research into the effects of the prison industrial complex.

Keywords: LGBTQIA youth, juvenile legal system, social bonds

Introduction

What does it mean to be caged, relegated to invisibility, and deemed unwanted? Lesbian, gay, bisexual, trans, queer, questioning, intersex, asexual, and agender (LGBTQIA) people often feel caged, invisible, and relegated, but what are the experiences of LGBTQIA people when actually caged? What happens when such individuals are made invisible within the prison industrial complex? This question becomes even more complex as issues of race, class, and educational status are added into the equation. Individuals are accountable for their actions and for the crimes they commit, but the literature and research on incarceration throughout the United States shows that there is much more to the story than is first apparent. By looking deeper, it becomes evident that there are institutionalized social conditions of heterosexism (a system demarcating heterosexuality as the norm, privileging it institutionally, interpersonally, and systemically, and oppressing all other sexualities), cissexism (a system demarcating cisgender people, or those who identify with their sex assigned at birth, as the norm, privileging those ideas, and oppressing all others), racism, and classism that underlie these crimes. As a result, LGBTQIA youth are often funneled into the prison industrial complex, starting with the juvenile legal system.

The intent of this paper is to find empirical trends, which can be used to encourage further research into the criminal and juvenile legal systems. The purpose is to make visible the experiences of LGBTQIA youth in the juvenile legal system in hopes of illustrating how the criminal legal system perpetuates violence or institutionalized oppression. The ultimate hope of this study is to create a space for individuals who have often found themselves silenced to begin telling their stories through their own words.

Theoretical Framework

Travis Hirschi (1969), in their¹ theory of Social Bonds, states that community bonds, support, and organizations can help prevent "deviance." Those with stronger bonds are less likely to engage in deviant behavior than those with weaker bonds. There are four components of the social bonds theory: attachment, commitment, involvement, and belief. "Attachment serves the function of integration...commitment serves the function of goal-attainment...involvement serves the function of adaptation...and belief serves the function of latent pattern-maintenance" (Chriss, 2007, p. 3). Integration into and attachment to the community prevents an individual from engaging in behavior that may harm or estrange them from others. Commitment to the community prevents deviance for similar reasons as attachment. Involvement in the community serves as a deterrent to deviance as individuals become preoccupied with other activities, and also want to ensure the progression rather than regression of their activities. Belief in the community gives an individual the hope that their community has their best interests in mind, and in turn, they reciprocate this behavior. Hirschi's (1969) Theory of Social Bonds is used throughout this paper to examine whether community does indeed play a role in an individual's likelihood to engage in "deviant" behavior and to thus be labeled "deviant." The theory is also used to analyze the ways in which the juvenile legal system may or may not foster a sense of community. If a link between community bonds and community reorientation is not found within this paper, then the question becomes, "What may better serve such youth?"

¹ They/them/their pronouns are employed throughout this paper when an individual's pronouns are unknown to the author in an attempt to not misgender someone. Misgendering is a harmful act that contributes to systemic transphobia through the assumed legibility of gender.

Literature Review

Within the literature on LGBTQIA people within the juvenile legal system, common themes are present regarding their experiences. These common themes are intersectionality, lack of validation, disproportionate incarceration and targeting, misconceptions of sexuality and gender, lack of specialized programs, abuse within the system, a need for more research and visibility, and the disproportionate engagement in survival crimes. The following section will provide an overview of each of these themes, tying them to Hirschi's Theory of Social Bonds (1969) and providing a framework for the data and conclusions that follow.

Intersectionality

An understanding and awareness of intersectionality is key to the discussion surrounding marginalized individuals and the juvenile legal system. Intersectionality is the conceptual understanding that no one exists as solely one identity (Crenshaw, 1991). Everyone has multiple points at which one part of their identity meets with another or multiple others, and the meanings of those identities begin to overlap and signify something more than just the one alone (Crenshaw, 1991, p. 1244).

In addition to intersectionality, terms, such as "juvenile legal system" and "prison industrial complex," are used to highlight that these institutions are not solely oriented around "justice" and are far more complex than a single entity. In specific, the term "prison industrial complex" (PIC) describes "the overlapping interests of government and industry that use surveillance, policing, and imprisonment as solutions to economic, social and political problems" (Critical Resistance, 2014).

Through its reach and impact, the PIC helps and maintains the authority of people who get their power through racial, economic and other privileges. There are many ways this power is collected and maintained through the PIC, including creating mass media images that keep alive stereotypes of people of color, poor people, queer people, immigrants, youth, and other oppressed communities as criminal, delinquent, or deviant. This power is also maintained by earning huge profits for private companies that deal with prisons and police forces; helping earn political gains for "tough on crime" politicians; increasing the influence of prison guard and police unions; and eliminating social and political dissent by oppressed communities that make demands for self-determination and reorganization of power in the U.S. (Critical Resistance, 2014)

Upon first looking at the prison industrial complex, one community in particular emerges. According to a 2008 Human Rights Watch report, black individuals make up more than fifty percent of the nation's incarcerated population related to drug offenses. People of color, especially African Americans, make up the majority of the US' incarcerated population. African Americans make up a larger percentage of the incarcerated population than they do the national population (Human Rights Watch 2008). When the history of the criminal legal system is examined, the racial, gender, and religious overtones present in constructing laws in order to subordinate enslaved Africans and indigenous peoples become evident (Mogul, Ritchie, Whitlock, 2011). A similar pattern exists within the post-slavery US. As Jim Crow laws and segregation died out through legislation, the construction of

prisons increased exponentially, despite the fact that crime was at an all-time low (Alexander, 2010).

LGBTQIA youth make up anywhere from eleven to fourteen percent of youth in the juvenile legal system (Majd, Marksamer, and Reyes, 2009; Irvine, 2010). However, estimates of the percentage of LGBTQIA people within the national population range between three and five percent (Gates 2011). Their appearance in the juvenile legal system is three to four times that. However, it must be made clear that these youth are not solely LGBTQIA. They are often LGBTQIA youth of color. Similar to the school-to-prison pipeline that exists in order to criminalize youth of color, LGBTQIA youth are funneled into the juvenile legal system as a means of dealing with their perceived deviance. The school-to-prison pipeline for youth of color occurs through the specific placements of youth of color into alternative schools for "troubled youth" (e.g. Light House Learning Center in Carbon County, Utah). In these settings, the lack of attention, reduced educational outcomes, and the institutional and cultural racism these students face on a daily basis greatly impacts their ability to break this cycle. LGBTQIA youth face similar systemic inequities and unjust pressures. LGBTQIA youth often suffer rejection by their families, bullying, substance abuse to cope, homelessness due to escaping bigotry or being forced out by families, and self-survival once homeless (Hahn, 2005, p. 119-127).

Additionally, LGBTQIA youth are made vulnerable via age, as they are deemed powerless in the eyes of the law in relation to their parents. Parents are able to remove children from their home through the court systems, deeming them unsafe because of their sexual orientation or gender identity. However, the youth are not able to move themselves into safer homes when they are facing horrendous abuse from their parents. LGBTQIA youth also are perceived as lacking sexuality because of this façade of innocence and naiveté that is placed upon them by adults. This further renders their identities invisible throughout most of society (Feinstein, Grenblat, Has, Kohn, and Juliane 2001, p. 7). LGBTQIA youth are often told, when they "come out," that they are just going through a phase, they do not know what sex even means, or they are much too young to even be considering themselves to have a sexual orientation. Together, age, gender, sexual orientation, and race intersect within this system of control, making even more vulnerable those who have already been marginalized.

Hirschi's (1969) Social Bonds Theory also states that individuals will not "deviate" if they have strong social bonds. This can be fostered through affection and respect, commitment to community, involvement and capacity to be involved within the community, and belief in the community. When looking at the intersectionality of racism and homophobia/transphobia, one can see that trans/queer people of color may not always have these social bonds. As people of color are the largest demographic within the prison industrial complex, and as prisons are often located in spaces that are not close to or within other communities (e.g. the consideration of moving the Draper, Utah prison to the more rural area Tooele, Utah), attachment and affection for the community may not exist.

Lack of Validation

Mogul, Ritchie, and Whitlock (2011) illustrate the vast number of case studies in which the criminal legal system works to reinforce the systemic discrimination that LGBTQIA people of color face daily. One such story is about “seven black lesbian friends” who are attacked and threatened with rape, and, when attempting to defend themselves, are convicted, sentenced, and characterized as a “lesbian wolf pack” (Mogul, Ritchie, Whitlock, 2011).

Similar stories of youth are often filled with traumatic experiences from family, educational experiences, and peers, among others. Their stories are ignored through the juvenile legal system, as their history of harassment, bullying, and family rejection are not known by the lawyer or the judge (Majd, Marksamer, Reyes, 2009). All of these issues are pertinent, because they are issues that have led the youth to engage in “crime” (Majd, Marksamer, Reyes, 2009, p. 11). The crimes that they are often arrested for are survival crimes: running away from home, prostitution, larceny/theft, drug dealing, and substance abuse. These crimes are all symptoms of a system that has offered LGBTQIA youth little to no option but to exist on the margins of society (Majd, Marksamer, Reyes, 2009). The homes of these youth are either too dangerous or they are kicked out of by their parents. Their schools become places of harassment, bullying, and the reinforcement of heteronormativity—a societal lens that deems heterosexuality the norm and all other sexual identities as alternatives or deviants of heterosexuality. “Minors who are gay or lesbian, or who are perceived as such, are often ostracized at school, faced with irreconcilable family problems, excluded from their homes, and unable to locate” help, resources, or a source of safety, comfort, and confidentiality (Sullivan 1996, p. 37).

LGBTQIA individuals also have difficulty associating with peers, are pressured to assimilate, and face most of their problems alone or in conflict with others who deem them deviants or disordered (Sullivan, 1996). Sullivan writes that LGBTQIA youth come into the system either through criminal activity or through a break in their relationship with their parents and/or guardians (1996). One study found that 30% of LGBTQIA youth suffer physical violence inflicted by family, and 26% are kicked out after “coming out” (Irvine, 2010, p. 692).

Society is constructed to uplift the heterosexual and the cisgender individual, while degrading and dehumanizing the LGBTQIA individual. When such youth attempt to survive in this system, they are punished. Instead, the system must be dismantled and restructured so as to prevent youth from ever engaging in these “crimes” in the first place.

Disproportionate Incarceration and Targeting by Police

In 1997, when the San Francisco Department of Public Health decided to conduct a study on the criminal legal system, they “found that 67 percent of transgender women and 30 percent of transgender men had a history of incarceration” (Mogul, Ritchie, Whitlock, 2011, p. xii). These numbers are astounding considering the fact that only .3% of the US adult population is estimated to be transgender (Gates 2011). Trans people are not inherently more or less criminal than any other population, yet they are found in large numbers within the PIC. LGBTQIA youth in particular “comprise 15 percent of youth in detention centers” (Stanley & Smith, 2011, p. 82).

In “We Deserve Better,” an essay “by and for queer* and trans* youth of color,” the authors document the discrimination, harassment, and abuse that LGBTQIA youth of color face from policing institutions. They highlight a disproportionate number of trans people of color called slurs and asked for sexual favors by police and stopped by police in general (Breakout!, 2014). The disproportionate targeting of LGBTQIA people and LGBTQIA people of color once again affects the ways in which individuals form bonds to the community. When those who are meant to keep them safe do not seem to be peacekeepers but rather part of their oppression, belief within the system diminishes, respect for the community diminishes, and involvement may diminish due to fear.

Misconceptions of Sexuality and Gender

One reason for the disproportionate targeting of LGBTQIA youth for “sex work” by police is the misconception that LGBTQIA individuals are sex offenders (Majd, Marksamer, Reyes, 2009, p. 1-10). LGBTQIA identities, especially trans identities, are often attached to a conception of sex work, hyper sexuality, and the recruiting of other LGBTQIA people through sex. For this reason, they are deemed to have insatiable sexual desires in comparison to heterosexuals.

An abundance of misconceptions revolve around what it means to live outside of the heterosexual and/or cisgender norm. These misconceptions that operate through sociocultural factors penetrate the juvenile legal system and affect the ways that LGBTQIA youth are treated. Additionally, these same misconceptions shape the ways in which LGBTQIA youth are shuffled through this already vulnerable experience. A large misconception is that LGBTQIA people are themselves a threat to others. The misconception of queer people as sex offenders leads to the disproportionate pre-trial detainment of LGBTQIA youth. This increased detainment only leads to more difficulties in navigating the juvenile legal system, as well as increased maltreatment by officials and other youth (Majd, Marksamer, Reyes, 2009). LGBTQIA youth are detained pre-trial in larger numbers than straight people, because workers within the juvenile legal system fear that the LGBTQIA “suspects” will harm others (Irvine, 2010).

Youth in the juvenile legal system are also often expected to be straight. Assumptions of compulsory heterosexuality exist for many reasons. One reason that they exist is that the workers assume that only middle-class, white families produce LGBTQIA children (Irvine, 2010). It is often assumed not only by the juvenile legal system, but also by many in society, that people of color are never LGBTQIA. This misperception denies people the ability to exist without having to “out” themselves, which they are often afraid to do for fear of victimization (Irvine, 2010). LGBTQIA individuals in the juvenile legal system are often placed in isolation in order to “protect” the other inmates from the “sexual predators” that such youth are assumed to be (Hahn, 2005, p. 117-127). In a Louisiana youth prison, “LGBT youth have been subjected to ‘sexual-identity confusion counseling,’ accused of using ‘gender identity issues’ to detract from rehabilitation, and disciplined for expressing any gender-non-conforming behaviors or actions” (Stanley & Smith, 2011, p. 80). These misconceptions compound the many other issues that LGBTQIA youth face navigating the juvenile legal system.

Lack of Specialized Programs

Mogul et al. (2011) chronicle the failure of prisons to provide adequate care for individuals with HIV/AIDS, denying them medication, supplying medication at random, not having personnel on staff that can assist in medical care, and even sometimes segregating individuals with HIV/AIDS from the rest of the prison population (p. 95-117). This same inadequacy exists for supplying health care and hormones to trans individuals. More often than not, the only programs and resources that do exist for LGBTQIA youth are “sexual-identity confusion counseling” (Stanley & Smith, 2011, p. 80). Counseling such as this has long been deemed unnecessary and unethical by the American Psychological Association (2009).

The failure to provide adequate and affirming health care is a form of discrimination (American Psychological Association 2009). Health care is life or death, especially for individuals living with HIV/AIDS. Missing one day of medication can cause an evolution of the virus, making it more difficult to prevent its spread, growth, and further mutation. However, the juvenile legal system is lacking in ways that are much less overtly discriminatory. Measures, precautions, and programs that would create a safer space have been found to be missing. Researchers have exposed a lack of sentencing options, a lack of staff training about LGBTQIA youth issues, a lack of policies specific to protecting LGBTQIA youth, and a lack of services for LGBTQIA youth (Feinstein, 2001). In fact, any space or program that is made for LGBTQIA youth in the legal system is often through increased isolation and confinement through beneficent homophobia (Majd, Marksamer, Reyes, 2009). Affirming and intentional spaces that are created for LGBTQIA people can be found to be healing. Additionally, these spaces would show youth that their identities are not criminal, dangerous, or undesirable, by providing a space where they are able to voice the injustices they have born witness to and to discuss paths forward with youth who have lived through similar life experiences.

Abuse and Access to Assistance within the System

Due to a horrific amount of abuse, access to counselors, safe spaces, and a safe staff must be considered a priority. A lack of access to these resources allows abuse by guards and other inmates to continue without reprimand. Mogul et al. (2011) point out that “18.5 percent of homosexual inmates” report sexual assault and in one study, “67 percent of the participants who identified as LGBTQIA reported having been sexually assaulted by another inmate...fifteen times higher than the rest of the prison population” (p. 99). One sexual assault is too many. However, the fact that 67% of LGBTQIA participants in one study were sexually assaulted is unacceptable. This is an enormous rate, and it speaks to an extreme amount of homophobia within the juvenile legal system, when LGBTQIA youth suffer sexual assaults at an exponentially higher rate, but little is done to remedy it.

In addition, the abuse LGBTQIA youth face in the system includes other forms of physical and verbal abuse, as well. LGBTQIA youth in these facilities are placed at risk of physical and verbal harassment. Feinstein et al. (2011) quoted one youth stating, “They call me a ‘faggot’ and tell me I have no life” (p. 32-33). The youth in this quote is speaking about an experience in which a guard abused them. Guards often perpetuate abuse within the juvenile legal system or they do little to

protect and safeguard the youth when they witness abuse occurring (Hahn, 2005). Juvenile detention centers are often perceived as spaces of rehabilitation and reorientation to community meant to prevent recidivism. However, it seems impossible for youth to develop trust in and orientation toward their community when those meant to protect them are abusing them.

A Need for More Visibility

A large difficulty with documenting the experiences of LGBTQIA youth within the juvenile legal system and advocating for real change is a lack of visibility regarding the youth physically, as well as a lack of visibility through empirical research. Much of the research regarding the experiences of these youth and the real transformative changes required to help them remains anecdotal. Mogul et al. (2011), as well as Stanley and Smith (2011), include plenty of anecdotal research, however such work is only foundational in nature. In addition, there is little research documenting these experiences largely because of the invisibility of LGBTQIA youth in juvenile systems (Feinstein, Grenblat, Has, Kohn, and Juliane, 2001). The goal of LGBTQIA youth in the juvenile legal system is often to remain invisible in order to survive without further abuse, discrimination, or trauma.

LGBTQIA youth, whether they are in the juvenile justice system or not, have external and internal pressures to keep their sexuality “closeted.” Sexual education classes, media, advertisements, and others often portray heterosexuality as either the only sexuality or the only favorable sexuality. Pressure to assimilate amongst their peers within and without the legal system also plays a large part among youth. Much of human childhood is spent building relationships with other individuals in a close-knit space. Being different often results in ostracization. All of these factors in tandem result in LGBTQIA youth remaining silent about their sexualities. This silence, in turn, prevents empirical data from being collected about this particular audience and further prevents increased protections from being implemented (Feinstein, Grenblat, Has, Kohn, and Juliane, 2001).

Of course, this invisibility does not mean these youth do not exist. As one study found, “35 percent of girls in one facility identified as LGBQ” (Hahn, 2005, p. 125). In two studies cited by Irvine (2010), 14 percent of youth in one facility were lesbian, gay, or bisexual (LGB), and 13 percent of the girls in another were lesbian, bisexual, or questioning (LBQ). In Irvine’s own study (2010), 11 percent were LGB (p. 679-684). Majd et al. (2009) report that 13 percent of youth in the juvenile legal system are LGBTQIA self-identified (p. 1-10). As only 5 percent or less of the nation’s population is estimated to self-identify as LGBTQIA, one can only conclude that there is a disproportionate amount of LGBTQIA youth in these systems.

Goals of This Study

The objective of this study is to explore the effects of intersecting identities on juvenile delinquency within the juvenile legal system. The purpose of this research is to progress knowledge and understanding about this vulnerable audience by increasing safety, awareness, and visibility of LGBTQIA bodies within this system. This article will examine the juvenile legal system, specifically within the Salt Lake County, through Hirschi’s Social Bonds Theory, which states that

deviance will not occur if social bonds to the community are present (1969). The goal here is to determine if this theory holds up within the actual community.

Methods

Recruitment and Participant Selection

This study was approved by the Institutional Review Board at the University of Utah. Semi-structured interviews were conducted with individuals throughout Salt Lake County. Participants were recruited through convenience and snowball sampling. Flyers were placed throughout Salt Lake County on the University of Utah campus, at community organizations, at gas stations, and at coffee shops and cafés in downtown Salt Lake City, Rose Park Neighborhood, and South Salt Lake. The flyers asked individuals who identified as non-heterosexual, and/or non-cisgender—cisgender meaning identifying with the sex one is assigned at birth—to contact the principal investigator via email.

Upon being contacted, the principal investigator would verify that the individual had indeed been involved with the juvenile legal system in some form (whether through child protective services, juvenile detention, etc.) as a youth. Youth was defined as all ages below 18. However, only individuals who were 18 or older at time of interview were interviewed. The individuals were also asked to verify that they did not identify as heterosexual and/or solely with the sex they were assigned at birth. The respondent was then asked where they would be the most comfortable to participate in the interview. A private office at the University of Utah’s College of Social Work and a private room at the Salt Lake Downtown Library were two of the spaces used for these interviews. One interview was held at the College of Social Work, three were held at a secure care facility, and two were held at the public library. In recognizing that research can already be voyeuristic, hierarchical, and uncomfortable for the participant, the interviewee was able to choose the space they would feel comfortable to participate in the interview. Three interviews took place in a secure care facility with individuals who were leaving the facility within the next month. A staff member with whom they had developed a close relationship reached out to the principal investigator to schedule a time for interviews, because the individuals could only leave the facility for work. Subsequently, the interviews were done in a private, closed-off room at the center.

Study Instrumentation

Prior to beginning the interview, the principal investigator discussed the consent process with the participants both through oral and written communication. A copy of the consent document was given to the participant to keep and to read through. After a few minutes, the principal investigator read through the consent form for the participant, making sure to highlight key parts such as the interview being voluntary, their ability to leave at any point without repercussion, and support systems available following the interview if needed. The participant was then able to ask any questions they had before signing the consent form. At the end of the study, participants were given a fifteen-dollar gift card to a grocery store as an incentive to participate in the study. They were also given a few small recruitment cards with the study

description and contact information and asked to pass them out to anyone they may know who would like to be a part of the study. The participants were informed that if, at any point after the study, they had more to add or they wanted to remove themselves from the study, they could contact the principal investigator to do so.

Table 1:
Demographics of study’s participants

Participant	Sexual Orientation	Gender Identity	Gender Expression	Race	Assigned Sex at Birth	HIV Status
One	Lesbian	Female	Masculine	White	Female	Negative
Two	Bisexual	Male	Feminine	White	Male	Negative
Three	Gay in the center; Mostly into girls on the outside	Male	Feminine and Masculine	White	Male	Unknown
Four	Gay	Male	Between	White	Male	Negative
Five	Straight	Male	Masculine	White	Female	Unknown
Six	N/A	Gender-fluid	Masculine	White	Male	Unknown

The average length of interviews was 43 minutes, with the range between approximately 25 minutes and approximately 90 minutes. The length of interviews depended on the participant’s willingness to answer questions and comfort in doing so. As previously stated, the interviews were semi-structured. Below are the questions that were prepared beforehand but were not known to the interviewees until asked and that the investigator ensured were touched on throughout the conversation/interview:

1. Where were you emotionally and physically before going into the juvenile legal system? Did you live at home? Were you homeless?
2. What brought you into the juvenile legal system?
3. Tell me about your time in the juvenile legal system. What was that like for you? What sort of challenges did you face?
4. Tell me about a time (or more than one time) when you felt unsafe in the facility or within the system as a whole. Was that related to your sexual orientation, gender identity, racial identity, or another part of your identity? Tell me more about that.
5. What did the judge or your lawyer or others within the system not understand about you?

6. In what ways do you think your identity made you vulnerable within the legal system?
7. Were you ever pressured or forced to engage in any sexual activities that you did not want to? Could you tell me more about that?
8. Were you ever denied anything that you felt you had a right to while you were in the juvenile justice system? Can you explain more?
9. How do you think people from minoritized identities can be ensured more safety within these facilities?
10. Have you ever engaged in crimes purely for survival, such as stealing food to eat or sex work to make money to survive? Can you tell me more about this?
11. Tell me more about your experience since leaving the juvenile legal system? What kind of impact has it made on you? How do others in the queer community react when finding out you were in the juvenile justice system?
12. What do you feel could be done to make queer people who have been involved in the criminal system feel safer within the queer community and within the criminal system?
13. Do you feel that there are other systems or institutions or support structures that have helped you more? Are there other programs you wish existed? What would they look like?

Data Analysis and Interpretation

All interviews were audio recorded with the consent of each study participant. All audio-recordings, consent forms, and transcriptions were kept on a password-protected computer in a locked office. After the interviews, the principal investigator transcribed the voice recordings word-for-word and conducted a thematic analysis of the data. This consisted of reading the qualitative data line-by-line numerous times, creating a coding framework, and identifying themes and sub-themes. Through this process, the below data were found.

Description of Respondents

As pointed out within the literature review, finding individuals within the LGBTQIA community who have navigated through the criminal legal system and who are willing to “out” themselves and speak about their experiences can be difficult since invisibility is often used for safety. Partially due to this reason, interviews with only six individuals were conducted. However, the six interviews allowed certain themes to be exposed, thus connecting them and producing preliminary results even within this small respondent size. Anonymity of respondents is kept throughout this paper with names kept confidential and demographic information used only when relevant.

As Table 1 illustrates, of the six individuals interviewed, all were white. While race was extremely homogenous, a greater diversity of gender identity, gender expression, and sexual orientation was interviewed. One individual identified as transgender, one as gender-fluid, three as cisgender men, and one as a cisgender woman. Three of them identified their gender-expression as gender non-conforming. Of these same individuals, two had received some college education; the other four had all received a high school diploma or GED only. They were all born in the U.S., and three of them knew they were HIV negative; however, the other three were unsure of their HIV status. Two had

been homeless as youth. One individual identified as a lesbian, one as gay-for-the-stay,² one as bisexual, one as gay, and one preferred not to identify their sexual orientation. Lengths within the juvenile legal system spanned from a few days to their entire childhood. All but one individual experienced the juvenile legal system in Utah. The other experienced the juvenile legal system in California. For these individuals, the average stay was 7.168 years, with a minimum of a few days and a maximum of their entire childhood.

Results and Findings

Much of the information available about LGBTQIA people in the PIC relies on anecdotal evidence: people sharing their stories with their communities, hometown media, and activist circles. For youth, sharing of experiences becomes even more difficult as many do not have the same communities to lean on in order to spread their story. As highlighted in the literature review, a great number of studies currently available involve LGBTQIA participants of color. This is primarily because people of color, LGBTQIA or not, are disproportionately incarcerated compared to other marginalized groups. The whiteness of the participants in this study does not prevent comparison or conversation with previous research. Rather, it allows the possibility to distinguish the effects of the juvenile legal system on white LGBTQIA youth and LGBTQIA youth of color and reflects the demographics of Salt Lake City, Utah.

Entering the Criminal Legal System

Emotional neglect/instability. A common theme among the individuals interviewed was emotional neglect or instability within their families and/or homes prior to and upon entering into the juvenile legal system. This does not mean that emotional neglect and/or instability “created” criminal behavior within these youth, however, it was a pattern among those interviewed that must be noted. In response to being asked where they were prior to entering the juvenile legal system, one individual stated, “I’m an adult survivor of child abuse and particularly my mother was really, really abusive. I left at home at 15. I was kind of kicked out.” Another individual stated, “There was no food on the table, no food in the cupboard, and yeah, no running water, no electricity, so we didn’t have very much. So living with that was kind of hard and stressful.”

Of the six interviewed, all but one acknowledged a lack of parental attention, emotional neglect from their parents, domestic violence within their home, or being survivors of child and/or sexual abuse. The range of this abuse presents itself in conversations with the participants, one responding, “I was sexually abused at the age of 2 by a kid in the apartment complex,” and another replying, “All my life, I’ve been emotionally neglected by my family.” The neglect and/or instability did not solely exist as emotional/mental trauma for these youth as already noted in one individual’s quote above.

² Gay-for-the-stay is also known as situational homosexuality. It is a term used to describe individuals who generally identify as heterosexual in most cases but in situations of gendered segregation, such as prison, detention, or the military, have sex, and sometimes relationships, with other men.

Such emotional instability often led to struggles with mental health. One individual stated, “I was diagnosed with bipolar at the time and anxiety and ADHD and all that other stuff that no longer applies because I got help with it, but everything just went right up here and down there and over there and over there, so it was all crazy.” While living with these diagnoses, he had little parental attention or support in order to figure out how to navigate life and the required social institutions. Another, who was dealing with child abuse, later became diagnosed with post-traumatic stress disorder, but had no access to groups that specifically supported individuals with his positionality—“the important aspects of our identity such as...gender, race, class, and age...markers of relational positions rather than essential qualities” (Banks 1993). Emotional detachment and instability was accompanied by acting out. “Before I got locked up I didn’t care about anything because I was always fighting,” stated one. In order to make money, another individual suggested, “I would get into fights at the request of somebody else and they’d give us like five bucks.”

Socioeconomic class. In one quote above, one of the individuals noted his lack of access to food, running water, electricity, and other basic human needs. He was not alone. Another individual noted that, although she primarily lived with her mother, she also experienced marginal housing, as “I was kind of all over the place, so just like with neighbors, um...sometimes with family.” Another respondent stated that “I was working part time at Del Taco and sleeping in parks, bus stations, just wherever.” He was asked if he ever accessed homeless shelters and responded, “I didn’t know where to look. I was eighteen.” Resources existed, however, there was no one available within his immediate community to steer him in the direction of those resources.

Both of these individuals also experienced a lack of food. One of them discussed the ways in which food was often absent from her home, and a lack of income prevented her from accessing food at school: “Food was always an issue I think. And so I did a lot of stealing of food, which kept me getting in trouble at school.” She continued on to state, “A lot of the kids that I was around had the same issue. They had single parents, didn’t have enough money to keep money in your food account at school and so you’d end up stealing food.” While homeless, the other individual had to find ways to obtain food, as he did not have readily available food at his disposal. In order to get food, “I would walk into fast food places and they’d be like number 138 and I’d be like yep that’s me or do that trick where you take the receipt out of the trash can and say, oh I just drove through at this time and this is what I ordered and all that was in the bag were fries.” Survival crimes, crimes engaged in to access basic needs, were a common theme among these individuals.

While Incarcerated

Sexual health. A common theme amongst those interviewed about their time within the juvenile legal system was a lack of access to education surrounding sexual health. This included information on contraceptives and other measures to ensure sexual health. One individual stated that, “even under 24-hour surveillance,” they were able to have sex. Sex within detention and secure care facilities is illegal, but the youth were having it and often times guards knew that. One facility had a sexual education program every Friday night, “but it stopped because the facility couldn’t run them anymore,” not giving

much more of an explanation to the youth in the center. In regards to contraceptives, “you can ask for them when you leave,” but you cannot have access to them while in the facility. In regards to sexually transmitted infections testing, “we can request it from the nurse and she’ll fill out a form and do all the stuff and then she’ll do the testing for us,” but again, there are no proactive measures taken place other than a policy of complete abstinence to prevent the spread of sexually transmitted infections.

Participant Recommendations

Community/familial/platonic support. Participants were not shy in sharing recommendations as to how to either improve the juvenile legal system or what would work better in place of it. For many of the individuals, a large factor was having community connections, community support, and community organizations to assist them in their journey. For some of the respondents currently in secure care facilities, relationships with staff at the facility were immense in providing greater support. Through the development of such relationships, one individual has “been to the Pride Center a couple times” and has access to Q Salt Lake (a local LGBTQIA magazine). He went on to say that the advocate program of the Pride Center was one of the greatest resources the organization offered him. “It was helpful talking to some people, getting to know them, because I have bad social skills, and they’ve been very helpful with me by talking to me, letting me talk about my feelings to someone who understands a little more than most of the staff.” Additionally, in helping with family relationships, his father, upon his coming out, worked on understanding more, and “he even went to some of PFLAG [Parents, Friends, and Family of LGBT People], to help him understand more of what me and my sister were going through.” This same individual stated that, while in the facility, he felt safer and more supported when he was able to have access to people with similar identities. “Me and another kid who’s gay in the same unit as me, we watch a movie, we’ll sometimes do it like the other kids do when they see someone on the TV/movie, oh she’s cute, oh she’s cute. Me and him do it.” It was important to him to have people who understood him on more than a superficial level and who he was able to have conversations with without feeling insecure or worried. When asked what recommendations he had for things that would help improve the facility, he responded, “I have to say more groups for kids who kind of can’t identify themselves, who are too scared to do it, or are wondering about it. Like information groups on this.” He continued on to say, “It [could] be anyone who is willing to understand other people’s opinions and thoughts,” such as an inclusive group centered around LGBTQIA identities that would attempt to create space for understanding.

One respondent who is now an adult-survivor of child abuse seeks groups that center his positionality, “something that centers kids that suffer abuse or young adults.” Additionally, community and familial support were incredible resources to him in terms of coming to feel like a part of society. When asked if he feels that community organizations, such as the Pride Center, have helped him to gain greater community orientation, he responded, “Definitely, I’m actually entering a trans* group,” and continued explaining, “I’ve actually met a lot of people with the same kind of background. It’s been really cool.” For this same individual, power dynamics matter, in that, “with people

that are abused and already feel powerless to see some hulking figure in a uniform, you just automatically tense up,” making it difficult to access resources such as police or the criminal legal system. Instead, community- and family-constructed spaces seemed much more accessible to the individual as they were perceived to balance power between leaders and participants.

Equitable power dynamics. In addition, this respondent was not the only individual who noted that power dynamics play into relations with staff within the juvenile and criminal legal system. Another individual stated that the freedom to visit and access family within group homes assisted him. “You know, we can have visits with our family and actually go out and everything. It’s actually pretty good.” This same individual who had access to his family while in the group, later lost that access as his family became unforgiving of his crimes. “They were pretty much like no, you can’t come home.” His family turning away from him and his brother getting a restraining order against him made it difficult for him to create connections with community outside of the juvenile legal system.

One-on-one attention. Another respondent noted the need for human contact that was more humanizing, stating, “I think they just need to get rid of people like the one female I told you about... because she obviously didn’t give a shit about any of the kids at all. She would have rather had them in juvi.” She elaborated, “And I think the most helpful thing was, there was one male monitor who would throw the football with me. I mean I knew he didn’t trust me. Because if I missed the football and it rolled down the hill, he would not let me get it. He would go get it. But just sort of more of that one-on-one attention, I think, was really beneficial.” She stated that one of the greatest barriers she experienced was not within the juvenile legal system but within the education system and the way in which it intersects with the legal system. She noted, “I felt like the biggest problem wasn’t necessarily the police officer who I relate to the legal system, but more the school system. I feel like I was kind of placed there, already assumed that I was going to go that way.” Her teachers were already funneling her into the legal system through assumptions of criminal activity before she even committed any while she was in junior high and high school. Through such assumptions, they were quick to use punishments, such as suspension and legally enforced community programs, that propelled her toward the juvenile legal system.

Transformative programs. Additionally, once in the juvenile legal system, she felt the program she was in did little to actually rehabilitate youth. She stated, “Instead of cleaning toilets, I think it would be better to have activities. Because, I mean, half the kids there are already cleaning toilets at home because nobody else does it.” For her, as with the others, socioeconomic class was a large part of her positionality that affected her as a child and her entrance into the legal system. Schools with free lunch and breakfast programs assisted her in being able to eat without having to steal the food. As her need for food paved the way to her years of theft, a system that worked to reduce the inequities of working-class individuals would have been one possible mode of prevention.

Discussion

Themes found within the six interviews upheld Hirschi’s (1969) Theory of Social Bonds, in that, a large selection of these themes affected

the ways in which individuals are able to create and develop attachments to their community. Attachment to, involvement in, and commitment to the community were integral for the individuals interviewed as they exited the juvenile legal system and attempted to find their place within their particular locale. Community organizations, familial support, and community relationships were important to their positionalities and to their transformation. As stated in the literature review, intersectionality (Crenshaw, 1991, p. 1244) is a critical component in understanding the PIC, the criminal/juvenile legal systems, and the ways in which these systems manifest themselves. For the individuals interviewed, their sexuality and gender were less tied to their entrance and experience within the juvenile legal system than their socioeconomic class.

And although their whiteness may have helped to buffer them in many ways, their socioeconomic class status still impacted them by funneling them into the legal system. For instance, several of those interviewed were homeless and several stole food, sold drugs, got in fights, or stole money to survive. Poverty and homelessness greatly impact one’s ability to develop community attachments and bonds. It is difficult to develop bonds when it is nearly impossible to be involved within a community due to having to work multiple jobs or scour for food in order to survive. Additionally, it is difficult to develop bonds to a community and a system that does not seem to be functioning equitably.

Limitations

This study of course does not represent or share the stories of all LGBTQIA folk within the criminal/juvenile legal systems. It is imperative to understand the ways in which race, class, geographic positionality, religion, etc. all inform sexuality and gender and the ways in which they function within a given locale. All of the individuals interviewed were white and four were cisgender males. There were also limitations in finding respondents to be interviewed and who would allow their story to be part of this project because visibility is not a given within the legal system. While many LGBTQIA organizations and communities call for people to be visible with their identities, for many of the people within the legal system, it is critical to be invisible in order to survive. There is little empirical research documenting these experiences largely because of the invisibility of LGBTQIA youth in juvenile systems (Feinstein, Grenblat, Has, Kohn, and Juliane, 2001). In recruiting for this project, the same preliminary results were revealed as Feinstein et al. (2001) exposed in their research. Few could be found despite extensive recruitment due to invisibility. Another limitation is that there was not a control group of LGBTQIA individuals who were never involved with the juvenile legal system. Despite these limitations, such work provides the foundation for future research in this area.

Implications

This research has found possible alternatives and different ways of thinking of justice and rehabilitation. As noted within the participant recommendation section within the results, everyone interviewed had recommendations for ways in which to improve justice and rehabilitation in regards to criminal and/or deviant behavior. Many of their

recommendations further support the Theory of Social Bonds, as their recommendations relate to community support, community reinvestment, community reorientation, and community reconnection. These recommendations include community organizations, counseling, therapy, support groups, family involvement, and welfare programs, such as free breakfast and lunch programs in public schools.

This study also provides a foundation for research to follow, urging future researchers to continue to investigate intersectionality's role in the criminalization of LGBTQIA youth, as well as the role of family and community. By having access to places, such as the Utah Pride Center, some of the individuals interviewed were able to discover programs specific to their particular identities that they could not access within the legal system. These programs included advocate programs, counseling, and community building. Spaces such as these also offered entry to education for a small number of staff, and the larger staff may have benefitted from greater education in order to increase safety for other LGBTQIA people within the facility. Future research may be able to dig deeper into what particular aspects of community organizations are needed for them to be beneficial to such youth.

Conclusion

Criminal behavior is often viewed in isolation of other identities and factors present within the life of the individual being prosecuted. However, these interviews, as well as an extensive search of the literature presently available, demonstrate that multiple factors (e.g. race and class) impact the ways in which one's gender, sexual orientation, and criminal status are all viewed and read. As participants pointed out, community and community relationships play a large part in their ability to rehabilitate themselves back into their communities. This research provides preliminary results supporting Hirschi's Theory of Social Bonds as the interviews demonstrate that community, familial, and organizational support allowed the respondents to enter society as part of a community, able to once again invest in the community and be invested in a healthy and meaningful way that benefits everyone.

References

- American Psychological Association. (2009). *Resolution on appropriate affirmative responses to sexual orientation distress and change efforts*. <http://www.apa.org/about/policy/sexual-orientation.aspx>
- Alexander, M. (2010). *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York City, NY: The New Press.
- Banks, J. A. (1993). The canon debate, knowledge construction, and multicultural education. *History of Multicultural Education: Foundations and Stratifications*, 2.
- Breakout! (2014). *We deserve better: A report on policing in new orleans by and for queer and trans youth of color*.
- Chriss, J. J. (2007). The functions of social bonds. *Sociological Quarterly*, 3.
- Crenshaw, K. (1991). Mapping the margins: Intersectionality, identity politics, and violence against women of color. *Stanford Law Review*, 31.
- Critical Resistance. (2014). What is the pic? What is abolition? Retrieved 2016, from Critical Resistance website: <http://criticalresistance.org/about/not-so-common-language/>
- Davis, A. (2003). *Are prisons obsolete?* New York City, NY: Open Media Press.
- Feinstein, R., Grenblat, A., Has, L., Kohn, S., & Juliane, R. (2001). *Justice for all? A report on lesbian, gay, bisexual and transgendered youth in the new york juvenile justice system*.
- Gates, G. J. (2011). *How many people are lesbian, gay, bisexual and transgender?* The Williams Institute.
- Hahn, P. A. (2005). The kids are not alright: Addressing discrimination of queer youth in juvenile detention and correctional facilities. *Boston University Public Interest Law Journal*, 14, 117-127.
- Hirschi, T. (1969). *Causes of delinquency*. Berkeley, CA: University of California Press.
- Human rights watch report* (Human Rights Watch, Comp.). (2009).
- Irvine, A. (2010). We've had three of them: Addressing the invisibility of lesbian, gay, bisexual and gender non-conforming youths in the juvenile justice system. *Columbia Journal of Gender and Law*, 19(1), 675-695.
- Kim, C. Y., Losen, D. J., & Hewitt, D. T. (2010). *The school-to-prison pipeline: Structuring legal reform*. New York City, NY: New York University Press.
- Majd, K., Marksamer, J., & Reyes, C. (2009). *Hidden injustice: Lesbian, gay, bisexual, and transgender youth in juvenile courts*.
- Mogul, J. L., Ritchie, A. J., & Whitlock, K. (2011). *Queer (in)justice: The criminalization of LGBT people in the United States*. Boston, MA: Beacon Press.
- Stanley, E. A., & Smith, N. (2011). *Captive genders: Trans embodiment and the prison industrial complex* (Vol. 1). Oakland, CA: AK Press.
- Sullivan, C. A. (n.d.). Kids, courts, and queers: Gay and lesbian youth in the juvenile justice and foster care system. *Law and Sexuality: A Review of Lesbian and Gay Legal Issues*, 6, 35-47.
- Transgender Law. (n.d.). *Transgender issues: A fact sheet* [Fact sheet]. Retrieved from <http://www.transgenderlaw.org/resources/transfactsheet.pdf>
- U.S. Department of Justice. (2010). *Correction populations in the united states, 2010*.

PUBLIC OFFICIAL OPINION ESSAYS