

AGENDA 2012

An election-year guide to local
LGBT issues in Washington, DC

GLAA Gay and Lesbian
Activists
Alliance
OF WASHINGTON, DC

AGENDA: 2012

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AGENDA: 2012

Table of Contents

1. Action Item Summary	1
2. Marriage and Family	3
2.1 Preserving Civil Marriage Equality	3
2.2 Domestic Partnership	3
2.3 Surrogacy Law	4
2.4 Marriage Officiants	4
3. Public Health	5
3.1 HIV and AIDS	5
3.1.1 Reforms at HIV/AIDS, Hepatitis, STD, and TB Administration.....	5
3.1.2 Testing for Sexually Transmitted Diseases	5
3.1.3 Post-Exposure Prophylaxis	6
3.1.4 HIV Prevention.....	6
3.1.5 Repeal HIV Testing of Certain Criminal Offenders Act	6
3.2 Health Data Collection	7
3.3 Cultural Competency for Service Providers.....	8
3.4 Medical Marijuana	8
3.5 Women's Health Needs.....	9
3.6 Transgender Health Needs.....	9
3.7 Human Papillomavirus Vaccination	9
3.8 Tobacco Prevention	9
3.9 Tuberculosis, Hepatitis and Substance Abuse.....	10
4. Public Safety and Judiciary	11
4.1 Gay and Lesbian Liaison Unit and Police Response to Hate Crimes	11
4.2 MPD Transgender Policy	11
4.3 Anti-Transgender Profiling by MPD.....	12
4.4 MPD Diversity Training and Discipline	12
4.5 Intimate Partner Violence.....	13
4.6 Separating Local Policing from Immigration Enforcement	13
4.7 Office of the U.S. Attorney	14
4.8 Office of Police Complaints.....	14
4.9 Fire and Emergency Medical Services Department	14
4.10 Department of Corrections.....	14
5. Human Rights.....	15
5.1 Office of Human Rights	15
5.2 Funding for Office of Human Rights and Commission on Human Rights.....	15
5.3 Combating Transgender Discrimination	15
5.4 Changing Original Birth Certificate	16
5.5 Honors for the Honorable.....	16
5.6 Mayoral Appointments	16
5.7 Grantmaking Authority for Office of GLBT Affairs	17
5.8 Repeal the Armstrong Amendment	17

AGENDA: 2012

6. Youth and Seniors	18
6.1 School Vouchers.....	18
6.2 Transitional Housing for Homeless LGBT Youth	18
6.3 Youth Risk Behavior Survey.....	18
6.4 Anti-Bullying Law and DCPS Efforts	19
6.5 Health Education.....	19
6.6 Gay-Straight Alliances	19
6.7 Condom Availability.....	20
6.8 Medicaid Spousal Impoverishment Protections	20
6.9 Training for Providers of Senior Services.....	20
6.10 Funding for LGBT Senior Services	21
7. Consumers and Businesses.....	22
7.1 Fighting Regulatory Abuse.....	22
7.2 Defending Adult Entertainment	22
7.3 Prostitution: Alternatives to Incarceration.....	23
7.4 Combating Transgender Unemployment	23

AGENDA: 2012

1. Action Item Summary

Welcome to "Agenda: 2012," GLAA's policy brief on local LGBT issues in Washington, D.C. Here is a top-level summary of the actions we consider necessary to improve the lives of LGBT residents.

1. Defend civil marriage equality and oppose any congressionally mandated referendum.
2. Maintain the domestic partnership law.
3. Remove the prohibition on surrogacy laws in the District.
4. Increase the number of people who can be wedding officiants.
5. Include sexual orientation and gender identity in the data collection efforts of the D.C. Department of Health (DOH).
6. Publish an annual LGBT health report.
7. List sexual orientation and gender identity as a health priority to ensure adequate funding and culturally competent interventions.
8. Deliver community-informed LGBT-inclusive cultural competency training to all social service providers, government employees, employment service programs and employers in the city.
9. Continue reforms at HIV/AIDS, Hepatitis, STD, and TB Administration (HAHSTA) to ensure the most inclusive response to HIV/AIDS in the city.
10. Increase funding and awareness for HIV Testing.
11. Develop evidence-based HIV prevention strategies, including increased condom distribution and post-exposure prophylaxis (PEP) for HIV at all D.C. emergency rooms, urgent care centers and health clinics.
12. Defend clean needle exchange and medical marijuana.
13. Extend the HPV vaccination program to boys in accordance with CDC guidelines.
14. Follow the CDC recommendation that D.C. commit \$10.5 million for tobacco prevention.
15. Fully staff the Metropolitan Police Department's Gay and Lesbian Liaison Unit (GLLU) and provide cultural competency training for all officers including implementation of the transgender and domestic/intimate partner violence policies.
16. Oppose legislation to make permanent the so-called Prostitution Free Zones (PFZs), which facilitate anti-transgender profiling; and repeal the existing PFZ law.
17. Pass Bill 19-585, The Immigration Detainer Compliance Amendment Act of 2011.
18. Improve data collection and reporting on LGBT-related hate crimes and domestic violence.

AGENDA: 2012

19. Develop a comprehensive multi-agency/service provider strategy to reduce hate crimes.
20. Provide adequate funding for the Office of Human Rights (OHR) and Commission on Human Rights (CHR) to investigate claims and increase public awareness of the D. C. Human Rights Act of 1977 (DCHRA).
21. Fill the vacancies on the CHR, and include a transgender appointee.
22. Allow for the issuance of new birth certificates for individuals who undergo treatment related to gender transition.
23. Avoid honoring or appointing bigots.
24. Give grantmaking authority to the Office of GLBT Affairs.
25. Repeal the Armstrong Amendment.
26. Oppose public funding of private school vouchers.
27. Increase funding for LGBT youth transitional housing like the Wanda Alston House.
28. Continue to include sexual orientation on the Youth Risk Behavior Survey, add the new CDC-approved gender expression question, and release fact sheets that report the LGBT data.
29. Expand and enforce anti-bullying efforts in all D.C. public and charter schools.
30. Implement a comprehensive health education curriculum that meets the Health Standards and expand condom distribution throughout the District's public schools.
31. Ensure equal Medicaid spousal impoverishment protections for same-sex partners.
32. Fight abuse of the regulatory process by people who repeatedly file baseless complaints.
33. Resist demagoguery against legitimate adult entertainment establishments.
34. Develop alternatives to incarceration for marginalized citizens for survival sex.
35. Increase the scope of job creation programs for transgender residents.

AGENDA: 2012

2. Marriage and Family

2.1 Preserving Civil Marriage Equality

D.C. is the first majority-black jurisdiction in the United States to enact civil marriage equality. The seeds for victory were sown and cultivated over decades, as a GLAA timeline shows.¹ LGBT people have been part of Washington's civic life since the dawn of Home Rule. The fight for marriage stirred a lot of people to action, but the crucial trust among key coalition partners was built over time in collaborations on many issues.

The enactment of the Marriage Equality Act and its success against court challenges vindicates GLAA's careful incremental strategy for winning equality and is a tribute to our community's broad-based coalition effort. It was not a victory merely for the privileged or for one isolated issue. The many legal protections of marriage are if anything more vital for the poor than for the rich and well connected, and are integral with issues from health and education to housing, employment, and emergency services.

The abject failure of anti-gay candidates in the District's 2010 mayoral and council elections confirms our confidence in the good people of Washington; but our opponents are not done, and we must remain vigilant. The District's broad-based coalition for equality must continue its winning formula, including strong leadership from the African American and faith communities; consulting allies; networking with our counterparts across the country; coordinating congressional strategy with Congresswoman Eleanor Holmes Norton; and continuing to build relationships with public officials, opinion leaders, and the general public.

GLAA opposes any attempt to impose a ban on same-sex marriage, whether by Congress or others. Several proposed voter initiatives against marriage equality have been blocked by the D.C. Board of Elections and Ethics and in several courts including the Supreme Court of the United States. Such measures would authorize discrimination prohibited by DCHRA. We are proud of the role we played in passing legislation in 1979 barring discriminatory ballot measures. We expect all elected officials in our city to oppose such initiatives, even as we celebrate D.C. voters' history of electing gay-affirming candidates.

2.2 Domestic Partnership

GLAA was instrumental in codifying D.C.'s domestic partners law, the Health Care Benefits Expansion Act of 1992, which Congress finally allowed the District to implement in 2002. GLAA's incremental approach led to passage of additional enhancing laws which by 2009 resulted in registered domestic partners being granted virtually all of the rights and responsibilities of marriage, and in greater protections for the children of domestic partners.²

GLAA opposes sunseting the domestic partnership law. Marriage is not an option for some domestic partners, such as a single parent and her own parent who are raising the grandchildren together (an example of a family structure not built around a romantic relationship). Any change to D.C.'s domestic partnership law must account for couples registered as domestic partners in other

¹ "A Timeline on Marriage Equality in D.C.," Gay and Lesbian Activists Alliance, March 31, 2010, <http://tinyurl.com/czpho79>

² Rights and Responsibilities of Domestic Partners in the District of Columbia, <http://tinyurl.com/dpindc>

AGENDA: 2012

states; they are currently recognized as domestic partners in D.C., and abolishing that would leave their relationships without any protections. We oppose removing protections from any families that now enjoy them. Further changes should be about protecting more of our city's diverse families, not using them as pawns in our ongoing struggle with congressional demagogues.

2.3 Surrogacy Law

Surrogacy is a form of assisted reproduction in which the surrogate mother is either the biological contributor of the egg (traditional) or not (gestational). Only the District and three states explicitly prohibit all surrogacy agreements.³ A modern law is needed to protect the rights of surrogate mother, parents, and child; establish criteria for the health of egg and sperm donors and surrogate; and provide for licensing of surrogacy agencies.⁴

Surrogacy contracts are currently criminal in the District and punishable by a fine of up to \$10,000.00, jail for up to one year, or both.⁵ Having a child through mutual agreement by all parties should not be criminal or forced underground without the protections that the law can provide.

2.4 Marriage Officiants

D.C. law requires that for every marriage to be official, there must be a wedding ceremony. The law is not concerned with how the ceremony is conducted or what words are spoken. The law only requires that the certificate be signed by the couple, any witness, and a court-certified officiant. Only judges and authorized clergy may be officiants.

Judges hold civil ceremonies only in the courthouse, but this shouldn't be the only non-religious option. Requiring the officiant to be a religious figure serves no government interest. Many couples will seek a church wedding and a religious leader to officiate and be comfortable with the current law. However, many couples prefer to have a non-religious wedding and to have a friend or other non-religious person as their officiant.

Recent legislation to allow notary publics to officiate fails to meet the need for anyone to be an officiant because of the limitations on notaries.⁶

GLAA advocates changing the marriage officiant law either to eliminate the ceremony requirement or to create a process to allow anyone to be an officiant on a one-time or ongoing basis.

³ "Surrogacy Laws by State," <http://www.allaboutsurgacy.com/surrogacylaws.htm>

⁴ "Overview of the Surrogacy Process," Human Rights Campaign, <http://tinyurl.com/cqragrq>

⁵ D.C. Code § 16-401 and § 16-402

⁶ Testimony on Marriage Officiant Amendment Act of 2010, Bob Summersgill, October 14, 2010, <http://tinyurl.com/cl4lekk>

AGENDA: 2012

3. Public Health

3.1 HIV and AIDS

DOH reports, "The District continues to experience a high burden of HIV/AIDS and there are also high rates of STDs, hepatitis and TB."⁷ "The number of newly diagnosed AIDS cases decreased from 653 in 2005 to 420 at the end of 2009, most likely due to increased testing efforts and earlier diagnosis and entry into care."⁸ HIV disproportionately infects men who have sex with men (MSM), blacks, black women, and residents over 40 years of age.⁹ The District ranks sixth among US cities and counties for Chlamydia,¹⁰ fifth for gonorrhea,¹¹ and 13th for syphilis.¹²

Government leadership and community participation are essential to improving the District's response to AIDS. The various planning bodies — including the HIV Prevention Community Planning Group, Regional Health Services Planning Council, and the Mayor's Task Force on HIV/AIDS — should include community members who are not board members, employees, or consultants of groups receiving funds, while existing conflict-of-interest provisions (such as in the Ryan White CARE Act) should be enforced.

We congratulate the Department of Corrections (DOC) for the voluntary HIV testing program at D.C. Jail, which includes counseling and treatment. This program has been called "a CDC model for health care" by Councilmember David A. Catania,¹³ and has been recognized by the American Correctional Association.

3.1.1 Reforms at HIV/AIDS, Hepatitis, STD, and TB Administration

The DC Appleseed Center in 2005 reported many problems at what is now HAHSTA. Several of its recommendations were implemented, including reform of the handling of epidemiologic data; a citywide HIV testing campaign; and a citywide condom distribution program. DC Appleseed states that additional changes are needed in "HIV prevention among drug users; HIV prevention education in DCPS; condom distribution; HIV/AIDS surveillance; and mental health services related to HIV/AIDS."^{14,15}

3.1.2 Testing for Sexually Transmitted Diseases

Treating HIV differently from other infectious diseases has helped to perpetuate the stigma and contributed to its spread. 25% of people with HIV don't inform their partners because they don't know. HAHSTA is leading an effort to ensure that HIV testing is standard in all D.C. run health facilities, and encouraged in private facilities. The test should be covered in standard care consent forms. HAHSTA should maintain anonymous testing sites and educate residents on the difference between confidential and anonymous testing.

⁷ "HIV/AIDS, Hepatitis, STD and TB Annual Report 2010," D.C. Department of Health, p. xii, <http://tinyurl.com/69642oc>

⁸ *Ibid.*, p. 25.

⁹ *Ibid.*, pp. 2-5.

¹⁰ *Ibid.*, p. 44.

¹¹ *Ibid.*, p. 45.

¹² *Ibid.*, p. 51.

¹³ "D.C. Jail HIV Testing Spurs Debate Between Barry, Catania," News Channel 8, September 21, 2009

¹⁴ "HIV/AIDS in the Nation's Capital," DC Appleseed Center, August 2005, <http://www.dcappleseed.org/project/hiv-aids>

¹⁵ "HIV/AIDS in the Nation's Capital," Report Card No. 6, October 2009 to February 2011, DC Appleseed Center, <http://tinyurl.com/5wxhc7m>

AGENDA: 2012

3.1.3 Post-Exposure Prophylaxis

PEP for HIV should be provided at all D.C. emergency rooms, urgent care centers and health clinics. Its availability should be publicized and included in student health classes. PEP must be started within 72 hours after exposure to be effective. Studies in animals have shown PEP to be up to 100% effective if begun within 24 hours.

3.1.4 HIV Prevention

- a. **HIV Prevention Programs for Overlooked Populations:** With HIV infection at epidemic levels, HAHSTA's prevention efforts must reach everyone in the city, including overlooked populations such as seniors and the deaf and hard of hearing. Programs meant for all ages are not effective with seniors, many of whom believe HIV cannot affect them. HAHSTA and the Office on Aging should tailor prevention programs to a variety of at-risk groups, and ensure ready access to safer-sex materials.
- b. **Clean Needle Exchange:** Syringe exchange programs (SEPs) help prevent blood-borne disease without promoting increased drug use.¹⁶ Between 2005 and 2009, "The number of [HIV/AIDS] cases due to injection drug use has decreased by 62% since 2005."¹⁷ The District should continue to defend its Needle Exchange Program, authorized by D.C. Municipal Code 48-1103.01.¹⁸
- c. **Condom Distribution:** The use of condoms is the safest and most effective prevention method for reducing HIV transmission. Condoms and water-based lubricant need to be widely and consistently available. HAHSTA's FY10 Performance Plan stated its intention of distributing 3 million condoms.¹⁹ These efforts must be continued and monitored.
- d. **Oppose Criminal Penalties for HIV Transmission:** Criminal penalties are no answer to health issues. Criminalizing knowing HIV transmission would harm HIV testing and prevention efforts by driving activity underground, encouraging anonymous sex, and increasing HIV stigma. HIV is a public health issue and needs to be treated as such.

3.1.5 Repeal HIV Testing of Certain Criminal Offenders Act

D.C. criminal code mandates involuntary HIV testing, and violating the medical privacy of people convicted of sexual assault by sharing the results with the victim. This adds to AIDS panic and frustrates efforts to reduce HIV transition, while doing nothing for the victim's health.

The original HIV Testing of Certain Criminal Offenders Act of 1995 legislation was designed to let a sexual assault victim know as early as possible if his or her assailant is infected with HIV, so that the victim could get treatment sooner or be relieved of that particular worry. We now have the technology to determine if a person has been infected, and treatment to prevent HIV from taking

¹⁶ "Evidence-Based Findings on the Efficacy of Syringe Exchange Programs: An Analysis of the Scientific Research Completed Since April 1998," David Satcher, MD, U.S. Department of Health and Human Services, March 17, 2000, <http://tinyurl.com/lpj9zd>

¹⁷ "HIV/AIDS, Hepatitis, STD and TB Annual Report 2010," D.C. Department of Health, P. 10, <http://tinyurl.com/69642oc>

¹⁸ District of Columbia Needle Exchange (DCNEX)/Harm Reduction Programs, D.C. Department of Health, <http://tinyurl.com/7mkq82b>

¹⁹ FY 2010 Performance Plan, D.C. Department of Health, p. 17, <http://tinyurl.com/d3ysznq>

AGENDA: 2012

hold. Medical advances have brought rapid anti-body testing and viral load tests; and made HIV a long-term, manageable disease. Post-exposure prophylactic drug regimens can prevent HIV disease if taken within days after infection.

The law makes an unstated and misguided presumption that the victim was HIV negative before the assault. An estimated 1 in 4 people in the U.S. with HIV are unaware of their status and 5% of people in D.C. are infected with HIV. The victim needs information on what is in his or her own body, not what is in the assailant's body. The appropriate response to help victims is to provide free post-exposure prophylactic drugs, counseling, and viral-load testing until it is clear that the patient either has not been infected, or if infected, started on a regular treatment program. Morning-after pregnancy prevention drugs and other appropriate interventions should also be available in addition to counseling and follow up.

The 1995 legislation singles out HIV disease for special consideration, unlike any other communicable disease. Hepatitis C is transmitted in the same ways, has less effective treatments, and is quite deadly, but the lack of panic causes it to be treated as a normal medical problem. HIV should be handled similarly. We need a medically sound policy, not AIDS panic.

GLAA supports the repeal of § 22-3901 through § 22-3903, and § 16-2315(f) to end involuntary HIV testing; end the disclosure of medical tests; reduce the stigma associated with HIV; and help reduce HIV transmission.²⁰

3.2 Health Data Collection

Several national health surveys have shown that LGBT residents have greater health disparities than the general population. The District of Columbia relies for data collection primarily on the Behavioral Risk Factor Surveillance System²¹ and a CDC-based survey of men who have sex with men. In 2010, the Mayor's Office of GLBT Affairs released the first LGB health report.²² This included information about some health disparities but made no reference to transgender health, because of the lack of transgender data. DOH should continue to improve its health surveillance activities to be transgender inclusive, and should be required to publish an annual LGBT health report.

Improved data collection should also demonstrate the need for adequate funding for LGBT health issues. For example, the 2010 LGB health report showed higher levels of smoking and alcohol consumption by LGB residents. Although DOH has set aside some LGBT-specific tobacco funding, there is little or no targeted substance abuse funding. To ensure proper funding of LGBT health initiatives, DOH should include sexual orientation and gender identity and expression as specific risk factors or work with the Mayor's Office of GLBT Affairs to ensure distribution of intercity funds as grants to LGBT health organizations.

²⁰ Testimony on Criminal Code Amendments Act of 2010, Bob Summersgill, September 27, 2010, <http://tinyurl.com/6nagv3n>

²¹ Behavioral Risk Factor Surveillance System, U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, <http://www.cdc.gov/brfss/>

²² "A Report of Lesbian, Gay and Bisexual Health in the District of Columbia," Mayor's Office of GLBT Affairs, June 30, 2010, <http://tinyurl.com/28j222p>

AGENDA: 2012

3.3 Cultural Competency for Service Providers

Although the District of Columbia has excellent anti-discrimination laws on the books, there is a great need for cultural competency training for health and social service providers. These include agencies and social workers in the adoption and foster care system and senior-service network, case managers in the mental health delivery system, medical providers, home-care providers, substance abuse counselors, and employment agencies.

3.4 Medical Marijuana

Passage of the Legalization of Marijuana for Medical Treatment Initiative Amendment Act of 2010, more than 12 years after District voters approved Initiative 59 by a 69% majority, vindicated the sensible advocacy of AIDS activist Wayne Turner and the leadership of Councilmembers David A. Catania and Phil Mendelson to help the seriously ill patients who use medical marijuana under their doctor's supervision.

We applaud Mayor Gray for sensibly placing DOH as the lead agency responsible for administering D.C.'s program, and we recognize the good faith efforts of District officials to implement the law. We remain confident that, by employing a pharmacy model, the District's program can serve as an example for the nation. With safe and affordable access to medical-grade marijuana, seriously ill patients will no longer have to turn to open-air drug markets and contaminated supplies.

We urge DOH to appoint the medical marijuana community advisory board, as required in the Act. Once the cultivation centers and dispensaries are operational, the D.C. Council should revisit the issue of home cultivation, which was provided for in the original 1998 ballot Initiative 59 but is not allowed under the current program.

However, the future of safe access to medical marijuana in the District faces serious challenges. First, members of Congress continue to threaten to overturn the District's medical marijuana law or to block implementation via a social rider on the D.C. budget. Second, the Department of Justice (DOJ) has mounted an assault on some state medical marijuana laws, threatening long prison sentences and property seizures — in violation of a campaign promise President Obama made.²³

D.C.'s tightly controlled medical marijuana program has not been the subject of warning letters like those sent by U.S. Attorneys in other jurisdictions. To his credit, U.S. Attorney for the District of Columbia Ronald C. Machen has given no suggestion that D.C.'s program will be targeted; we urge his continued restraint and ask that he respect the patient protections provided under District law. In this regard, it should be noted that the District's law withstood a congressional review period — something no state dispensary law had to do.

We oppose the proposal by Ward 5 Councilmember Harry Thomas Jr. to cap the number of medical marijuana cultivation centers in his ward. To quote Martin Austermuhle of *DCist*, citing a report by the *City Paper*'s Lydia DePillis, "Potential cultivators haven't selected Ward 5 because anyone thinks it's the worst ward in the city — rather, it's one of the few parts of the city where zoning regulations and real estate prices are exactly what the budding entrepreneurs want, need

²³ "Obama's assault on medical marijuana laws," Mark Lee, *Washington Blade*, October 20, 2011, <http://tinyurl.com/omaryjane>

AGENDA: 2012

and are required to have."²⁴ Responsible leaders should rebuke the pandering and misinformation about this life-saving and carefully controlled program.

3.5 Women's Health Needs

Lesbians are at particular risk of not receiving early diagnoses of breast and cervical cancers, based on lack of access to and sensitivity of medical providers to lesbian sexuality issues. The city must ensure that its health centers are staffed with people sensitive to such issues.

3.6 Transgender Health Needs

Transgender people are disproportionately poor, and prostitution as a means of survival is a serious HIV transmission vector. The discrimination faced by transgender people limits their access and willingness to seek medical care. We welcome the District's commitment to collecting transgender data to overcome its absence in the District's above-referenced 2010 LGB health report. DC Trans Coalition (DCTC) documents other data sources.²⁵ Many people have told DCTC about difficulties accessing health care (not just trans-related care) if they do not have HIV. Affirmative efforts are needed to improve health care access.

3.7 Human Papillomavirus Vaccination

The District passed the Human Papillomavirus Vaccination and Reporting Act of 2007, and consequently D.C. has one of the best vaccination laws in the country. All girls, in grade 6, or newly enrolled, attending school must be vaccinated against HPV, the virus that causes most forms of cervical cancer. More than 70% of American adults contract HPV, and for most it has no symptoms. HPV is also the cause of most forms of anal and penile cancers; the prevalence of these cancers is 17% greater among men who have sex with men.²⁶

One provision in that law suggested by GLAA is a requirement that the HPV vaccination program be extended to boys in accordance with CDC guidelines.²⁷ On October 25, 2011, the CDC Advisory Committee on Immunization Practices voted to extend routine vaccinations to males 11-12 years of age.²⁸

DOH, through the Mayor, needs to issue new regulations as soon as feasible. We should work to ensure that all boys in the 6th grade and above receive this important vaccine as soon as possible. Vaccination would almost completely eradicate anal and penile cancers in that population, as well as removing a transmission vector for the virus from the community, which will help protect women.

3.8 Tobacco Prevention

According to the Campaign for Tobacco-Free Kids, roughly 15% of adults in Washington, D.C. smoke.²⁹ Unfortunately, the failure to include LGBT identity in many health surveys limits the data

²⁴ "Thomas to Propose Ward 5 Cultivation Center Cap," Martin Austermuhle, *DCist*, November 11, 2011, <http://tinyurl.com/727sok8>

²⁵ Reports and Research, DC Trans Coalition, <http://tinyurl.com/2wuy7lv>

²⁶ "HPV and Men - Fact Sheet," Centers for Disease Control and Prevention, <http://tinyurl.com/6zu8sg>

²⁷ Testimony on HPV Vaccination and Reporting Act of 2007, Bob Summersgill, February 9, 2007, <http://tinyurl.com/bnrsmei>

²⁸ "Panel Endorses HPV Vaccine for Boys of 11," Gardiner Harris, *The New York Times*, October 25, 2011, <http://tinyurl.com/3zrfyey>

²⁹ "The Toll of Tobacco in Washington, D.C.," Campaign for Tobacco-Free Kids, November 28, 2011, <http://tinyurl.com/d6j4vep>

AGENDA: 2012

available on smoking rates in the LGBT community, both at the national level and in D.C. We do have some data. According to the American Lung Association's report, "Smoking Out a Deadly Threat," LGBT people smoke at higher rates than the general population.³⁰ According to the Mortality and Morbidity Weekly Report, LGBT youth smoke at higher rates than their peers.³¹

LGBT people, like the general population, tend to start smoking at an early rate. LGBT smokers often experience higher levels of social stress or the desire to fit in, which can lead to experimenting with tobacco.

Each year, the tobacco industry spends nearly \$13 billion to market their products. In order to effectively counter these messages and reduce smoking rates, the CDC recommends that the D.C. Government commit \$10.5 million for tobacco prevention. We could follow other states and raise cigarette taxes to generate the necessary revenue. Higher cigarette prices encourage attempts by adults to quit, depress the number of youth who regularly smoke, as cut the rates of youth who try cigarettes.³² Since the majority of smokers begin smoking before age 18, reducing youth smoking rates is key to reducing smoking rates and improving the health of our citizens.

During the course of their lives, cigarette smokers are absent from work more often, are more prone to illness, and are at higher risk for life-threatening illnesses like cancer, heart disease, and stroke.³³ Money given to tobacco prevention programs can increase education for current and prospective smokers, provide resources to help people quit, and help create a foundation for a healthier, more productive lifestyle.

3.9 Tuberculosis, Hepatitis and Substance Abuse

Drug-resistant tuberculosis (TB) and Hepatitis B and C must be aggressively fought to keep them from becoming entrenched among people with HIV/AIDS and their caregivers. People with HIV are 40 times more likely to develop active, infectious tuberculosis if exposed to the contagion than are people with healthy immune systems.³⁴ The District should use federal matching funds for the limited Medicaid benefit for people infected with TB. Substance abuse ranging from alcohol to crystal meth contributes to the spread of HIV and other diseases. GLAA supports continued funding of targeted substance abuse treatment.

³⁰ "Smoking Out a Deadly Threat: Tobacco Use in the LGBT Community," American Lung Association, <http://tinyurl.com/34gv6pn>

³¹ *Morbidity and Mortality Weekly Report*, Centers for Disease Control and Prevention, June 6, 2011, <http://tinyurl.com/cwr4m4b>

³² "Increasing Tobacco Taxes Results in Lower Health Care Costs," Indiana Tobacco Prevention and Cessation, <http://tinyurl.com/cuczqnn>

³³ "Health Effects of Cigarette Smoking," Centers for Disease Control and Prevention, <http://tinyurl.com/lbldw>

³⁴ "Reported Tuberculosis Cases and Selected Case Characteristics, District of Columbia, 2005-2008," D.C. Department of Health, September 2009, <http://tinyurl.com/33zwq8e>

AGENDA: 2012

4. Public Safety and Judiciary

4.1 Gay and Lesbian Liaison Unit and Police Response to Hate Crimes

We appreciate the responsiveness of Police Chief Cathy Lanier in recent months to LGBT community concerns about the need to combat and solve hate crimes and to preserve and strengthen the award-winning Gay and Lesbian Liaison Unit. GLLU, established in 2000, was the first such unit in the country to combine community relations with full policing powers.

The strong support for GLLU across the LGBT community shows how far we have come since the police entrapment of gay men and the raids of gay bars in the 1950s and 60s — and even since the Halloween riot against gays by police in 1991. This strong community investment in a police unit must not be squandered. We continue to support a GLLU presence in all patrol districts, which is enhanced by the GLLU affiliate officer program. That does not eliminate the need for a robust core unit with seven officers and a full-time sergeant.

Whether the crime victims are lesbians in Columbia Heights^{35,36} or transgender women in Southeast,³⁷ we cannot accept more incidents in which police responding to an anti-LGBT assault refuse to take a report or let the assailants go free. Such ignorance cannot be resolved by a few hours' training for the few dozen officers who volunteer for GLLU-related training. It is not enough for officials to declare open officer bias unacceptable. When discrimination goes unpunished, the message conveyed is that MPD's fine-sounding policy can be disregarded with impunity.

We commend our allies, in particular Gays and Lesbians Opposing Violence (GLOV),³⁸ DC Trans Coalition (DCTC),³⁹ and Rainbow Response Coalition,⁴⁰ for their work with MPD to translate the enlightened perspective of the brass into reality on our city's streets. An overarching concern is that D.C. remains a very dangerous place for transgender people in all walks of life; overcoming this will require police and others to learn to see trans citizens as human beings first and not automatically as suspects.

4.2 MPD Transgender Policy

Chief Lanier in October 2007 issued a General Order, "Handling Interactions with Transgender Individuals,"⁴¹ to insure professional, respectful and courteous interaction between MPD personnel and transgender people. Unfortunately, recent incidents⁴² have shown that more work is needed to get the message to the rank and file. An especially frightening case arose in August 2011 when an off-duty officer shot up a car containing five people including three transgender women after one of

³⁵ "5 lesbians attacked; police refuse to take report," Lou Chibbaro Jr., *Washington Blade*, August 5, 2011, <http://tinyurl.com/3ep6ys8>

³⁶ "7 officers could be fired over anti-lesbian attack," Lou Chibbaro Jr., *Washington Blade*, August 8, 2011, <http://tinyurl.com/3oe4tsf>

³⁷ "Victim, activists upset over plea bargain in transgender shooting case," Lou Chibbaro Jr., *Washington Blade*, September 30, 2011, <http://tinyurl.com/3ou4pa7>

³⁸ <http://www.glovdc.org/>

³⁹ <http://www.dctranscoalition.org/>

⁴⁰ <http://www.rainbowresponse.org/>

⁴¹ MPD General Order 501.02, "Handling Interactions with Transgender Individuals," October 15, 2007, <http://tinyurl.com/bqq4sxh>

⁴² "D.C. police struggle over disclosure of transgender murder," Lou Chibbaro Jr., *Washington Blade*, July 21, 2011, <http://tinyurl.com/3vd67o5>

AGENDA: 2012

the women rebuffed his sexual overtures.^{43,44} MPD's rapid response in that case was appreciated; but the incident hinted at a sense of entitlement and impunity on the part of a few, and such attitudes within the force must be sternly confronted before they lead to tragedy.

4.3 Anti-Transgender Profiling by MPD

MPD's use of Prostitution Free Zones facilitates discriminatory profiling of transgender people by police. This would be exacerbated by legislation introduced on November 1, 2011 by Ward 7 Councilmember Yvette Alexander, which would make PFZs permanent.⁴⁵ American Civil Liberties Union of the Nation's Capital has questioned the constitutionality of PFZs.^{46,47}

Jason A. Terry testified for DC Trans Coalition (DCTC) on November 2, 2011, "Profiling trans people as sex workers is indeed such a prevalent occurrence that MPD's General Order 501.02 on interacting with trans people explicitly states 'Members shall not solely construe gender expression or presentation as reasonable suspicion or prima facie evidence that an individual is or has engaged in prostitution or any other crime.' Yet Prostitution Free Zones allow for exactly that suspicion to be made, and it almost always is. In effect, trans women are banished from given areas of the city at the police chief's discretion. Many of this year's violent attacks on trans women have happened in or near these profiling zones. Thus by pushing trans women to less safe areas as a 'crime control' tactic, this Council has effectively sanctioned their deaths."⁴⁸

PFZs are highly expensive and constitutionally questionable. We understand that police have a job to do, but they must do it in a constitutional manner. We urge councilmembers to join us in opposing Bill 19-567, the Prostitution Free Zone Amendment Act of 2011, and to oppose the existing PFZ law.

4.4 MPD Diversity Training and Discipline

MPD must continue its community diversity and sensitivity training for new recruits and lateral transfers, and expand it to veteran officers who set the everyday climate for new officers. The use of qualified LGBT trainers by the Police Academy brings a dose of reality, but must be accompanied by a clear message to all officers that homophobia and transphobia will not be tolerated on the force. The need for serious attention to disciplinary matters by the MPD brass is underscored when dismissed officers have to be rehired due to managers' failure to meet certain deadlines.⁴⁹ Community trainers have been provided by GLOV, Sexual Minority Youth Assistance League (SMYAL),⁵⁰ Rainbow Response Coalition, Break the Cycle, and DCTC.⁵¹ Except for SMYAL and Break the Cycle, the trainers are volunteers. The city should not rely solely upon limited volunteer resources for this needed training. Existing MPD funds could be reprogrammed.

⁴³ "Off-duty D.C. cop arrested for shooting trans women," Lou Chibbaro Jr., *Washington Blade*, August 27, 2011, <http://tinyurl.com/3odndcr>

⁴⁴ "Probable cause found that off-duty cop fired gun at trans women," Lou Chibbaro Jr., *Washington Blade*, September 5, 2011, <http://tinyurl.com/3nr9qfo>

⁴⁵ Prostitution Free Zone Amendment Act of 2011, Bill 19-567, <http://tinyurl.com/cafavu4>

⁴⁶ Testimony on Bill 16-247, American Civil Liberties Union Of the Nation's Capital, June 30, 2005, <http://tinyurl.com/7fzewpy>

⁴⁷ "Transgender activists say D.C. prostitution bill will lead to profiling," Joshua Lynsen, *Washington Blade*, March 29, 2006, <http://tinyurl.com/ccjkdqa>

⁴⁸ Testimony on Hate Crimes and Police Response, Jason A. Terry, DC Trans Coalition, November 2, 2011, <http://tinyurl.com/cks2gu4>

⁴⁹ "17 Officers Fired for Misconduct Reinstated," *The Washington Post*, May 20, 2008, <http://tinyurl.com/23m98gc>

⁵⁰ <http://www.smyal.org/>

⁵¹ Police training materials, DC Trans Coalition, <http://tinyurl.com/chq56gu>

AGENDA: 2012

Contracts or direct grants could be used for qualified trainers who use community-developed curricula. Alternatively, the Office of GLBT Affairs could administer the training funds.

4.5 Intimate Partner Violence

Intimate partner violence occurs in an estimated 25% - 33% of LGBT relationships, the same as in heterosexual relationships. Statistically, this means there are an estimated 10,000 LGBT survivors in the District. Based on reported information, over 75% of all GLLU cases involve intimate partner violence. However, data related to such incidents is not consistently collected. Without this data, we do not know the true prevalence of these crimes.

LGBT survivors of intimate partner violence face many barriers to accessing services. We must educate first responders and service providers to the unique dynamics of LGBT domestic violence and aggressively advocate for resources to support survivors. Rainbow Response Coalition in collaboration with other local LGBT groups developed and delivers trainings to MPD and Court Services and Offender Supervision Agency (CSOSA). The trainings need to be expanded so that the entire MPD force is culturally competent to handle cases of LGBT partner violence.

4.6 Separating Local Policing from Immigration Enforcement

ACLU of the Nation's Capital notes, "It has been a long-standing policy for years in the District of Columbia that there is a bright line between immigration and enforcement and local police."⁵² The Secure Communities program of U.S. Immigration and Customs Enforcement (ICE) now threatens this, because fingerprints routinely shared with the FBI by local police are now shared with ICE to check against its immigration databases.⁵³

The prison-like conditions endured by detainees in America's immigration detention system are documented by the national ACLU,⁵⁴ which has filed suit.⁵⁵ Physicians for Human Rights reports on the challenges of providing professional health care to detainees.⁵⁶ LGBT refugees are hit especially hard; *LGBT Asylum News* reports, "When [a transgender woman detained in California] asked why she could have recreation access for only a couple of hours she was abused by a guard, told it was to 'teach her not to be transgender.' ... Transferred to a jail she suffered further mistreatment and discrimination, including denial of access to a doctor."⁵⁷

In response to concerns about "Secure Communities," all thirteen D.C. Council members on November 15, 2011 introduced Bill 19-585, The Immigration Detainer Compliance Amendment Act of 2011, which states that D.C. is a sanctuary city and will not allow its police to be federalized by the Department of Homeland Security. We support this bill and thank the Council for it, and urge all

⁵² "Mayor, D.C. Council Take Bold Steps To Secure D.C.'s Immigrant Community," ACLU of the Nation's Capital, November 21, 2011, <http://tinyurl.com/7wxmsmy>

⁵³ Secure Communities, U.S. Immigration and Customs Enforcement, http://www.ice.gov/secure_communities/

⁵⁴ "Sexual assault and abuse rampant in America's immigration detention centers," Catherine Traywick, *LGBT Asylum News*, October 31, 2010, <http://tinyurl.com/7kjr9b>

⁵⁵ "The appalling treatment of a trans asylum seeker in US detention," Paul Canning, *LGBT Asylum News*, December 11, 2011, <http://tinyurl.com/cr7ysqb>

⁵⁶ "Report: US immigration detention can equal abuse, poor health care, sexual assault and death," *LGBT Asylum News*, April 8, 2011, <http://tinyurl.com/c2rbmfn>

⁵⁷ "In US, violent, sexual abuse of LGBT refugee detainees draws too little attention," Paul Canning, *LGBT Asylum News*, April 16, 2011, <http://tinyurl.com/3mvrwo7>

AGENDA: 2012

citizens to sign the National Immigrant Justice Center's appeal to the Obama administration to end abuse of LGBT immigrants in detention.⁵⁸

4.7 Office of the U.S. Attorney

The Office of the U.S. Attorney prosecutes crimes in the District but is not accountable to District officials. This is an ongoing slap at D.C. taxpayers and Home Rule principles. The U.S. Attorney fails to provide reports to MPD or other District officials on cases, including anti-LGBT hate crimes, which it decides not to prosecute. The same concern applies to information on other aspects of the prosecution process, including reducing charges prior to indictment, reducing charges at indictment, reducing charges at a plea bargain, etc. Greater transparency could be provided while preserving confidentiality as needed. MPD and Mayor Gray must press the U.S. Department of Justice to end this denial to the District of information affecting its citizens' public safety.

4.8 Office of Police Complaints

The independent Office of Police Complaints (OPC), which GLAA helped create, employs the best practices of citizen oversight of law enforcement, with the goal of improving public confidence in the police. OPC Executive Director Philip K. Eure and his staff have shown expertise, integrity, and a commitment to fairness for all — not just those who file complaints, but those against whom they are filed, and the wider community from which both are drawn.⁵⁹

4.9 Fire and Emergency Medical Services Department

Credit goes to Chief Kenneth B. Ellerbe for continuing reforms at the Fire and Emergency Medical Services Department (FEMS), and for agreeing to let DCTC review trans-related diversity training materials. Chief Ellerbe also expressed willingness to apologize for the 1995 death of Tyra Hunter, which occurred after discriminatory treatment by a first responder. Supervisory follow-through and penalties for acts of discrimination remain essential. Deborah Hassan is FEMS LGBT Liaison.

4.10 Department of Corrections

The D.C. Government website states, "The mission of the Department of Corrections is to provide a safe, secure, orderly, and humane environment for the confinement of pretrial detainees and sentenced inmates..." This contrasts with the discrimination faced by transgender inmates, who are often housed solely based on their genitalia, denied appropriate health care, sexually assaulted, abusively strip-searched, and placed in protective custody that amounts to punishing the victim.⁶⁰

DOC issued a revised policy on classifying and housing transgender inmates in 2009.⁶¹ More steps are needed. DOC should provide greater transparency on appointments to its transgender housing committee and transgender oversight committee. We laud the efforts of the DC Trans Coalition, Just Detention International, and the Washington Lawyers' Committee for Civil Rights and Urban Affairs to make our city obey its own laws. D.C.'s Human Rights Act is not a ceremonial resolution.

⁵⁸ Appeal to end abuse of LGBT immigrants in detention, National Immigrant Justice Center, <http://tinyurl.com/84a7jkc>

⁵⁹ Annual Report for Fiscal Year 2010, Office of Police Complaints, March 17, 2011, <http://tinyurl.com/c8ovvca>

⁶⁰ "Jails," DC Trans Coalition, <http://tinyurl.com/73x5xan>

⁶¹ Program Statement on Gender Classification and Housing, D.C. Department of Corrections, February 20, 2009, <http://tinyurl.com/bqlm4ee>

AGENDA: 2012

5. Human Rights

5.1 Office of Human Rights

The D. C. Human Rights Act of 1977 is one of the strongest human rights laws in the country, prohibiting discrimination based on a lengthy list of categories including sexual orientation, gender identity or expression, and genetic information. We must remain vigilant to ensure that this law is defended and enforced.

In 2011 Mayor Gray broke a promise to appoint an OHR director with a professional background in human rights law. Such a background gives an OHR director the expertise to verify the correctness of staff work and the confidence to stand up to other government officials. Future appointments should be based on qualifications. In the meantime, we appreciate the efforts of OHR Director Gustavo Velasquez to improve training and compliance.

5.2 Funding for Office of Human Rights and Commission on Human Rights

GLAA has long advocated sufficient budget and staffing levels to keep OHR's case backlog from growing and to reduce the average number of days it takes after the filing of a discrimination complaint to issue a finding of probable cause. We support a separate line item for the Commission on Human Rights.

5.3 Combating Transgender Discrimination

Anti-transgender discrimination is a continuing problem. Transgender youth are bullied and harassed in schools. Treatment of adults ranges from gawking curiosity to violence. DC Trans Coalition reported in July 2011, "The results of the roundtables held during phase one of our Needs Assessment project show the stark reality of trans people's lives in the District of Columbia: violence and abuse are widespread, fear is a regular part of trans community members' lives, and discrimination and harassment are far from uncommon."⁶² Clearly, DCHRA protections are not enough. Proactive efforts are needed.

Public accommodations are a prime example. Municipal regulations require gender-neutral signage on single-occupancy restrooms. Yet a survey by DCTC revealed that 68 percent of respondents identifying as trans and/or gender non-conforming reported experiencing hostility and/or violence when attempting to use public restrooms in the District.⁶³ OHR subsequently touted its work "in partnership with the DC Trans Coalition and the DC Center" to reduce the discrimination, concluding, "In total, approximately 107 establishments total have changed their signs as a result of our efforts."⁶⁴ Those efforts, however, were made by the DC Center and DCTC. OHR only responded to daily complaints from the DC Center, which investigated restrooms across the city. An OHR letter notifying the affected establishments would have cost significantly less than dealing with hundreds of complaints and cases that had to be investigated.

⁶² "DC Trans Needs Assessment, Summary Findings – Phase One," DC Trans Coalition, July 2011, <http://tinyurl.com/ccajc4b>

⁶³ "Our Survey Results," DC Trans Coalition, November 8, 2009, <http://tinyurl.com/3a4uhx8>

⁶⁴ "The DC Office of Human Rights Announces Significant Victory for Transgender Community," Office of Human Rights, March 4, 2011, <http://tinyurl.com/68whdck>

AGENDA: 2012

All employers in the District should be educated on how to treat transgender employees fairly and respectfully.

5.4 Changing Original Birth Certificate

People who undergo treatment related to gender transition — with or without surgery — deserve an original birth certificate that matches their gender identity, and not just an amendment.

The D.C. Code states:

§ 7-217 (d) Upon receipt of a certified copy of an order of the Court indicating that the sex of an individual born in the District has changed by surgical procedure and that such individual's name has been changed, the certificate of birth of such individual shall be amended as prescribed by regulation.

This section can be changed slightly and moved to § 7-210, "New Certificates of Birth," to allow a person to receive an original birth certificate. Whether the birth certificate is recorded as new or amended makes no difference to anyone but the person who is seeking the change. Amending a birth certificate in most cases will help deter fraud, but no one goes through the lengthy and expensive gender transition process in order to commit fraud.

Twenty-one states currently allow for the issuance of new birth certificates under similar circumstances: California, Connecticut, Delaware, Georgia, Hawaii, Illinois, Iowa, Louisiana, Massachusetts, Michigan, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Oklahoma, South Dakota, Utah, Vermont, and Virginia. Additionally, Indiana has no gender in their birth certificates. This would also be acceptable moving forward.

5.5 Honors for the Honorable

The District has no business issuing official proclamations and ceremonial resolutions to honor people and organizations openly hostile to the LGBT community. Officials must put procedures in place to prevent such slip-ups. Good works in other areas do not excuse discrimination or bias.

5.6 Mayoral Appointments

CHR has fifteen seats, seven of which were vacant as of October 2011.⁶⁵ Every current member must attend in order to have a quorum. Additionally, there has never been a transgender member of the commission despite explicit inclusion in the DCHRA and the considerable discrimination faced by transgender people. As of this writing, we are still waiting for the promised nomination of a qualified person by Mayor Gray. The Mayor needs to fill CHR with qualified people, including at least one transgender person, and the Council needs to hold prompt confirmation hearings.

We question Mayor Gray's appointment of Shaw neighborhood activist Leroy Thorpe to the Juvenile Justice Advisory Group after Thorpe was nominated by Ward 2 Councilmember Jack Evans.⁶⁶ Thorpe's long history of antagonism and homophobic statements makes him a dubious

⁶⁵ Vacancy List, D.C. Office of Boards and Commissions, October 18, 2011, <http://tinyurl.com/obcvacancy>

⁶⁶ "Gray board appointee called gays 'faggots'," *Washington Blade*, September 22, 2011, <http://tinyurl.com/leroythorpe>

AGENDA: 2012

choice. We have no stake in denying people a chance at rehabilitation, and hope this proves to be the case with Mr. Thorpe; but he has apologized in the past without changing his behavior.

5.7 Grantmaking Authority for Office of GLBT Affairs

In order to create mechanisms for directing needed services to minority and at-risk populations, the Council should pass legislation giving the directors of the Office of GLBT Affairs and the Office of African Affairs the authority to issue grants to organizations serving the populations within their purview. This authority is already granted to other minority constituent offices. Once funding is found, such authority will facilitate the provision of services that the city does not otherwise fund.

5.8 Repeal the Armstrong Amendment

One of the most egregious violations of Home Rule was the Armstrong Amendment to single out sexual orientation for permissible discrimination by religiously affiliated schools. Congress directly enacted the changes to § 2-1402.41 of the District of Columbia Code in direct response to the successful lawsuit against Georgetown University in 1987. Every member of the D.C. Council supported the lawsuit to block the Armstrong Amendment from being imposed on the District, but ultimately lost.⁶⁷ The Armstrong Amendment is named for former Senator Bill Armstrong (R-CO). Senator Mark Udall (D-CO) now holds his seat.

The changes remain in effect, although no religiously affiliated educational institution in the District has invoked the Human Rights Act exemptions. GLAA has called for the D.C. Council to repeal these congressionally imposed provisions.

§ 2-1402.41. Prohibitions.

(3) Notwithstanding any other provision of the laws of the District of Columbia, it shall not be an unlawful discriminatory practice in the District of Columbia for any educational institution that is affiliated with a religious organization or closely associated with the tenets of a religious organization to deny, restrict, abridge, or condition --

(A) the use of any fund, service, facility, or benefit; or

(B) the granting of any endorsement, approval, or recognition,

to any person or persons that are organized for, or engaged in, promoting, encouraging, or condoning any homosexual act, lifestyle, orientation, or belief.

⁶⁷ "Federal Intrusions and the Gay Community," Richard J. Rosendall, *Guild Practitioner*, October 1997, <http://tinyurl.com/77vb6qo>

AGENDA: 2012

6. Youth and Seniors

6.1 School Vouchers

Congress imposed a voucher program on the District in 2004, overriding District voters who had rejected vouchers 89% to 11% in a 1981 referendum. According to a June 2010 study by the National Center for Education Evaluation and Regional Assistance, "80 percent of the treatment group attended a faith-based school, with most of them (53 percent) attending the 15 participating Catholic parochial schools"⁶⁸ — schools where LGBT students, teachers and employees enjoy none of the protections of the DCHRA. Instead of diverting public funds to serve a small percentage of students, we should continue reforms in schools that are accountable to taxpayers. Unfortunately, several District officials who previously opposed vouchers have caved to Congress. One of these is D.C. Council Chairman Kwame Brown, who told GLAA in 2004, "Opposition to school vouchers is a core value that I fully believe in."⁶⁹

6.2 Transitional Housing for Homeless LGBT Youth

The Wanda Alston House for homeless LGBT youth, opened in 2008, is a milestone for Transgender Health Empowerment (THE), and a welcome advance for a population at heightened risk for substance abuse, STDs, suicide, and survival sex. The D.C. Department of Human Services and the Community Partnership for the Prevention of Homelessness made this possible, along with the groups partnering with THE to identify prospective residents — Covenant House Washington, the Sexual Minority Youth Assistance League (SMYAL), and the Latin American Youth Center. Alston House's transitional residents receive wraparound services like job training, substance abuse treatment, and counseling. This is only a start, since Alston House only has 18 beds, far short of the need. Services must be expanded to meet the needs of all at-risk LGBT youth.

6.3 Youth Risk Behavior Survey

The D.C. Office of the State Superintendent of Education (OSSE) reported in 2010 that self-identified gay, lesbian, and bisexual students in D.C. public middle and high schools were three times likelier to attempt suicide. This and other disturbing data were extracted from the Youth Risk Behavior Survey (YRBS) conducted by OSSE in cooperation with the Centers for Disease Control and Prevention.⁷⁰ The survey also found dramatically higher rates of cocaine and methamphetamine use among LGB youth. Troublingly, however, the city's low response rate in 2009 rendered the data unusable by CDC, revealing a need for a more serious commitment from OSSE.⁷¹ YRBS should also be expanded to include transgender students. As the DC Center notes, "Nationwide data ... suggests that transgender students are harassed more and, subsequently, are

⁶⁸ "Evaluation of the DC Opportunity Scholarship Program: Final Report," June 2010, National Center for Education Evaluation and Regional Assistance, P. 18, <http://tinyurl.com/coo2k2s>

⁶⁹ Letter from GLAA President Mitch Wood to Chairman Kwame Brown, posted on *GLAA Forum*, February 14, 2011, <http://tinyurl.com/3eq4re7>

⁷⁰ "Youth Risk Behavior Survey," D.C. Office of the State Superintendent of Education, 2009, referenced by The DC Center, <http://tinyurl.com/3hzl6jb>

⁷¹ "CDC Says DC Youth Risk Behavior Survey Data Unusable," Adam Tenner, *Metro Teen AIDS*, March 2010, <http://tinyurl.com/3o4yasp>

AGENDA: 2012

at higher risk than their non-transgender peers."⁷² D.C. should adopt the new optional gender expression question put forth by CDC.

The District launched a partnership with First Home Care in May 2009 "to assist students transitioning from restrictive education environments to District public schools.... The partnership provides students with wrap-around services and monitors each student's progress upon entry into their new school."⁷³ More initiatives are needed to address the range of risks to District youth.

6.4 Anti-Bullying Law and DCPS Efforts

The D.C. Council is shortly expected to pass strengthened anti-bullying legislation, and D.C. Public Schools (DCPS) is pursuing its own anti-bullying initiatives. Follow-through and enforcement are essential. Administrators, teachers and students should receive regular training through assemblies, skits, and role-playing. Violations that go unpunished will serve as evidence that once again the District's model policy is toothless. The DCPS pilot program to designate and train LGBT liaisons in 25 schools should be evaluated promptly to speed its expansion system-wide.

Recent news stories highlight the importance of public efforts to help at-risk teens. Members of a gay youth group called Check It, which had been described by police as a gang, denied being a gang at a town hall on October 24 and said they organized in response to family ostracism and school bullying.⁷⁴ We appreciate MPD's efforts at mediation to resolve police-related issues with them, and are delighted that the group's members are being trained as entrepreneurs and are launching a fashion line; but their stories underscore the importance of building support networks in our schools to help at-risk youth stay on a safe and constructive path.

6.5 Health Education

GLAA strongly supports DCPS Health Standards that include sexual orientation and gender identity as part of "the knowledge and skills that students need to maintain and improve their health and wellness, prevent disease, and reduce health-jeopardizing behaviors." The scientific consensus is what should be taught. The American Psychiatric Association and the American Psychological Association recognize homosexuality as a normal variant of human sexuality. It is essential to monitor and enforce compliance to ensure that teachers and principals do not disregard DCPS policy in favor of their own biases.

6.6 Gay-Straight Alliances

Gay-Straight Alliances (GSAs) are student-initiated organizations in schools. GSAs enrich a school's learning environment, help provide a safe and supportive climate for students, and foster tolerance among students. Teachers, administrators and public officials should encourage students to form GSAs and take action against officials who illegally interfere with GSAs in the public schools.

⁷² "Center Facts: LGBT Youth in the District of Columbia," http://www.thedccenter.org/facts_youth.html

⁷³ "Mayor Fenty Announces Accomplishments, New Initiatives in Special Education," D.C. Public Schools, October 1, 2009, <http://tinyurl.com/25w7h9w>

⁷⁴ "Gay 'gang' members speak at LGBT youth forum," Lou Chibbaro Jr., *Washington Blade*, October 26, 2011, <http://tinyurl.com/3t5myle>

AGENDA: 2012

6.7 Condom Availability

The District's condom availability program for public school students, established in 1992, was designed to reduce the spread of HIV, other STDs and unwanted pregnancies. Condoms and other safer-sex materials should be available from DOH through school nurses, as well as available directly without an intermediary. Unfortunately, condoms are available sporadically and without uniform guidelines. Many public high schools don't provide condoms at all, and others impose restrictions that deter students from seeking or using them. This program needs to be revitalized.

6.8 Medicaid Spousal Impoverishment Protections

Because federal financial participation in D.C. Medicaid is subject to the Defense of Marriage Act (DOMA), D.C. Medicaid's long-term nursing home care program might deny full spousal impoverishment protections to same-sex spouses of nursing home residents.

The Centers for Medicare and Medicaid Services (CMS) sent a guidance letter⁷⁵ dated June 10, 2011 to State Medicaid Directors informing them that under existing law State Medicaid Programs already have discretion, without risking FFP, in certain limited situations to offer some — but not all — of Medicaid's spousal impoverishment protections to same-sex partners.⁷⁶

Massachusetts has dealt with this problem by prohibiting Massachusetts Medicaid from discriminating against same-sex spouses, and by providing state funding to pay for the benefits.⁷⁷ A recent California enactment also relates to long-term care.⁷⁸

Two steps are in order to address this problem in the District of Columbia:

- Immediate implementation by D.C. Medicaid of all of the policy suggestions contained in the June 10, 2011 CMS guidance letter; and
- Legislation similar to The MassHealth Equality Law.

The financial impact of such measures will have to be researched; but our city can hardly justify making its support for equality contingent on its being cost-free. This issue presents one more challenge resulting from the District's subordination to Congress combined with the injustice of DOMA.

6.9 Training for Providers of Senior Services

"Who will be there for us, who will help care for us without judgment?" The services network for older Americans has a widespread reach in almost every community in the District of Columbia. Unfortunately, there is little focused attention on how to provide the staff and volunteers of these agencies the tools to develop culturally competent organizations that would include policies and mandated training to assist in carrying out the nondiscrimination provisions of the DCHRA. Implementation of culturally competent policies and training can create an environment that

⁷⁵ CMS letter to state Medicaid directors, June 10, 2011, <http://tinyurl.com/6uct8ut>

⁷⁶ Policy Issue Brief, National Senior Citizens Law Center, July 2011, <http://tinyurl.com/5ve85s4>

⁷⁷ "MassHealth Equality law gives same-sex couples choice," Laura Kiritsy, *Bay Windows*, August 11, 2008, <http://tinyurl.com/MHEquality>

⁷⁸ California Assembly Bill No. 641, Approved by Governor October 9, 2011, <http://tinyurl.com/3zvl4xz>

AGENDA: 2012

provides confidence and security for the District's LGBT seniors. They won't have to hide their identity and life experiences in what is often a vulnerable time in their lives. The D.C. Office on Aging should assist in holding such agencies accountable for establishing a culturally competent environment by working with the Washington, D.C. LGBT Aging Coalition of Elders to implement criteria for an agency "Stamp of Approval" that includes education, training and other resources for service providers.

6.10 Funding for LGBT Senior Services

A dedicated funding stream for LGBT senior services could provide a sustained basis for fostering partnerships and coordinating efforts for more efficiency with District of Columbia aging service providers. Ample evidence now shows the distinctive needs within the older LGBT population. It is also well-known that transgender older adults and ethnic and racial minority senior members of the LGBT population often live below the poverty level and have heightened and cumulative risks of health disparities. Such funding could also provide opportunities for more accurately assessing the needs of our seniors.

AGENDA: 2012

7. Consumers and Businesses

7.1 Fighting Regulatory Abuse

Fights in recent years against gay-welcoming Washington businesses revealed a pattern of abuse of the regulatory process. The problem is not anti-gay bigotry but unreasonable hostility toward urban nightlife and the hospitality industry by people who seek to turn vital city neighborhoods into quiet suburbs. This hostility can backfire, as we saw recently with the Toutorsky Mansion.⁷⁹ We support regulatory reforms to prevent the gaming of the system by small numbers of people who seek to prevent legitimate businesses from operating, or to gain concessions that they could not obtain on the merits. Where most D.C. regulatory bodies have an open process in which any person or group may speak for or against an issue, the Alcoholic Beverage Control (ABC) Board only allows the business owner to speak in favor while "gangs of five" are allowed to speak against. The process needs to be opened to allow neighbors, area businesses, and others to testify both for and against a liquor license.

"Voluntary agreements" have also been used to harass businesses into unreasonable restrictions. Clear regulations are needed to define what is and is not permitted in a voluntary agreement. Business owners, Advisory Neighborhood Commissioners (ANCs), neighbors, and the ABC Board need to have a clear and shared understanding of what is reasonable in those negotiations.

Steps should also be taken to restrict people who repeatedly file baseless complaints against licensed establishments. In the same manner that the courts will prevent repeat offenders from filing harassing and frivolous lawsuits, the Alcoholic Beverage Regulation Administration (ABRA), and other regulatory agencies may limit those people to a review before allowing the complaint to be entered or investigated. GLAA was once sued for using a "mind control laser" and spying on the plaintiff through the gold trim on her sofa. Law-abiding business owners, who bear the financial risk while serving customers and generating tax revenue, should not have to endure such harassment, nor should taxpayers have to subsidize it.

7.2 Defending Adult Entertainment

The District's hospitality industry generates a good deal of its revenue, and adult entertainment is part of the mix. Those who disapprove of nude dancing establishments are free to avoid them, but busybodies should not be permitted to boss their neighbors on matters that are none of their business.

The contrast between Ward 5 Councilmember Harry Thomas Jr.'s vehement opposition to gay strip clubs in 2007⁸⁰ and his support for straight-oriented strip clubs in 2011 suggests a gaping double standard that he has not credibly explained. [Note: As we go to press, Councilmember Thomas appears set to resign as part of a plea deal with federal prosecutors. We are not deleting this material because the issue continues to stir debate.] *WAMU* reported that Thomas "has supported the applications of the clubs and says these upscale strip clubs can be good corporate neighbors."⁸¹ Thomas denied being influenced by campaign donations, despite a *Washington*

⁷⁹ "Dupont denizens doth protest too much," Mark Lee, *Washington Blade*, November 17, 2011, <http://tinyurl.com/85yf8ut>

⁸⁰ "GLAA Update: Bill 17-109 (as amended) passes first reading," Report to GLAA members, June 5, 2007, <http://tinyurl.com/c5vspcv>

⁸¹ "Ivy City Residents Petition Validity of Forthcoming Strip Club's Licenses," *WAMU*, July 11, 2011

AGENDA: 2012

Times report (in June 2011) that "Keith Forney, a co-owner of the Stadium Club whose companies have received more than \$90 million in D.C. construction funds since 2000, made separate payments to Team Thomas in 2008 and 2009 totaling \$6,000."⁸² On top of this, former crack cocaine kingpin Cornell Jones is accused of diverting more than \$300,000 in District HIV/AIDS funds to renovate the club.⁸³ The city owes us a single standard that neither depends on campaign cash nor involves misuse of public funds.

We strongly object to At-Large Councilmember Vincent Orange's Bill 19-492, "Moratorium on Strip Clubs, Topless Bars, Gentlemen's Clubs, or Adult Entertainment Establishments in Ward 5 Act of 2011,"⁸⁴ which he introduced on September 20, 2011. We urge Mr. Orange's colleagues to let this obnoxious and gratuitous piece of legislation die of the neglect it deserves.

7.3 Prostitution: Alternatives to Incarceration

Prostitution is not a profession filled with people who freely chose it from a host of options. Too many turn to it by necessity. These include gay teenagers who have been thrown out of the house by their parents, and transgender people whom discrimination has left with few options. They face greater risk of substance abuse, mental and physical abuse, and sexually transmitted diseases. The District has seen numerous murders of sex workers in recent years, many of which have gone unsolved.

Harassing, arresting and prosecuting people for survival sex solve none of their problems, but only pile more on.⁸⁵ The city must pursue safer, healthier, and more sustainable alternatives by providing drop-in centers, transitional housing, job training and other educational programs, counseling, addiction recovery programs, mental health services, and STD testing and treatment for at-risk populations. See Section 4.3 concerning our opposition to Prostitution-Free Zones. We appreciate Mayor Gray's initiatives on transgender employment; see Section 7.4.

7.4 Combating Transgender Unemployment

Transgender people in the District are unemployed at a rate ten times the national average. Most live far below the poverty level. According to the Office of GLBT Affairs, only six of 26,000 employees at District government agencies were openly transgender. More transgender women have been murdered in the last decade than are employed by the D.C. government.

We applaud Mayor Gray for instructing the Department of Employment Services (DOES) in August 2011 to launch a Project Empowerment pilot program which provided job training to transgender people to help them escape the streets.^{86,87} This was a good first step. There will be another Project Empowerment class in spring 2012. Further initiatives by DOES and other District agencies are needed to address the persistent underemployment that endangers transgender citizens.

⁸² "Strip club owner gave \$6K to Team Thomas," *The Washington Times*, June 9, 2011, <http://tinyurl.com/7f9kuvx>

⁸³ "Probe of D.C. nonprofit leads to on-air insults," *The Washington Times*, September 6, 2011, <http://tinyurl.com/6m2f34s>

⁸⁴ Moratorium on Strip Clubs, Topless Bars, Gentlemen's Clubs, or Adult Entertainment Establishments in Ward 5 Act of 2011 (as introduced), <http://tinyurl.com/d874ax6>

⁸⁵ "Move Along: Policing Sex Work in Washington D.C.," Alliance for a Safe and Diverse DC, May 1, 2008, <http://tinyurl.com/85k5w9y>

⁸⁶ "Transgender residents to graduate from jobs program," Lou Chibbaro Jr., *Washington Blade*, October 6, 2011, <http://tinyurl.com/3mkevne>

⁸⁷ "17 graduate from trans job program," *Washington Blade*, October 13, 2011, <http://tinyurl.com/3v8ckmv>