



May 11, 2017

Heather Menne
Administration for Community Living
U.S. Department of Health and Human Services
Washington, D.C. 20201

VIA E-MAIL: Heather.Menne@acl.hhs.gov

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RE: DEPARTMENT OF HEALTH AND HUMAN SERVICES, Administration for Community Living, Agency Information Collection Activities; Proposed Collection; Public Comment Request; Proposed Extension With Modifications of a Currently Approved Collection; National Survey of Older Americans Act Participants

Dear Ms. Menne,

The American Civil Liberties Union (ACLU) submits these comments in opposition to the Administration for Community Living's (ACL) proposal to remove demographic questions regarding gender identity and sexual orientation from the National Survey of Older American Act Participants (NSOAAP). This survey provides critical data on whether federally funded aging programs like Meals on Wheels, family caregiver support, adult daycare, and senior centers reach all older adults, including lesbian, gay, bisexual, and transgender (LGBT) older adults. Furthermore, neither ACL's original notice nor ACL's corrected notice in the Federal Register provide any notification or explanation of ACL's decision to attempt to remove LGBT demographic questions from the NSOAAP—which have been included in the survey since 2014. We urge ACL to re-insert demographic questions regarding gender identity and sexual orientation into the NSOAAP.

The ACLU has a long history of defending the LGBT community in the courts, and before Congress and the many administrations. From our first LGBT rights case in 1936 to the landmark ruling in *Obergefell v. Hodges*, the ACLU has fought consistently for the right of LGBT people to live openly without discrimination, enjoy equal rights, personal autonomy, and freedom of expression and association. The ACLU also has a deep commitment to the privacy rights of all Americans, and in particular, those who may be most vulnerable to abuse. Given the sensitive nature of the information collected by the NSOAAP, we additionally urge that the data collection methods used ensure anonymity of all survey respondents and prevent reverse identification or disaggregation and that these requirements be enshrined in the regulations governing the survey. Furthermore, the information collected should be used

solely for the purpose of determining the efficacy of federally funded aging programs, and should not be disseminated for other purposes.

Available data confirms that LGBT older adults face unique challenges as they age. First, LGBT older adults face higher rates of social isolation and have thinner support networks than their non-LGBT peers. They are up to twice as likely to live alone, half as likely to have close relatives to call for help, and four times less likely to have children to assist them.¹ They are also much more likely to be disconnected from families of origin.² Second, LGBT older adults face higher poverty rates than their non-LGBT peers. Nearly 16 percent of single gay men over 65 live in poverty, compared to just 9.7 percent of single heterosexual men their age. Further, six percent of lesbian couples age 65 and older have incomes below the poverty line, compared to 3.5 percent for heterosexual married couples in the same age group.³ Third, LGBT older adults face pronounced health disparities compared to their non-LGBT peers. HIV impacts the LGBT community disproportionately,⁴ and it is affecting an increasing number of older adults.⁵ The National Institutes of Health (NIH) and National Institute on Aging (NIA)-funded *Aging and Health Report* outlines a number of other disparities, including: lesbian, gay and bisexual older adults face higher rates of disability and mental health challenges; older bisexual and gay men face higher rates of physical health challenges; bisexual and lesbian older women have higher obesity rates and higher rates of cardiovascular disease; and transgender older adults face greater risk of suicidal ideation, disability, and depression compared to their peers.⁶ Lastly, despite their need to rely on providers for services because of their truncated support networks, LGBT older adults lack access to LGBT-culturally competent care and services. Indeed, a 2001 U.S. Administration on Aging study found that LGBT older adults are 20 percent less likely than other older adults to access government services such as housing assistance, meal programs, food stamps, and senior centers.⁷ Despite this disconnect, most State Units on Aging are not making any systematic effort to assess and address the needs of this population.⁸ The very age of the 16

¹ LGBT Movement Advancement Project & Services and Advocacy for Gay, Lesbian, Bisexual and Transgender Elders (MAP & SAGE), *Improving the Lives of LGBT Older Adults*. 2010. Available at <http://www.lgbtmap.org/file/improving-the-lives-of-lgbt-older-adults.pdf>

² LGBT Movement Advancement Project & Services and Advocacy for Gay, Lesbian, Bisexual and Transgender Elders (MAP & SAGE), *Improving the Lives of LGBT Older Adults*. 2010. Available at <http://www.lgbtmap.org/file/improving-the-lives-of-lgbt-older-adults.pdf>

³ M.V. Lee Badgett, et al., Williams Inst., *New Patterns of Poverty in the Lesbian, Gay and Bisexual Community*. 2013. Available at <https://williamsinstitute.law.ucla.edu/research/census-lgbt-demographics-studies/lgbt-poverty-update-june-2013/>

⁴ Centers for Disease Control and Prevention: *HIV Among Gay and Bisexual Men*. 2016. Available at <https://www.cdc.gov/hiv/group/msm/>

⁵ Centers for Disease Control and Prevention: *HIV Among People Aged 50 and Over*. 2017. Available at <https://www.cdc.gov/hiv/group/age/olderamericans/>

⁶ Fredriksen-Goldsen KI, Kim HJ, Emlert CA, et al.: *The Aging and Health Report: Disparities and Resilience Among Lesbian, Gay, Bisexual, and Transgender Older Adults*. 2011. Seattle, WA: Institute for Multigenerational Health, University of Washington.

⁷ LGBT Movement Advancement Project & Services and Advocacy for Gay, Lesbian, Bisexual and Transgender Elders (MAP & SAGE), *Improving the Lives of LGBT Older Adults*. 2010. Available at <http://www.lgbtmap.org/file/improving-the-lives-of-lgbt-older-adults.pdf>

⁸ A SAGE report found that: State Plans filed by 29 States make no reference whatsoever to LGBT older adults; an additional 12 State Plans have isolated references to LGBT older adults, but do not address specific actions being taken to reach and target this population; and only nine States, and the District of Columbia, specifically address efforts to reach out and target LGBT older adults.

year-old ACL study we cite further demonstrates the necessity for ACL to collect updated data on whether the aging network is meeting the needs of this population.

The NSOAAP is a critical tool that identifies gaps between the needs of LGBT older adults and services they are provided. The ACL must continue collecting data, while preserving respondent privacy, on whether the aging network is reaching LGBT older adults in order to ensure the maximum inclusion of LGBT older adults in programs funded under the Older Americans Act (OAA)

We urge ACL to retain LGBT demographic questions in the NSOAAP. Asking demographic questions about sexual orientation and gender identity increases the quality, utility, and clarity of the information collected. We further believe that by continuing to collect this data in the NSOAAP, and learning more about this population, ACL and the aging network will help more LGBT older adults to live independently, minimize the burden on the aging network, and ultimately save taxpayer resources by reaching those who are most vulnerable.

Sincerely,

A handwritten signature in black ink, appearing to read "Faiz Shakir". The signature is fluid and cursive, with the first name "Faiz" and last name "Shakir" clearly distinguishable.

Faiz Shakir
National Political Director

A handwritten signature in black ink, appearing to read "Ian S. Thompson". The signature is cursive and elegant, with the first name "Ian" and last name "Thompson" clearly distinguishable.

Ian S. Thompson
Legislative Representative