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### Publication Date

2019-09-24

### Data Availability

The data associated with this publication are not available for this reason: Licensing restrictions

RESEARCH THAT MATTERS

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# DISCRIMINATION AGAINST LGBT PEOPLE IN OKLAHOMA

September 2019

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## EXECUTIVE SUMMARY

Over 4.5% of American adults identify as LGBT. Approximately 113,000 LGBT adults live in Oklahoma. Oklahoma does not have a statewide law that expressly prohibits discrimination based on sexual orientation or gender identity, leaving LGBT people vulnerable to harassment and discrimination in the state.

This report summarizes evidence of discrimination against LGBT people in Oklahoma, explains the current protections from sexual orientation and gender identity discrimination in Oklahoma cities, and estimates the administrative impact of adding sexual orientation and gender identity to the state's existing non-discrimination laws.

## KEY FINDINGS

### LGBT people in Oklahoma report experiencing discrimination and harassment in employment, housing, public accommodations, and other settings

- An estimated 113,000 LGBT adults live in Oklahoma. There are approximately 74,000 LGBT people aged 16 and older in Oklahoma's workforce.<sup>1</sup>
- Survey data indicate that LGBT people experience discrimination across the U.S., including in Oklahoma. For example, a 2016 survey conducted by the Center of American Progress found that 25% of LGBT people in the U.S. had experienced some type of discrimination within the past year.<sup>2</sup> In addition, the 2015 U.S. Transgender Survey found that 26% of transgender respondents from Oklahoma who held or applied for a job in the prior year reported that they had been fired, denied a promotion, or not hired because of their gender identity or expression.<sup>3</sup> In addition, 15% of transgender survey respondents from Oklahoma reported experiencing some form of housing discrimination, such as being evicted or denied housing, in the prior year because of their gender identity or expression.<sup>4</sup> And, 25% of respondents who visited a place of public accommodation in Oklahoma where employees knew or thought they were transgender reported experiencing some form of mistreatment, including denial of equal treatment or service, verbal harassment, or physical assault in the prior year.<sup>5</sup>
- In addition, aggregated data from two large public opinion polls conducted between 2011 and 2013 indicated that 78% of Oklahoma residents thought that LGBT people experience discrimination in the state.<sup>6</sup> Another public opinion poll conducted in 2016 found that 51% of Oklahoma residents thought that gay and lesbian people experience a lot of discrimination in the U.S. and 55% of Oklahoma residents thought that transgender people experience a lot of discrimination in the U.S.<sup>7</sup>
- National survey data on discrimination against LGBT people are consistent with data from Oklahoma. For example, a national survey of LGBT people conducted by Pew Research Center in 2013 found that 21% of respondents said that they had been treated unfairly by an employer in hiring, pay, or promotions and 23% had received poor service at a restaurant, hotel, or other place of business because of their sexual orientation or gender identity.<sup>8</sup>
- Reports of discrimination based on sexual orientation and gender identity in Oklahoma have also been documented in court cases and the media.

**Research indicates that LGBT people in Oklahoma experience economic instability.**

- Data collected through the Gallup Daily Tracking Poll indicate that LGBT people in Oklahoma experience poor socioeconomic outcomes:<sup>9</sup>
  - 28% of LGBT adults in Oklahoma reported having a household income below \$24,000 compared to 24% of non-LGBT adults.
  - 25% of LGBT adults in Oklahoma reported that they did not have health insurance compared to 16% of non-LGBT adults.
  - 36% of LGBT adults in Oklahoma reported not having enough money for food compared to 19% of non-LGBT adults.
  - 11% of LGBT adults in Oklahoma reported being unemployed compared to 5% of non-LGBT adults.<sup>10</sup>
- Research has linked socioeconomic disparities for LGBT people to geographic regions, such as the South, with fewer legal protections and a poorer social climate for LGBT people.

**Local governments, private employers, and public universities in Oklahoma have made efforts to protect LGBT people from discrimination and harassment, but coverage is incomplete.**

- One city in Oklahoma, Norman, has a local ordinance that prohibits discrimination based on sexual orientation and gender identity in employment, housing, and public accommodations. Three other cities, Lindsay, Oklahoma City and Tulsa, have ordinances that prohibit discrimination based on sexual orientation and gender identity in housing, but not in other areas.
- The four local ordinances protect approximately 29% of adults in Oklahoma from discrimination in housing based on sexual orientation and gender identity. Norman's more comprehensive ordinance also protects approximately 3% of adults in Oklahoma from discrimination in public accommodations and 3% of Oklahoma's workforce from discrimination in employment based on sexual orientation and gender identity.<sup>11</sup>
- Many of Oklahoma's largest corporate employers have adopted internal policies prohibiting discrimination against LGBT people. Of the 20 largest private sector employers in the state, 15 have policies that prohibit employment discrimination based on sexual orientation, and 13 also prohibit discrimination based on gender identity. In addition, several colleges and universities in Oklahoma prohibit discrimination based on sexual orientation and gender identity, including Oklahoma's two largest universities, the University of Oklahoma and Oklahoma State University.
- Despite these policies, many LGBT Oklahoma residents are not protected from discrimination based on sexual orientation or gender identity absent a statewide non-discrimination law that includes these characteristics.

**Public opinion in Oklahoma supports the passage of non-discrimination protections for LGBT people.**

- In response to a 2018 poll, 55% of those polled in Oklahoma said they favor laws protecting LGBT people from discrimination in employment, housing, and public accommodations.<sup>12</sup>
- In response to a national poll conducted in 2011, 68% of those polled in Oklahoma said that

Congress should pass a federal law to prohibit employment discrimination based on sexual orientation and gender identity.<sup>13</sup>

**A statewide law prohibiting discrimination based on sexual orientation and gender identity in Oklahoma would not be administratively burdensome or costly to enforce.**

- Adding sexual orientation and gender identity to Oklahoma’s non-discrimination law would result in an estimated 42 additional complaints, on average, being filed with the Oklahoma Attorney General’s Office of Civil Rights Enforcement each year.
- The additional complaints could likely be absorbed into the existing enforcement system with no need for additional staff and negligible costs.

# EVIDENCE OF DISCRIMINATION

## SURVEY DATA AND REPORTS OF DISCRIMINATION

Discrimination against LGBT people in the U.S. has been well documented. For example, a 2016 survey conducted by the Center of American Progress found that 25% of LGBT people had experienced some type of discrimination within the past year.<sup>14</sup> Similarly, a 2013 national survey conducted by Pew Research Center found that 21% of LGBT respondents in the U.S. reported that they had been treated unfairly by an employer in hiring, pay, or promotions and 23% had received poor service at a restaurant, hotel, or other place of business because of their sexual orientation or gender identity.<sup>15</sup> Another national survey conducted in 2017 by NPR, the Robert Wood Johnson Foundation, and Harvard T.H. Chan School of Public Health found that 20% of LGBTQ respondents reported being discriminated against when applying for jobs and 22% of LGBTQ respondents reported being discriminated against when trying to rent an apartment or buy a house because of their sexual orientation or gender identity.<sup>16</sup> LGBTQ people of color were more likely to report experiencing employment discrimination in response to the survey than white LGBTQ respondents.<sup>17</sup> Further, 16% of LGBTQ respondents said they had been discriminated against by a doctor or health clinic based on their sexual orientation or gender identity, and 18% said they had avoided going to a doctor or seeking health care because they were afraid of discrimination.<sup>18</sup>

When transgender people are surveyed separately, they report similar or higher levels of discrimination. For example, the 2015 U.S. Transgender Survey found that 27% of respondents in the U.S. who held or applied for a job within the prior year reported being fired, denied a promotion, or not being hired because of their gender identity or expression, and 15% reported being verbally harassed, physically attacked, and/or sexually assaulted at work in the year prior to the survey because of their gender identity.<sup>19</sup> Further, 23% of transgender respondents nationwide reported experiencing some form of housing discrimination in the past year and 31% reported experiencing at least one type of mistreatment in the past year in a place of public accommodation.<sup>20</sup>

Among transgender respondents to the 2015 U.S. Transgender Survey from Oklahoma, 26% of those who held or applied for a job in the prior year reported that they had been fired, denied a promotion, or not hired for a job they applied for because of their gender identity or expression.<sup>21</sup> Further, nearly one in five (18%) respondents from Oklahoma reported being verbally harassed and 1% reported being physically assaulted at work in the prior year because of their gender identity or expression. In addition, 15% of transgender survey respondents from Oklahoma reported experiencing some form of housing discrimination, such as being evicted or denied housing, in the prior year because of their gender identity or expression.<sup>22</sup> And, 25% of respondents who visited a place of public accommodation where employees knew or thought they were transgender reported experiencing at least one type of mistreatment: 13% of respondents said they had been denied equal treatment or service, 16% said they had been verbally harassed, and 1% were physically assaulted because of their gender identity or expression in a place of public accommodation.<sup>23</sup>

In addition, public opinion polls indicate that people in Oklahoma, both LGBT and non-LGBT, think LGBT people experience discrimination. An analysis of aggregated data from two national public opinion polls conducted between 2011 and 2013 found that 78% of Oklahoma residents thought that LGBT people experience discrimination in the state.<sup>24</sup> Another public opinion poll conducted

in 2016 found that 51% of Oklahoma residents thought that gay and lesbian people experience a lot of discrimination in the U.S. and 55% of Oklahoma residents thought that transgender people experience a lot of discrimination in the U.S.<sup>25</sup>

Reports of discrimination against LGBT people in the U.S. have also been documented in court cases, administrative complaints, complaints to community-based organizations, academic journals, newspapers, books, and other media. Additionally, a number of federal, state, and local administrative agencies and legislative bodies have acknowledged that LGBT people have faced widespread discrimination.<sup>26</sup>

Documented reports of discrimination based on sexual orientation and gender identity in Oklahoma include:

- In 2015, a transgender professor filed a lawsuit against Southeastern Oklahoma State University alleging that the school discriminated against her based on sex in violation of Title VII of the Civil Rights Act of 1964.<sup>27</sup> According to the complaint, the professor informed the school that she was transgender in the summer of 2007 and transitioned prior to the 2007-2008 academic year.<sup>28</sup> The professor said that after she notified the university about her transition, the human resources office warned her that the Vice President for Academic Affairs “had inquired whether [the professor] could be fired because her ‘transgender lifestyle’ offended his beliefs.”<sup>29</sup> After the professor returned to teach, the director of Southeastern’s Counseling Center told her that the Vice President for Academic Affairs “considered transgender people ‘a grave offense to his [religious sensibilities].”<sup>30</sup> The professor was denied tenure in 2009, despite positive recommendations from her department chair and the review committee, and was not permitted to reapply the following year.<sup>31</sup> The professor’s complaint alleged that the university discriminated against her because she was transgender, a form of discrimination based on sex prohibited by Title VII.<sup>32</sup> A jury agreed and awarded the professor \$1.1 million.<sup>33</sup>
- In 2015, the Oklahoma Tax Commission denied an application for a personalized license plate reading “LGBTALY” to an Oklahoma man, saying that it “carries a sexual connotation.” The applicant was a straight man and ally of the LGBT community who “feels there is too much discrimination against the gay community in Oklahoma.”<sup>34</sup>
- In 2014, a former employee of Chuy’s in Norman filed a lawsuit against the restaurant alleging that it discriminated against her based on her sex and sexual orientation and that such discrimination is a form of sex discrimination prohibited by Title VII.<sup>35</sup> The employee argued that sexual orientation discrimination is a form of sex discrimination prohibited by Title VII.<sup>36</sup> According to the employee, her coworkers made disparaging remarks about her sexual orientation.<sup>37</sup> For example, she was told, “Nobody cares because you’re a lesbian” and “shut up, lesbian.”<sup>38</sup> Her manager also reportedly made comments about her appearance.<sup>39</sup> After management failed to address the harassment, the employee filed a discrimination complaint with the U.S. Equal Employment Opportunity Commission.<sup>40</sup> The employee was terminated the day after she filed the complaint.<sup>41</sup> The employee filed suit in a federal district court after the EEOC issued a right to sue.<sup>42</sup> The district court dismissed the employee’s discrimination and retaliation claims based on sexual orientation, reasoning that “Title VII does not extend to claims based on sexual orientation,” but did not address the sex discrimination claims.<sup>43</sup>

- In 2014, a restaurant owner in Enid received media attention after making derogatory comments about LGBT people, people of color, and people with disabilities. The restaurant owner said to the media, "I don't want gays around. Any man that would compromise his own body would compromise anything," and, "I've been in business 44 years, I think I can spot a freak or a f\*\*\*\*\*."44
- In 2013, two examples of housing discrimination against LGBT people were reported to the media. In one instance, a landlord told a same-sex couple to remove a rainbow pride flag from the front of their apartment, even though they had previously displayed the Mexican flag without any complaints. In the second case, a landlord told a same-sex couple they weren't welcome at the building because of "God's law."<sup>45</sup>
- In 2009, a teacher who planned to move from Indiana to Oklahoma for a teaching job had his contract rescinded by an Oklahoma City school allegedly because of his sexual orientation.<sup>46</sup> The school had offered the teacher a one-year teaching contract which included language implying that the teacher could only be fired during that period "for cause." The school also had a non-discrimination policy which prohibited discrimination based on sexual orientation. However, after learning that the teacher was gay, the school canceled the contract. The teacher subsequently brought suit against the school for breach of contract, alleging that because the school had a sexual orientation non-discrimination policy, the cancellation of the contract was invalid. A trial court in Oklahoma dismissed the suit in favor of the school, but an appellate court overturned the decision, finding that terminating the teacher because of his sexual orientation in violation of the school's policy could constitute a breach of contract. No further information about the case is publicly available.

## SOCIOECONOMIC OUTCOMES FOR LGBT PEOPLE

Research has found that gay men and transgender people experience wage gaps,<sup>47</sup> and has found a correlation between lower earnings and lack of state-level protections from discrimination for LGBT people.<sup>48</sup> Research also indicates that LGBT people, in general, are disproportionately poor,<sup>49</sup> and that social climate and policy are linked determinants of poverty among LGBT communities.<sup>50</sup>

Data from the Gallup Daily Tracking Poll suggest that LGBT people in Oklahoma experience economic instability:<sup>51</sup>

- 28% of LGBT adults in Oklahoma reported having a household income below \$24,000 compared to 24% of non-LGBT adults.
- 25% of LGBT adults in Oklahoma reported that they did not have health insurance compared to 16% of non-LGBT adults.
- 36% of LGBT adults in Oklahoma reported not having enough money for food compared to 19% of non-LGBT adults.
- 11% of LGBT adults in Oklahoma reported being unemployed compared to 5% of non-LGBT adults.<sup>52</sup>



## CURRENT PROTECTIONS FROM DISCRIMINATION

Oklahoma state law does not prohibit discrimination on the basis of sexual orientation or gender identity in employment, housing, or public accommodations.<sup>53</sup> Although there is no state-level protection in Oklahoma, several localities, universities, and private corporations in the state have adopted local ordinances and internal policies that prohibit discrimination based on sexual orientation and gender identity. Despite these policies, many LGBT Oklahoma residents are not protected from discrimination based on sexual orientation or gender identity absent a statewide non-discrimination law that includes these characteristics.

### EXISTING NON-DISCRIMINATION STATUTES

#### Oklahoma Anti-Discrimination Act

The Oklahoma Anti-Discrimination Act (“the Act”) prohibits discrimination based on race, religion, sex, national origin, age, and disability in employment, housing and public accommodations.<sup>54</sup> The Act additionally prohibits employment discrimination based on genetic information and housing discrimination based on familial status.<sup>55</sup> It does not explicitly prohibit discrimination based on sexual orientation or gender identity.

The Oklahoma Attorney General’s Office of Civil Rights Enforcement is responsible for enforcing the Act.<sup>56</sup> The Office of Civil Rights Enforcement has the power to investigate complaints and may hold administrative hearings.<sup>57</sup> The Act also provides a private right of action in cases of employment and housing discrimination, allowing individuals who have experienced discrimination to file a complaint in court.<sup>58</sup> If a court determines that unlawful discrimination has occurred, it may award remedies including monetary damages, attorney’s fees, and reinstatement in cases of employment discrimination.<sup>59</sup>

### LOCAL PROTECTIONS FROM DISCRIMINATION

Four cities in Oklahoma provide protections from discrimination based on sexual orientation and gender identity through local ordinances: Lindsay, Norman, Oklahoma City, and Tulsa.<sup>60</sup> The ordinances vary in scope and coverage. Norman’s non-discrimination ordinance is the broadest, prohibiting discrimination based on sexual orientation and gender identity in employment, housing, and public accommodations.<sup>61</sup> Ordinances in Lindsay, Oklahoma City, and Tulsa are more limited and prohibit discrimination based on sexual orientation and gender identity only in housing; the protections do not apply employment, public accommodations, or other areas.<sup>62</sup>

Ordinances in all four localities provide for administrative enforcement through a designated city official or entity.<sup>63</sup> These officials and entities have the power to receive and investigate complaints, and may hold mediations or hearings if they determine that discrimination has occurred.<sup>64</sup> However, only Norman’s ordinance specifies the remedies that can be ordered by the city’s Human Rights Commission, including hiring, reinstatement, and entry into a public accommodation.<sup>65</sup> Additionally, only Lindsay’s ordinance provides for a private right of action, allowing individuals to file a lawsuit and seek remedies in court for discrimination.<sup>66</sup> If a court finds that discrimination has occurred, it may award the same remedies that are available under the Oklahoma Anti-Discrimination Act, including monetary damages, court costs, and attorney’s fees.<sup>67</sup>

The majority of adults in Oklahoma are not protected from discrimination based on sexual orientation or gender identity under these local ordinances. The four local ordinances protect 29% of adults in Oklahoma from discrimination in housing based on sexual orientation and gender identity. Norman's more comprehensive ordinance also protects 3% of adults in Oklahoma from discrimination in public accommodations and 3% of Oklahoma's workforce from discrimination in employment based on sexual orientation and gender identity.<sup>68</sup> In addition, even where protections exist, remedies under the ordinances are more limited than those available under the statewide non-discrimination law.

In addition to these ordinances, several localities have adopted personnel policies that prohibit discrimination based on sexual orientation and gender identity against their own government employees.<sup>69</sup>

## CORPORATE AND UNIVERSITY POLICIES PROHIBITING DISCRIMINATION

Research indicates that private companies often adopt internal policies prohibiting employment discrimination based on personal characteristics, including sexual orientation and gender identity, because they make good business sense. For example, one study of corporate motivations behind adopting workplace non-discrimination policies found that 53% of the top 50 Fortune 500 companies and the top 50 federal contractors in the U.S. with LGBT-inclusive policies had adopted the policies for economic reasons.<sup>70</sup> The specific economic benefits these companies pointed to included improved recruitment and retention of employees, increased employee productivity and customer satisfaction, an expanded customer base, and others. Additionally, a growing body of academic research supports the link between LGBT-inclusive corporate policies and several positive business-related outcomes, including greater job commitment, improved workplace relationships, increased job satisfaction, and improved health outcomes among LGBT employees.<sup>71</sup>

Many of Oklahoma's largest employers have adopted internal policies that prohibit employment discrimination against LGBT people. Of the 20 largest private sector employers in the state, 15 have policies that prohibit employment discrimination based on sexual orientation, and 13 also prohibit discrimination based on gender identity.<sup>72</sup>

Additionally, several colleges and universities in Oklahoma prohibit discrimination based on sexual orientation and gender identity, including Oklahoma's two largest universities, the University of Oklahoma and Oklahoma State University.<sup>73</sup>

## PUBLIC SUPPORT FOR NON-DISCRIMINATION PROTECTIONS

Public opinion in Oklahoma supports the passage of non-discrimination protections for LGBT people. In response to PRRI's 2018 American Values Survey, 62% of Oklahoma residents said they supported laws that would protect LGBT people from discrimination in employment, housing, and public accommodations.<sup>74</sup> Additionally, in response to a national poll conducted in 2011, 68% of those polled in Oklahoma said that Congress should pass a federal law to prohibit employment discrimination based on sexual orientation and gender identity.<sup>75</sup>

## ADMINISTRATIVE IMPACT

### ADDING SEXUAL ORIENTATION AND GENDER IDENTITY TO NON-DISCRIMINATION LAWS

Adding sexual orientation and gender identity to the Oklahoma Anti-Discrimination Act would allow LGBT people to file discrimination complaints with the state. The Oklahoma Attorney General's Office of Civil Rights Enforcement would be responsible for handling the complaints. The additional complaints would have a minimal impact on staff and resources and would not be burdensome or costly for the agency to enforce.

#### Complaint Estimate

Despite the persistence and pervasiveness of discrimination against LGBT people, studies show that enforcing sexual orientation and gender identity provisions in non-discrimination laws has only a minimal burden on state agencies. LGBT people file complaints of sexual orientation and gender identity discrimination at approximately the same rate as people of color and women file complaints of race and sex discrimination, respectively.<sup>76</sup> However, because the LGBT population is small, the absolute number of sexual orientation and gender identity complaints filed under state non-discrimination laws is low.<sup>77</sup>

Oklahoma's non-discrimination law allows individuals who believe they have experienced discrimination to file complaints with the Oklahoma Attorney General's Office of Civil Rights Enforcement. We estimate that approximately 42 complaints of sexual orientation or gender identity discrimination would be filed with the Office of Civil Rights Enforcement each year if sexual orientation and gender identity were added to the state's non-discrimination law. To reach this estimate, we drew on data from Oklahoma collected by Gallup and the U.S. Census Bureau to estimate the size of the LGBT workforce and adult population in the state, and applied national sexual orientation and gender identity complaint rates to that population.<sup>78</sup>

First, data from the Gallup Daily Tracking Poll and the American Community Survey indicate that there are 74,000 LGBT workers age 16 and older and 113,000 LGBT adults in Oklahoma.

Next, we applied the rate of complaints filed on the basis of sexual orientation or gender identity to the number of LGBT adults and LGBT workers in Oklahoma to determine how many complaints would be filed annually if these characteristics were added to Oklahoma's non-discrimination law. We used the national average complaint rates from a series of studies that analyzed administrative complaint data from states that prohibited sexual orientation and gender identity discrimination as of 2015.<sup>79</sup> The studies found that across these states, the average rate of employment discrimination complaints filed on the basis of sexual orientation or gender identity was 4.6 per 10,000 LGBT workers;<sup>80</sup> the average rate of housing discrimination complaints was 3 per 100,000 LGBT adults;<sup>81</sup> and the average rate of public accommodations complaints was 4 per 100,000 LGBT adults.<sup>82</sup>

Applying the national complaint rates to the LGBT population in Oklahoma suggests that 42 additional complaints of discrimination in employment, housing, or public accommodations would be filed annually if sexual orientation and gender identity were added to Oklahoma's existing non-discrimination law. More specifically, applying the national complaint rate for employment

discrimination (4.6 per 10,000 LGBT workers) to the number of LGBT workers in Oklahoma (74,000) suggests that 34 complaints of employment discrimination based on sexual orientation or gender identity would be filed annually; and applying the national complaint rates for housing (3 per 100,000 LGBT adults) and public accommodations discrimination (4 per 100,000 LGBT adults) to the number of LGBT adults in Oklahoma (113,000) suggests that 3 complaints of housing discrimination and 5 complaints of public accommodations discrimination would be filed annually.

### Cost of Enforcement

Available data suggest that an additional 42 complaints filed with the Oklahoma Attorney General’s Office of Civil Rights Enforcement each year would not be costly or burdensome to enforce. According to state budget reports, the Oklahoma Human Rights Commission, which enforced the non-discrimination law prior to being dissolved in 2012,<sup>83</sup> received or expected an annual average of 616 complaints<sup>84</sup> of discrimination from year 2006 through 2010.<sup>85</sup> More recent budget reports do not provide the number of discrimination complaints handled by the Office of Civil Right Enforcement.

The annual budget reports do not provide enough data to determine the cost of enforcement per complaint, so it is not possible to precisely estimate any added expense associated with the additional 42 complaints. However, the data suggest that the additional complaints would have a minimal impact on the Office. The annual number of complaints received or expected by the Commission varied from 453 to 748 over the five fiscal year periods from 2006 to 2010. On average, annual filings from 2006 through 2010 fluctuated by 131 complaints. Assuming that a similar number of complaints are filed annually with the Office for Civil Rights Enforcement, this information suggests that an additional 42 complaints would be within the range of normal variation and could be absorbed by the Office with minimal impact on staff and resources.

**Table 1. Number of sexual orientation and gender identity discrimination complaints filed in South Carolina, by year**

FISCAL YEAR	COMPLAINTS FILED <sup>86</sup>	CHANGE FROM PRIOR YEAR
2010	632 (expected)	-116
2009	748	152
2008	596	-57
2007	653	200
2006	453	N/A

## CONCLUSION

Documented evidence indicates that LGBT people face discrimination across the country, including in Oklahoma. There are currently no statewide laws that prohibit discrimination based on sexual orientation or gender identity in Oklahoma. Adding these characteristics to Oklahoma's non-discrimination law would provide new protections or strengthen existing protections from discrimination to approximately 113,000 LGBT adults, including 74,000 LGBT workers, in the state. Based on data from other state administrative enforcement agencies, we estimate that approximately 42 complaints of sexual orientation or gender identity discrimination would be filed in Oklahoma annually if its non-discrimination law were amended. Based on fluctuations in the annual number of complaints filed, it is likely that the additional complaints could be absorbed by the Oklahoma Attorney General's Office of Civil Rights with minimal burden on staff and resources.

## ENDNOTES

- <sup>1</sup> Williams Institute, LGBT People in the U.S. Not Protected by State Nondiscrimination Statutes 2 (2019), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Equality-Act-April-2019.pdf>.
- <sup>2</sup> SEJAL SINGH & LAURA E. DURSO, CENTER FOR AM. PROGRESS, WIDESPREAD DISCRIMINATION CONTINUES TO SHAPE LGBT PEOPLE'S LIVES IN BOTH SUBTLE AND SIGNIFICANT WAYS (2017), <https://www.americanprogress.org/issues/lgbt/news/2017/05/02/429529/widespread-discrimination-continues-shape-lgbt-peoples-lives-subtle-significant-ways/>.
- <sup>3</sup> NAT'L CTR. FOR TRANSGENDER EQUALITY, 2015 U.S. TRANSGENDER SURVEY (OKLAHOMA STATE REPORT) 1 (2017) [HEREINAFTER OKLA. STATE REPORT], <http://www.transequality.org/sites/default/files/docs/usts/USTSOKStateReport%281017%29.pdf>.
- <sup>4</sup> *Id.* at 2.
- <sup>5</sup> *Id.*
- <sup>6</sup> Andrew Flores & Scott Barclay, Williams Institute Analysis based on public opinion data from Evaluations of Government and Society Study, Survey 3 (2011) & Survey 4 (2012) and Pew Research Center Poll (2013) (data and calculations on file with author).
- <sup>7</sup> PRRI, American Values Atlas: Oklahoma, <http://ava.prrri.org/#discrimination/2016/States/trnsdis/m/US-OK> (under dropdown menu for "Select Question" select "Discrimination against gay and lesbian people" or "Discrimination against transgender people," under dropdown menu for "Select Response" select "Yes," under dropdown menu for "Year" select "2016").
- <sup>8</sup> A SURVEY OF LGBT AMERICANS: ATTITUDES, EXPERIENCES AND VALUES IN CHANGING TIMES, PEW RESEARCH CENTER (2003), <http://www.pewsocialtrends.org/2013/06/13/a-survey-of-lgbt-americans/>.
- <sup>9</sup> Williams Institute, LGBT Data and Demographics: Oklahoma (Jan. 2019), <https://williamsinstitute.law.ucla.edu/visualization/lgbt-stats/?topic=LGBT&area=40#density>.
- <sup>10</sup> *Id.* Unstable estimate due to an insufficient sample size (n<30) and/or 95% confidence interval width as per suppression guidance provided in Nat'l Ctr. For Health Stats., U.S. Dep't of Health and Human Svcs., *National Center for Health Statistics Data Presentation Standards for Proportions*, 2 VITAL HEALTH STAT. 175 (2017).
- <sup>11</sup> Calculated by authors using population and labor force data by state and locality from the American Community Survey: American FactFinder, U.S. CENSUS BUREAU, <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (last accessed July 24, 2019).
- <sup>12</sup> PRRI, American Values Atlas: Oklahoma, <http://ava.prrri.org/#lgbt/2018/States/lgbtdis/m/US-OK> (under dropdown menu for "Select Question" select "LGBT Nondiscrimination Law"; under dropdown menu for "Year" select "2018").
- <sup>13</sup> Andrew Flores & Scott Barclay, Williams Institute Analysis based on public opinion data from Public Religion Research Institute Survey (2011) (data and calculations on file with author).
- <sup>14</sup> SEJAL SINGH & LAURA E. DURSO, CENTER FOR AM. PROGRESS, WIDESPREAD DISCRIMINATION CONTINUES TO SHAPE LGBT PEOPLE'S LIVES IN BOTH SUBTLE AND SIGNIFICANT WAYS (2017), <https://www.americanprogress.org/issues/lgbt/news/2017/05/02/429529/widespread-discrimination-continues-shape-lgbt-peoples-lives-subtle-significant-ways/>.
- <sup>15</sup> A SURVEY OF LGBT AMERICANS: ATTITUDES, EXPERIENCES AND VALUES IN CHANGING TIMES, *supra* note 7. Additionally, the nationally representative 2008 General Social Survey found that 37% of gay men and lesbians reported experiencing workplace harassment in the last five years, and 12% reported losing a job because of their sexual orientation. BRAD SEARS & CHRISTY MALLORY, WILLIAMS INST., DOCUMENTED EVIDENCE OF EMPLOYMENT DISCRIMINATION & ITS EFFECTS ON LGBT PEOPLE 2 (2011), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Sears-Mallory-Discrimination-July-2011.pdf>.
- <sup>16</sup> NPR, ROBERT WOOD JOHNSON FOUNDATION & HARVARD T.H. CHAN SCHOOL OF PUBLIC HEALTH, DISCRIMINATION IN AMERICA: EXPERIENCES AND VIEWS OF LGBTQ AMERICANS 1 (2017), [https://www.rwjf.org/content/dam/farm/reports/surveys\\_and\\_polls/2017/rwjf441734](https://www.rwjf.org/content/dam/farm/reports/surveys_and_polls/2017/rwjf441734).
- <sup>17</sup> *Id.* at 11.
- <sup>18</sup> *Id.* at 1.
- <sup>19</sup> SANDY JAMES ET AL., 2015 U.S. TRANSGENDER SURVEY 12 (2016), <http://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF>.
- <sup>20</sup> *Id.* at 13, 16.
- <sup>21</sup> S.C. STATE REPORT, *supra* note 2.
- <sup>22</sup> *Id.* at 2.
- <sup>23</sup> *Id.*

<sup>24</sup> Andrew Flores & Scott Barclay, *supra* note 5.

<sup>25</sup> PRRI, American Values Atlas: Oklahoma, <http://ava.prrri.org/#discrimination/2016/States/trnsdis/m/US-OK> (under dropdown menu for “Select Question” select “Discrimination against gay and lesbian people” or “Discrimination against transgender people;” under dropdown menu for “Select Response” select “Yes;” under dropdown menu for “Year” select “2016”).

<sup>26</sup> CHRISTY MALLORY & BRAD SEARS, WILLIAMS INST., DOCUMENTED EVIDENCE OF EMPLOYMENT DISCRIMINATION & ITS EFFECTS ON LGBT PEOPLE (2011), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Sears-Mallory-Discrimination-July-20111.pdf>.

<sup>27</sup> Complaint, Tudor v. Southeastern Oklahoma State Univ., No. CIV-15-324-C (W.D. Okla. Mar. 30. 2015).

<sup>28</sup> *Id.* at 4.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 5.

<sup>31</sup> *Id.* at 8-13.

<sup>32</sup> *Id.* at 1.

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<sup>35</sup> Complaint, Gordineer v. Chuy’s, No. CIV-14-1257-HE (W.D. Okla. Nov. 11, 2014).

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<sup>37</sup> *Id.* at 3.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 2.

<sup>40</sup> *Id.* at 4.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* at 5.

<sup>43</sup> Gordineer v. Chuy’s, No. CIV-14-1257-HE, 2015 U.S. Dist. LEXIS 9633 (W.D. Okla. Jan. 28, 2015).

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<sup>45</sup> Wayne Greene, *Bias Found in Same-Sex Housing*, TULSA WORLD, June 29, 2013, at A.8.

<sup>46</sup> Sexton v. Kipp Reach Acad. Charter Sch., Inc., 260 P.3d 435 (Okla. Civ. App. 2011).

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<sup>56</sup> OKLA. STAT. tit. 25, § 1501(A)(4).

<sup>57</sup> OKLA. STAT. tit. 25, §§ 1350, 1502.

<sup>58</sup> *Id.*

<sup>59</sup> OKLA. STAT. tit. 25, §§ 1350(G), 1506.3.

<sup>60</sup> LINDSAY, OKLA., CODE APP. D. §§ 4-6 (2019); NORMAN, OKLA., CODE §§ 7-104, 7-115, 7-117 (2019); City Council of Norman Okla., Res. No. R-1516-65 (Dec. 22, 2015); OKLAHOMA CITY, OKLA., CODE § 25-39 (2019); TULSA, OKLA., CODE § 5-104 (2019).

<sup>61</sup> NORMAN, OKLA., CODE §§ 7-104, 7-115, 7-117. Norman’s codified non-discrimination ordinance does not expressly include the terms “sexual orientation” or “gender identity”, however the City Council issued a resolution interpreting the term “sex” in the ordinance to include both sexual orientation and gender identity. City Council of Norman Okla., Res. No. R-1516-65 (Dec. 22, 2015).

<sup>62</sup> See note 58, *supra*.

<sup>63</sup> LINDSAY, OKLA., CODE APP. D. § 8, 10; NORMAN, OKLA., CODE §§ 7-119; OKLAHOMA CITY, OKLA., CODE § 25-43; TULSA, OKLA., CODE § 5-107.

<sup>64</sup> *Id.*

<sup>65</sup> NORMAN, OKLA., CODE §§ 7-126.

<sup>66</sup> LINDSAY, OKLA., CODE APP. D. § 12(D).

<sup>67</sup> *Id.* § 12.

<sup>68</sup> Calculated by authors using population and labor force data by state and locality from the American Community Survey: American FactFinder, U.S. CENSUS BUREAU, <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (last accessed July 24, 2019).

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<sup>70</sup> BRAD SEARS & CHRISTY MALLORY, ECONOMIC MOTIVES FOR ADOPTING LGBT-RELATED WORKPLACE POLICIES, WILLIAMS INST. (2011), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Mallory-Sears-Corp-Statements-Oct2011.pdf>.

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<sup>77</sup> MALLORY & SEARS, EVIDENCE OF DISCRIMINATION IN PUBLIC ACCOMMODATIONS BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY, *supra* note 74, at 1.

<sup>78</sup> We have used this methodology to estimate the number of complaints that would be filed on the basis of sexual orientation and gender identity in other states. See DISCRIMINATION, WILLIAMS INST., <https://williamsinstitute.law.ucla.edu/category/research/discrimination/> (last visited Mar. 9, 2019) (collecting various state-focused articles that use the same methodology).

<sup>79</sup> "National average" refers to the average of the complaint rates in the states that provided data for the studies. MALLORY & SEARS, EVIDENCE OF EMPLOYMENT DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY, *supra* note 74; MALLORY & SEARS, EVIDENCE OF HOUSING DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY, *supra* note 74; MALLORY & SEARS, EVIDENCE OF DISCRIMINATION IN PUBLIC ACCOMMODATIONS BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY, *supra* note 74 (all studies cited). The data gathered for the studies included all discrimination complaints filed on the basis of sexual orientation and gender identity; it was not limited to complaints filed by LGBT people. Heterosexual, non-transgender employees may also file complaints under sexual orientation and gender identity non-discrimination laws if they were discriminated against because of their heterosexuality, gender identity, or because they were perceived to be LGBT. However, we use the LGBT population as the underlying population for purposes of our analysis because LGBT people likely file the vast majority of sexual orientation and gender identity discrimination complaints. See William B. Rubenstein, *Do Gay Rights Laws Matter?: An Empirical Assessment*, 75 S. Cal. L. Rev. 66, 79-81 (2001).

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<sup>81</sup> MALLORY & SEARS, EVIDENCE OF HOUSING DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY, *supra* note 74, at 1.

<sup>82</sup> MALLORY & SEARS, EVIDENCE OF DISCRIMINATION IN PUBLIC ACCOMMODATIONS BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY, *supra* note 74, at 1.

<sup>83</sup> *Oklahoma Human Rights Commission Ceases Operations as of June 30*, MCAFEETAFT.COM (June 18, 2012), <https://www.mcafeetaft.com/oklahoma-human-rights-commission-ceases-operations-as-of-june-30/>.

<sup>84</sup> The total number of complaints includes employment and housing discrimination complaints which are handled by the Office according to procedures established by the U.S. Equal Employment Opportunity Commission and the U.S. Department of Housing and Urban Development (the enforcement costs of which are reimbursed by the EEOC and HUD) and other complaints handled by the Office which fall outside of those two enforcement programs. See, e.g., BRAD HENRY, GOV., FY-2010 EXEC. BUDGET HISTORICAL DO. 470-73 (2009), <http://www.ok.gov/OSF/documents/bud10hd.pdf>.

<sup>85</sup> The annual average number of complaints is based on the number of complaints filed from 2006 to 2010, the four most recent years for which complete data are available. *Id.* at 470-73; BRAD HENRY, GOV., FY-2009 EXEC. BUDGET HISTORICAL DOC. 401-03 (2008), <http://www.ok.gov/OSF/documents/bud09hd.pdf>; BRAD HENRY, GOV., FY-2011 EXEC. BUDGET HISTORICAL DOC. 429-30 (2010), <https://www.ok.gov/OSF/documents/bud11hd.pdf>.

<sup>86</sup> Data in this table can be found in the 2009-2012 Oklahoma Executive Budget reports, *supra* note 83.

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The Williams Institute is dedicated to conducting rigorous, independent research on sexual orientation and gender identity law and public policy. A think tank at UCLA Law, the Williams Institute produces high-quality research with real-world relevance and disseminates it to judges, legislators, policymakers, media and the public. These studies can be accessed at the Williams Institute website.

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