



Cultural Competency in Representing LGBTQ+ Asylum Seekers

Presented by Ari Jones, Staff Attorney & Outreach Coordinator
Pronouns They/Them

Agenda



•Terminology



Tips for providers



Major barriers to asylum



Overcoming barriers



Discussion & feedback



oasis
LEGAL SERVICES™

Est. 2017



Oasis Legal Services: An Introduction

- **Our mission:** Oasis Legal Services proudly provides quality legal immigration services to under-represented low-income groups with a focus on LGBT+ communities. By acknowledging, respecting, and honoring their struggles, we empower immigrants so that dignity grows and integrity blooms.
- We are a nonprofit 501(c)(3) organization providing comprehensive legal services to assist LGBTQIA+ immigrants:
 - Screening for immigration relief
 - Affirmative asylum
 - Residency
 - Citizenship
 - Family petitions

LGBTQ+ Terminology

HOW TO CORRECTLY ADDRESS & RESPECT YOUR CLIENTS

What does LGBTQ stand for?

- | | | |
|----------|-------------|---|
| L | Lesbian | A woman who is romantically and/or emotionally attracted to other women. |
| G | Gay | People who are attracted to other people of the same gender and/or sex. |
| B | Bisexual | People who can be attracted to people of the same and different gender and/or sex. |
| T | Transgender | An umbrella term for people whose gender does not align with their assignment at birth. |
| Q | Queer | People who do not identify as just heterosexual; do not use without consent. |
| + | Plus | Used to indicate that the acronym is inclusive of other identities and is expansive. |



Some more terms to know...



I Intersex

Someone born with reproductive or sexual anatomy and/or a chromosome pattern that doesn't seem to fit typical binary definitions of male or female.



GNC Gender Nonconforming

Exhibiting behavioral, cultural, or psychological traits that do not correspond with the traits typically associated with one's sex : having a gender expression that does not conform to gender norms.

More resources:

GLAAD's media guide: <https://www.glaad.org/reference>

InterACT's FAQs: <https://interactadvocates.org/faq/>

National Center for Transgender Equality: <https://transequality.org>

Sexual Orientation vs. Gender

Sexual Orientation:

Describes a person's enduring physical, romantic, and/or emotional attraction to another person or persons

Gender:

A collection of behavioral, cultural, or psychological traits associated with a particular way of being or sex



Gender Identity vs. Gender Expression

Gender Identity:

A person's internal, deeply held **sense of their gender**. For transgender people, their own internal gender identity does not match the sex they were assigned at birth. Many people have a gender identity of man or woman (or boy or girl). For some people, their gender identity does not fit neatly into one of those two choices. Unlike gender expression, gender identity is not visible to others.

Gender Expression:

External manifestations of gender, expressed through a person's name, **pronouns**, clothing, haircut, behavior, voice, and/or body characteristics. Society identifies these cues as masculine and feminine, although what is considered masculine or feminine changes over time and varies by culture. Typically, transgender people seek to align their gender expression with their gender identity, rather than the sex they were assigned at birth.



Sex is a social construct TOO!?

"Trans women are not 'biologically male'"

- Riley J. Dennis

<https://youtu.be/eWVRzGMVXbM>

Questions?

IT'S OKAY TO NOT KNOW EVERYTHING, BUT DO YOUR RESEARCH!

Tips to being a good LGBTQ+ provider

- FOLLOW your client - listen to what they say and then always do your best
- Give your client CHOICE and respect to that decision
- RESPECT their humanity - treat them as you would want to be treated
- EMPATHISE with the pain and trauma your client has experienced -
They experienced harm, but they are not broken
- CELEBRATE their diversity - be open to learning from them



A close-up, slightly wavy rainbow flag with horizontal stripes of red, orange, yellow, green, blue, and purple. The text is overlaid on the green and blue stripes.

LGBTQ+ Asylum Claims

BARRIERS AND SOLUTIONS

Major Barriers

WHY IS IT HARD FOR LGBTQ+ FOLKS TO WIN ASYLUM?

Major Barriers



One-year-bar filing
deadline



Police contact &
participation in
underground economies



Alcohol/drug use and
addiction



Proving inchoate
identity

Overcoming Barriers

SOLUTIONS & BEST PRACTICES FOR LGBTQ+ ASYLUM SEEKERS

Exceptions to One-year Bar

- **Extraordinary circumstances** within first year after entry + reasonable time
 - Serious illness or mental or physical disability
 - Lawful status
 - Legal disability
 - Ineffective assistance of counsel (with procedural hurdles)
 - Other circumstances
- **Changed circumstances** + reasonable time
 - Change in applicant's country
 - Change in applicant's personal circumstances (e.g. HIV diagnosis, transition, new laws)
- **Best Practices:**
 - Psychological evaluation and/or evidence/testimony RE: transition or other circumstances

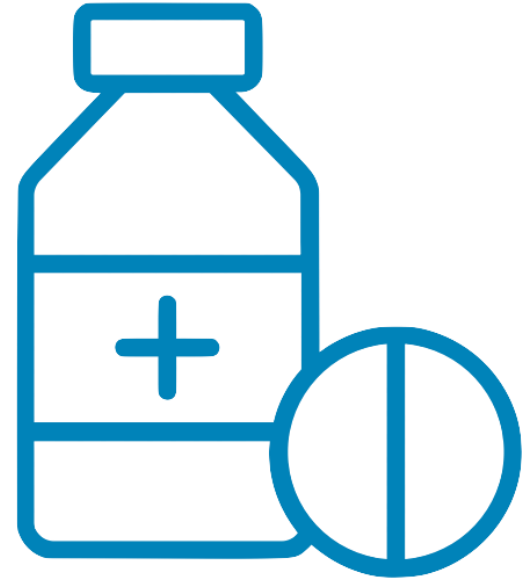
Police Contact & Criminal Conduct



- ❖ Increased policing of trans people of color and immigrants
 - ❖ Intersecting identities at the greatest risk
- ❖ Participation in underground economies is common
 - ❖ Sex work, even when formally criminalized, is not a bar to asylum*
 - ❖ "Expungement" is different from vacatur for immigration purposes
- ❖ **Best Practices:**
 - ❖ Make your client feel comfortable to tell you the truth
 - ❖ Run FBI background check with fingerprints if any police or DHS contact
 - ❖ Provide certified final court disposition or no-record letter

Alcohol, drug use, and addiction

- Substance use is a common coping mechanism
- Addiction is not a bar to asylum
 - May help to explain delay in filing for asylum
 - But asylum is a discretionary benefit
- **Best Practices:**
 - Tell the truth with a clear narrative
 - Emphasize rehabilitation and progress
 - Present evidence of good moral character



Proving SOGI Identity

- Particular Social Group (PSG) requires proving that you belong to the particular group
- Individuals use different terminology
 - **Different languages and cultures prefer different terms**
 - E.g. what is offensive/uncommon in English (transvestite, transsexual) may be affirming to a client
 - **The same terms are defined differently**
 - E.g. racism may be used to refer to all discrimination
 - E.g. gender expression may not match U.S. narratives of transition
- **Best Practices:**
 - Client-centered lawyering → affirm your clients' statements/choices
 - Be prepared to answer questions/provide resources when clients are questioning

Questions & Suggestions

What are some of your best practices?

For more information, try out Oasis's legal resources portal:

[Oasislegalservices.org](https://oasislegalservices.org)



Ari Jones (they/them) – ari.jones@oasislegalservices.org