

# JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

March 22, 2018

**Via E-Mail:** [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov)

**Attn:** OMB Desk Officer for ACL

**Re:** Agency Information Collection Activities; Submission for OMB Review; Comment Request; Revision of Existing Data Collection; National Longitudinal Survey of Older Americans Act Participants (NLSOAAP), OMB Control No. 201802-0985-002, FR Doc. 2018-03390

Justice in Aging is writing to request that the Office of Management and Budget (OMB) require amendment of the redesigned National Survey of Older Americans Act Participants (NSOAAP) prior to approval and work with the Administration on Community Living (ACL) to ensure that the survey adequately assesses the extent to which programs funded under the Older Americans Act (OAA) serve all lesbian, gay, bisexual, and transgender (LGBT) older adults.

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources. Since 1972 we have focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.

We have expertise on the unique legal needs for older LGBT individuals who too often face barriers created by the intersection of poverty and discrimination.<sup>1</sup> Data and research confirms that LGBT older adults have higher rates of social isolation and thinner support networks than their non-LGBT peers, higher rates of poverty, pronounced health disparities, and lack access to LGBT culturally competent care.<sup>2</sup>

The more we know about the disparities and needs of LGBT older adults, the more we can do to make sure our public programs are serving them. The NSOAAP survey is an important tool for gathering this information by providing critical data on whether federally-funded aging programs like Meals on Wheels, family caregiver support, adult day services, and senior centers reach all older adults, including LGBT older adults.

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<sup>1</sup> Justice in Aging, *How Can Legal Services Better Meet the Needs of Low-Income LGBT Seniors?* (June 2016), available at [www.justiceinaging.org/wp-content/uploads/2016/06/How-Can-Legal-Services-Better-Meet-the-Needs-of-Low-Income-LGBT-Seniors.pdf](http://www.justiceinaging.org/wp-content/uploads/2016/06/How-Can-Legal-Services-Better-Meet-the-Needs-of-Low-Income-LGBT-Seniors.pdf).

<sup>2</sup> 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 [www.lgbtmap.org/file/improving-the-lives-of-lgbt-older-adults.pdf](http://www.lgbtmap.org/file/improving-the-lives-of-lgbt-older-adults.pdf).

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On September 26, 2017, ACL proposed a new, longitudinal NSOAAP that would continue to collect information on the sexual orientation of OAA-funded program participants (*i.e.*, whether a respondent identifies as straight, gay, lesbian, or bisexual) but would no longer collect information on program participants' gender identity (*i.e.*, whether a respondent identifies as transgender). While we support ACL's decision to continue to collect information about program participants' sexual orientation, we are very concerned that the proposed survey will not ask respondents whether they are transgender.

Transgender older adults are among those with the greatest social and economic needs, whom the Older Americans Act is meant to serve. They are more likely than their peers, including LGB older adults, to have "physical and mental disabilities," face "cultural, social or geographic isolation," and have "an income level at or below the poverty line," all of which are criteria for prioritizing services under the Older Americans Act. At the same time, transgender older adults are at a particularly high risk of not receiving the services and supports that they need to live independently because of the shortage of culturally competent providers and the discrimination they face.<sup>3</sup> A survey that does not capture gender identity is fundamentally at odds with Congress's intent that programs funded under the OAA prioritize the neediest and most isolated segments of the population.

ACL does not dispute the need to collect information about the extent to which OAA-funded programs meet the needs of transgender older adults. Rather, in response to the many comments requesting that ACL adopt or improve the collection of data regarding the extent to which OAA-funded programs are serving the needs of transgender older adults, ACL has requested OMB's approval to conduct "cognitive testing" of the redesigned survey to determine "whether the questions are interpreted as intended." The redesigned survey only asks about the respondents' gender ("male," "female" or "don't know"), and does not ask about gender identity or otherwise provide an opportunity for respondents to indicate they are transgender. Accordingly, it is unclear how this survey question can be interpreted to provide

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<sup>3</sup> Soon Kyu Choi and Ilan H. Meyer, Williams Inst., *LGBT Aging: A Review of Research Findings, Needs, and Policy Implications* (2016), available at <http://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Aging-White-Paper.pdf>; SAGE, *Out and Visible: The Experiences and Attitudes of Lesbian, Gay, Bisexual and Transgender Older Adults, Ages 45-75* (2014), available at [www.sageusa.org/files/LGBT\\_OAMarketResearch\\_Rpt.pdf](http://www.sageusa.org/files/LGBT_OAMarketResearch_Rpt.pdf); LGBT Movement Advancement Project & SAGE, *Improving the Lives of LGBT Older Adults* (2010), available at [www.lgbtmap.org/file/improving-the-lives-of-lgbt-older-adults.pdf](http://www.lgbtmap.org/file/improving-the-lives-of-lgbt-older-adults.pdf); Richard Wright et al., *Same-Sex Legal Marriage and Psychological Well-Being: Findings from the California Health Interview Survey*, 103 *Am. J. Pub. Health* (2013); Movement Advancement Project & SAGE, *Understanding Issues Facing LGBT Older Adults* (2016), available at [www.lgbtmap.org/file/understanding-issues-facing-lgbt-older-adults.pdf](http://www.lgbtmap.org/file/understanding-issues-facing-lgbt-older-adults.pdf); Sandy E. James et al., Nat'l Ctr. for Transgender Equality., *The Report of the 2015 U.S. Transgender Survey* (2016), available at [www.transequality.org/sites/default/files/docs/usts/USTS%20Full%20Report%20-%20FINAL%201.6.17.pdf](http://www.transequality.org/sites/default/files/docs/usts/USTS%20Full%20Report%20-%20FINAL%201.6.17.pdf); Williams Inst., *Best Practices for Asking Questions to Identify Transgender and Other Gender Minorities on Population-Based Surveys* (2014), available at <http://williamsinstitute.law.ucla.edu/wp-content/uploads/geniuss-report-sep-2014.pdf>; Carina Storrs, *Gender Transitioning for Seniors Has Unique Challenges*, CNN (June 3, 2015), available at [www.cnn.com/2015/06/03/health/senior-gender-transition/index.html](http://www.cnn.com/2015/06/03/health/senior-gender-transition/index.html); Justice in Aging, *LGBT Older Adults in Long-Term Care Facilities: Stories from the Field* (2015), available at [www.justiceinaging.org.customers.tigertech.net/wp-content/uploads/2015/06/Stories-from-the-Field.pdf](http://www.justiceinaging.org.customers.tigertech.net/wp-content/uploads/2015/06/Stories-from-the-Field.pdf).

information that enables ACL to assess whether OAA programs are serving transgender older adults.

We urge OMB to only approve the request to conduct “cognitive testing” if such testing will assess whether the revised survey collects adequate information about whether a respondent is transgender. In order to proceed with this “cognitive testing”, ACL should include representatives from the LGBT community in the testing and engage experts on the collection of sexual orientation and gender identity data.

We further request that OMB condition approval of this PRA request upon amendment of the survey to adequately assess the extent to which OAA-funded programs are serving transgender older adults. Because ACL does not anticipate starting to administer the revised survey until June 2019, ACL should have ample time to make necessary modifications.<sup>4</sup> By collecting this data, and learning more about this population, ACL can ensure that more transgender older adults live independently, improve the ability of the aging network to serve all older adults, and ultimately save taxpayer resources by reaching those with the greatest social and economic needs.

Thank you for the opportunity to submit comments on this issue. If there are questions concerning this submission, please contact Jennifer Goldberg, Directing Attorney, at [jgoldberg@justiceinaging.org](mailto:jgoldberg@justiceinaging.org).

Sincerely,



Kevin Prindiville  
Executive Director

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<sup>4</sup> In revising the Survey, ACL should also consider other federal and state surveys that have successfully implemented procedures to identify transgender respondents, such as the National Crime Victimization Survey, the Behavioral Risk Factor Surveillance System (“BRFSS”), and the California Health Interview Survey.<sup>4</sup>