LGBTQ Talking Points for VAWA, including protection for transgender survivors overall and in custody situations and opposing religious exemptions.

**Background on VAWA nondiscrimination protections and transgender survivors**
Transgender people are disproportionately survivors of sexual assault, and they deserve to access services consistent with their gender identity. For example, the [2015 US Transgender Survey](#) found that 47% of transgender adult respondents nationwide were survivors of sexual assault.
Domestic violence providers and law enforcement agree: transgender women being in the same space as other women does not make them less safe.

Laws that prohibit discrimination based on gender identity have been in place for years--including specifically for VAWA programs--and there is no evidence that this has caused any problems. For example, Minneapolis has had these protections since 1975. There is no evidence that the existence of these laws has contributed to violence against women. Instead, they simply keep transgender people safe.

**Talking points on existing nondiscrimination protections**
Hundreds of organizations voiced their strong support for these protections in a [National Consensus Statement of Anti-Sexual Assault and Domestic Violence Organizations in Support of Full and Equal Access for the Transgender Community](#) issued in 2016. These leaders agree: transgender women victims being served alongside other women is appropriate and not a safety issue.

Law enforcement leaders also agree that protections like these are not associated with any increase in safety-related incidents.
Witnesses from the National Coalition Against Domestic Violence and the National Council of Juvenile and Family Court Judges voiced their clear support in last week’s hearing.

**General Statistics:**
Current research confirms that LGBTQ communities experience similar to higher rates of intimate partner violence and sexual assault as non-LGBTQ heterosexual communities.

According to the CDC, Forty-four percent of lesbian women and 61% of bisexual women experienced rape, physical violence, and/or stalking by an intimate partner in their lifetime compared to 35% of heterosexual women. 26% percent of gay men, and 37% of bisexual men experienced rape, physical violence, and/or stalking by an intimate partner at some point in their lifetime compared to 29% of heterosexual men.

A national study on students in grades 9 through 12 found that 8.3% of heterosexual students and 17.5% of gay, lesbian, and bisexual students reported physical dating violence, and 9.1% of heterosexual and 22.7% of gay, lesbian, and bisexual students reported sexual dating violence one or more times during the 12 months prior to the survey.
In the U.S. Transgender Survey (2015), which had more than 27,000 participants, more than half (54%) of transgender respondents reported experiencing intimate partner violence, including acts involving coercive control and physical harm and nearly half (47%) reported experiencing sexual assault. Further, while comprehensive homicide data for this population remains unavailable, at least 128 transgender individuals have been killed since 2013, which includes dozens of homicides at the hands of an abusive partner and with many more going uncounted.

**Overall:** The 2019 reauthorization of VAWA builds upon our previous success by maintaining current nondiscrimination protections for all survivors while providing for enhanced data collection, increased protections for survivors in custody situations, and an expanded focus on underserved communities.

**Background on VAWA/Dignity Act provisions and transgender prisoners**

US Justice Department surveys have found that transgender prisoners are the most vulnerable of all prisoner populations to being abused behind bars. DOJ found transgender prisoners were at least 9x at likely to be sexually abused in custody. The VAWA reauthorization codifies many protections for incarcerated women and those who are pregnant, caregivers, or transgender, including codifying existing Prison Rape Elimination Act standards.

Here is a Prison Rape Elimination Act (PREA) timeline:

- 2003: Congress overwhelmingly passes and President Bush signs PREA
- 2009: Bipartisan NPREC issues proposed standards after six years of study, including transgender protections
- 2012: DOJ codifies standards in 28 C.F.R. Part 115, including transgender protections
- 2013: National PREA Resource Center issues FAQ clarifying search standard’s application to transgender people

**Talking points on placement provision:**

This provision simply codifies current federal regulations (28 CFR section 115.42) that require case-by-case placement decisions.

This standard was developed by the bipartisan National Prison Rape Elimination Commission set up by Congress and President G.W. Bush.

The standard reflects Justice Department data showing transgender prisoners are more than nine times as likely as others targeted for sexual abuse or assault.

Federal facilities are already subject to this standard; the bill simply codifies it into law.

**Talking points on search provision:**

This provision simply codifies current federal regulations (28 CFR section 115.15) that protect women, as well as all transgender prisoners, with regard to body searches.

This standard was developed by the bipartisan National Prison Rape Elimination Commission set up by Congress and President G.W. Bush.

PREA Standards explicitly prohibit searches to assess a person’s genitals.

Official guidance on the Standards has made clear for years that searches of transgender inmates should be based on their gender identity.
These standards reflect Justice Department data showing transgender prisoners are more than nine times as likely as others targeted for sexual abuse or assault. Federal facilities are already subject to this standard; the bill simply codifies it into law.

**Religious Exemptions and VAWA**

It is reasonable for victims to assume that faith-based organizations receiving federal funding to serve victims of gender-based violence would welcome them in their time of need. It would run counter to the basic tenet of all faiths to help the most vulnerable for these victims to be turned away.

Religious exemptions can have harmful impacts for many communities and included a religious exemption in VAWA is not only unnecessary but will lead to more barriers for survivors to access care and support and open the door for broad discrimination.

**Religiously affiliated federal grant recipients already enjoy strong protections under VAWA.**

Religiously affiliated VAWA grantees are already exempt from requirements that would prevent them from limiting their employees to co-religionists. The process for getting the exemption for co-religionist hiring is simple. A grantee self-certifies that they are eligible for the exemption. The DOJ does not approve or deny the exemption, rather they only review the applications to ensure that they are a faith-based organization.

According to a 2017 GAO report, only one OVW grantee had filed for the exemption since the 2007 OLC memo on the Religious Freedom Restoration Act was released.

There is no indication that faith-based organizations are having difficulty accessing the exemption if they wish to do so. Therefore, an expanded religious exemption does not reflect a need or problem of faith-based organizations in the field.

Legislating and/or creating a broader religious exemption than what already provided for could open the door for broad interpretation of the rights of OVW grantees to discriminate and create more barriers for MANY survivors to access care and support in their critical time of need. This goes against the very core of what VAWA is intended to do.

**Allowing discrimination with taxpayer dollars frustrates the legislative intent of social service programs, like VAWA.**

Taxpayers and legislators design these programs in response to acute needs with clear expectations. Organizations that choose to refuse service to Congressionally-identified beneficiaries or who openly discriminate in hiring cannot be considered to be operating on behalf of the federal government.
Further Religious Exemptions are Unnecessary.

Religiously affiliated employers and organizations receiving VAWA grant funding have ample protections from government intrusion specifically in the context of employment and hiring practices. The government also has a unique and compelling interest in protecting against discrimination.

Faith-based organizations have an important role in supporting victims and survivors of domestic violence and sexual violence, and it is imperative that these organizations receiving federal funds provide these services to all survivors.

It is reasonable for victims to assume that faith-based organizations receiving federal funding to serve victims of gender-based violence would welcome them in their time of need. It would run counter to the basic tenet of all faiths to help the most vulnerable for these victims to be turned away.

A survey by the Public Religious Research Institute (PRRI) discovered that a majority of Americans are opposed to “religious exemptions” that would allow discrimination. Further, there was no religious group surveyed in which a majority favored “religious exemptions”, including white evangelical Protestants.