

LGBTI Populations

Their Safety.
Your Responsibility.

Satellite & Internet Broadcast- November 7, 2012

Participant Guide



Program 12S8003



NATIONAL INSTITUTE OF CORRECTIONS MISSION

The National Institute of Corrections is a center of learning, innovation and leadership that shapes and advances effective correctional practice and public policy.

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National Institute of Corrections

Contact Information www.nicic.gov

Washington DC

320 First Street NW
Washington, DC 20534
Telephone: 202-307-3106
Toll-free: 800-995-6423
Fax: 202-307-3361

Morris L. Thigpen, Director
Robert M. Brown, Jr., Deputy Director

Virginia A. Hutchinson,
Chief, Jails Division

Christopher A. Innes, Ph.D., Chief
Research and Information Services

Belinda P. Watson, Chief
Prisons Division

Jimmy L. Cosby, Chief
Community Services Division

Aurora, CO

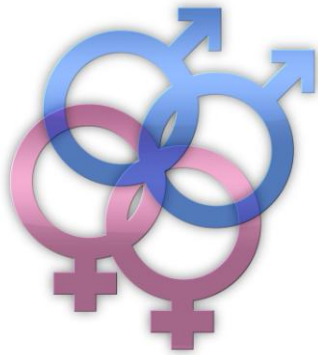
National Corrections Academy
NIC Academy Division
11900 E. Cornell Avenue, Unit C
Aurora, CO 80014

Telephone: 303-338-6500
Toll-free: 800-995-6429
Fax: 303-338-6601

NIC Information Center
11900 E. Cornell Avenue, Unit C
Aurora, CO 80014

Telephone: 303-365-4424
Toll-free: 800-877-1461
Fax: 303-338-6635

Help Desk: www.nicic.gov/HelpDesk



**LGBTI Populations:
Their Safety, Your Responsibility**

Program Contact Information

Prior To Broadcast Day

1-800-995-6429, Follow prompts for "Academy Division"

On Broadcast Day – November 7, 2012 9am-12pm Pacific (12 – 3pm Eastern)

See the live telecast at www.nicic.gov/viewbroadcast

Join the online live chat discussion during the program at <http://nicic.gov/LiveChat>

Participate in the Live On-Air Discussion via:

Phone 1-800-278-4315

FAX 509-354-7714

Email nic@ksps.org

Continuing Education Units

CEUs are available through Eastern Washington University.

1. Site Coordinator should print out the EWU registration form, program evaluation form, participant sign-in sheet and participant sign-out sheet. (Forms follow this page in the Participant Guide.)
2. Participants sign-in, complete the CEU registration form, take part in teleconference, fill out the evaluation and sign out. Submission of sign –in and sign-out sheets is required by IAECT which approves CEUs.
3. At conclusion of the program, the site coordinator should mail all forms and a fee of \$20.00 payable to EWU for each participant who desires CEUs.

Mail Forms to;

Barbara Papke, Program Specialist
Eastern Washington University
300 Senior Hall
Cheney, WA 99004-2442
Phone: 509-359-6143

NOTE: *Coordinators should only send in forms if there are participants who are applying for CEUs.*

4. Once EWU receives and processes the registration forms, each participant will receive via mail a CEU form which details course information and each participant's information.



**Office of Continuing Education & Professional Advancement
Workshop Evaluation**

Satellite Broadcast Title: LGBTI Populations- Their Safety, Your Responsibility

Location: Satellite Broadcast CEU: .3

Date(s): Nov. 7, 2012 Time(s): 12:00 – 3:00 P.M.

Facilitator: National Institute of Corrections- Leslie LeMaster

Your feedback is important. It is the basis of our continuous improvement to ensure that programs meet or exceed your expectations. Thank you for taking the time to complete this evaluation.

Response Code

5-Excellent 4-Good 3-Adequate 2-Poor 1-Desire changes

Instructor Effectiveness

Knowledge of subject	5	4	3	2	1
Ability to teach according to the student's level	5	4	3	2	1
Organization of class meeting	5	4	3	2	1
Ability to answer questions	5	4	3	2	1
Ability to encourage participation	5	4	3	2	1

Course Information

Written course objectives met expectations	5	4	3	2	1
Course written materials contributed to learning	5	4	3	2	1

Facilities and General

Comfort of classroom for learning	5	4	3	2	1
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Overall

Overall, I rate the learning experience	5	4	3	2	1
I would recommend this course to others	Yes				No

Comments: Suggestions for improvement

THANK YOU

Sign – IN Sheet for CEU Certificate

Satellite Broadcast Title: *LGBTI Populations: Their Safety, Your Responsibility*

Date: *November 7, 2012*

Time: *12:00 p.m. – 3:00 p.m. ET*

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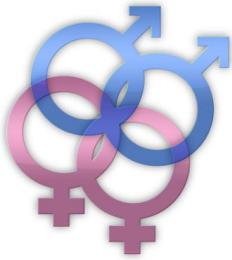
Sign – Out Sheet for CEU Certificate

Satellite Broadcast Title: LGBTI Populations: Their Safety, Your Responsibility

Date: November 7, 2012

Time: 12:00 p.m. – 3:00 p.m. ET

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Program Objectives

- Define a framework for developing strategies for ensuring the safety, dignity and respect for LGBTI individuals in corrections settings.
- Identify typical concerns and challenges that arise as you address the needs and requirements of LGBTI offenders in correctional settings.
- Identify operational practices to increase effectiveness when working with LGBTI offenders.
- Review and discuss effective policy and program development strategies that address LGBTI populations in corrections.

Program Schedule – November 7, 2012

On-Air via Satellite and Internet, 9 am – 12 pm Pacific (12 – 3 pm Eastern)

15 minute break at halfway point

Optional 4th hour discussion on-site after program
(Questions included in guide.)



Presenter Bios



Caleb Asbridge is the Senior Associate for Juvenile Services with The Moss Group. He works with federal, state and local agencies to assist them in providing effective services to young people involved in the criminal justice system. Caleb's work with LGBTI people in correctional settings is related to his passion for helping others. He is committed to the values of fairness and equality regardless of a person's sexual orientation or gender identity and is committed to assisting the corrections field to further its commitment in this area.



Lorie Brisbin is a Correctional Program Specialist in the Community Services Division of the National Institute of Corrections. She has been recognized as an authority in the area of sexual violence in correctional settings and has expertise in both offender and victim perspectives. Throughout her career Lorie has demonstrated a commitment to the fair and equitable treatment of both staff and offenders. She loves a challenge and looks for opportunities to challenge others to excel.



Laura Garnette is currently the Deputy Chief Probation Officer over Juvenile Services in Santa Clara County, California. She has served in the field of community corrections for 23 years - working as a line staff supervisor and manager in juvenile institutions and juvenile and adult services. Laura is passionate about justice reform efforts in both the juvenile and adult systems and has spent over half of her career focusing on systemic changes to address alternatives to incarceration, racial and ethnic disparities and treatment of LGBT youth in the justice system.



Erica King works with jurisdictions in the US and Canada to evaluate correctional programs and policies, provide training and technical assistance, and design organizational and workforce development strategies around the implementation of evidence based practices and gender responsive principles. Ms. King is a Policy Associate at the University of Southern Maine’s Muskie School of Public Service and a Senior Associate with Orbis Partners, Inc. Her passion is working in partnership with staff, organizations and vulnerable populations to design and implement policies and programs that support them in doing their best work to promote positive change.



Marion Morgan is the Prison Rape Elimination Act Director for the Wisconsin Department of Corrections and has held that position since April of 2011. She was hired as the PREA Director after 30 years as an officer and detective with the Madison Wisconsin Police Department. Marion is passionate about LGBTI issues because they are human rights and civil rights issues.



Paul Oliva is a 20 year veteran of the Denver Sheriff Department and has worked his way up the ranks from Deputy to his current rank of Captain. He has worked in several divisions of the Sheriff Department including the Denver Pre-Arrestment Detention Center, Denver County Jail, and Training Academy. His current duties require him to oversee special projects that include the professional development of policies and procedures using a community involvement approach. Most recently, Paul was a key team member in developing and implementing the department’s new policy and procedures for transgender and gender-variant inmates.



T.J. Parsell is a writer, filmmaker and human rights activist. He is author of "Fish: A Memoir of a Boy in a Man's Prison", published in 2006. At age 17, Parsell was sent to an adult prison for robbing a photomat with a toy gun. He has been a leading voice in the movement to end prisoner rape. He is the former President of "Stop Prisoner Rape" and served as a consultant to the National Prison Rape Elimination Commission. T.J. has just completed his requirements for an MFA in filmmaking at New York University and is currently working on adapting his book into a feature length film.



Bob Vickers has been involved in religious ministry for over 45 years, serving as a military chaplain, denominational leader, and church pastor. In his retirement, he provides interim church leadership and participates in numerous volunteer activities and mission trips. Bob believes that God created everyone in His image. He is deeply passionate about affirming the personal dignity and worth of every single human being, regardless of who they are, what they have done, and how others may think and feel about them.



Definition of Terms

Asexual: a person who is not romantically or sexually attracted to any gender

Bisexual: a person who is romantically or sexually attracted to more than one gender or sexual category

Gay: commonly refers to men typically attracted to other men

Gender: a socially constructed concept classifying behavior as either “masculine” or “feminine,” unrelated to one’s external genitalia

Gender expression: a person’s expression of their gender identity, including appearance, dress, mannerisms, speech, and social interactions

Gender identity: distinct from sexual orientation and refers to a person’s internal, deeply felt sense of being male or female

Gender non-conforming: gender characteristics and/or behaviors that do not conform to those typically associated with a person’s biological sex

Gender “norms”: the expectations associated with “masculine” or “feminine” conduct, based on how society commonly believes males and females should behave

Gender variant behavior: conduct that is not normatively associated with an individual’s biological sex

Heterosexual: sexual or romantic attraction to a sex differing from one’s own.

Homosexual: sexual, emotional, and/or romantic attraction to persons of the same sex

Intersex: a condition in which a person is born with external genitalia, internal reproductive organs, chromosome patterns, and/or an endocrine system that does not fit typical definitions of male or female

LGBTI: acronym for a group of sexual minorities including lesbian, gay, bisexual, transgender, questioning and intersex individuals

Lesbian: commonly refers to women typically attracted to other women

Questioning: active process in which a person explores her or his own sexual orientation and/or gender identity and questions the cultural assumptions that they are heterosexual and/or gender conforming

Sex: one's anatomical make-up, including external genitalia, chromosomes, and reproductive system

Sexual identity: the sex that a person sees themselves as. This can include refusing to label oneself with a sex

Sexual orientation: romantic and/or physical attraction to members of the same or different sex

Transgender: a person whose gender identity differs from their birth sex

Transgender girl: a person whose birth sex was male but who understands herself to be, and desires to live her life as, a female

Transgender boy: a person whose birth sex was female but who understands himself to be, and desires to live his life as, a male

Transsexual: a person whose physical anatomy does not match his or her gender identity, and seeks medical treatment (sex reassignment surgery or hormones)

Transvestite: a person who engages in gender non-conforming behavior, such as adopting the gender expression of the opposite sex for purposes of sexual or emotional gratification, but does not necessarily consider their gender identity to be different from their sex.

Segment 1:

Foundation and Framework on LGBTI Issues

Objectives

- ✓ Provide basic information needed to understand LGBTI issues.
- ✓ Reveal primary issues involved with addressing LGBTI populations in correctional settings.
- ✓ Demonstrate the urgency and opportunity for addressing issues proactively.

Legal Requirements and Litigation Related to LGBTI Issues

8th Amendment to the Constitution

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted."

14th Amendment to the Constitution

No state shall "deprive any person of life, liberty, or property, without due process of law."

Kosilek v. Spencer, United States District Court, District of Massachusetts, September 12, 2012

Defendant shall take forthwith all of the actions reasonably necessary to provide Kosilek sex reassignment surgery as promptly as possible.

Farmer v. Brennan, 511 U.S. 825 June 6, 1994

A prison official's "deliberate indifference" to a substantial risk of serious harm to an inmate violates the Eighth Amendment.

It is the responsibility of prison officials to protect prisoners from each other.

First time court addressed prison sexual violence.

Doe v. Bell, 754 N.Y.S. 2d 846 January 9, 2003

The Supreme Court, New York County, held that:

Petitioner's gender identity disorder was a disability within meaning of Human Rights Law.

ACS failed to make reasonable accommodation to petitioner's disability.

Adams v. Federal Bureau of Prisons

BOP changes GID "freeze frame" policy to individualized assessment and evaluation for GID inmates.

R.G. v. Koller, 2006 WL 905225

Use of isolation on children was not within the range of accepted professional practices. Agency was deliberately indifferent based on its failure to have policies and training necessary to protect LGBT youth.

ACLU v. State of Hawaii

“The case that the ACLU of Hawaii brought was the first case of its kind ever in the country to challenge the conditions of confinement for children who are or who are perceived to be lesbian Gay bisexual and transgender. ... Ultimately what Judge Seabright ruled was that the State of Hawaii had failed its constitutional duty by failing to have any policies or procedures whatsoever that were addressed towards eliminating discrimination, abuse and harassment. The state of Hawaii was the first state to have a policy specifically directed towards the treatment of lesbian, gay, bisexual, transgender kids.”

Lois Perrin, ACLU, Hawaii

Sexual Victimization of Incarcerated LGBTI Populations

Incarcerated Populations – Lesbian, Gay or Bisexual

- 11% in men’s facilities (2006 survey)
- 28% in women’s facilities (2006 survey)
- 12+% of youth reported sexual orientation other than heterosexual (BJS)

Reported Sexual Victimization of Incarcerated Individuals (BJS Study, 2008)

- 2.7% of heterosexual men
- 18.5% gay or lesbian individuals
- 9.8% bisexual or other

Sexual Victimization of Incarcerated Youth (BJS Survey, 2008)

- 11% heterosexual youth
- 20+% non-heterosexual youth
- Non-heterosexual youth reported abuse nearly 10 times more than heterosexual youth, 12.5% vs. 1.3%

Sexual Assault of Transgender Individuals (Center for Evidence Based Corrections, 2009)

- Sexual assault is 13 times more prevalent among transgender women compared to men
- 59% reported assaults

National Commission on Correctional Health Care – Position Statement

“Prisons, jails and juvenile justice facilities have a responsibility to ensure the physical and mental health and well-being of transgender people in their custody. Correctional health staff should manage transgender inmates in a manner that respects the biomedical and psychological aspects of a Gender Identity Disorder (GID) diagnosis.

Additional Information

"Sexuality", American Psychological Association (APA). Accessed July 15, 2012.

This psychology topic webpage contains resources on "Understanding Sexual Orientation and Gender Identity". These resources come in the form of answers to questions, places to get help, news, articles, books, and APA offices and programs.

<http://www.apa.org/topics/sexuality/index.aspx>

Answers to Your Questions for a Better Understanding of Sexual Orientation & Homosexuality

This pamphlet is designed to provide accurate information for those who want to better understand sexual orientation and the impact of prejudice and discrimination on those who identify as lesbian, gay, or bisexual. El folleto es disponible en español.

<http://www.apa.org/topics/sexuality/orientation.aspx>

Answers to Your Questions about Transgender People, Gender Identity, and Gender Expression
Transgender is an umbrella term used to describe people whose gender identity (sense of themselves as male or female) or gender expression differs from that usually associated with their birth sex.

<http://www.apa.org/topics/sexuality/transgender.aspx>

Accord Alliance - Disorders of Sexual Development

<http://www.accordalliance.org/>

Majd, Katayoon, Jody Marksamer, and Carolyn Reyes. "Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts", San Francisco: Legal Services for Children; Washington: National Juvenile Defender Center; San Francisco: National Center for Lesbian Rights, 2009.

This document "represents the first effort to examine the experiences of LGBT [Lesbian, Gay, Bisexual, and Transgender] youth in juvenile courts across the country."

http://www.nclrights.org/site/DocServer/Hidden_Injustice.pdf?docID=6701

LGBTI Populations: Their Safety, Your Responsibility

Lewis, Don, "Gender Identity Disorder", *U.S. Bureau of Prisons*. Webinar and transcript, March 27, 2012. Issues related to gender identity are discussed. Gender identity is 'a person's sense of their own gender, which is communicated to others by their gender expression.' Objectives for this presentation are: define key terms related to Gender Identity Disorder (GID); review the diagnostic criteria for GID; implement the Bureau's new GID policy; review the history of transgender issues, to include relevant legal issues; identify World Professional Organization for Transgendered Health (WPATH) standards of care for GID; and review co-occurring disorders commonly associated with GID.

<http://nicic.gov/Library/025870> (transcript)

<http://nic.learn.com/files/upload/webinars/Gender%20Identity%20Disorder%20Webinar.wmv>
(webinar video)

Where the Margins Meet: A Demographic Assessment of Transgender Inmates in Men's Prisons <http://nicic.gov/Library/026367>

Transgender Inmates in California's Prisons: An Empirical Study of a Vulnerable Population
<http://nicic.gov/Library/023832>

Fact Sheet from Just Detention International

http://nicic.gov/assets/ExternalLink.aspx?url=http://justdetention.org/en/factsheets/JDSFact_Sheet_LGBTQ_vD.pdf

LGBTI Resource Card <http://nicic.gov/Downloads/General/LGBTI.pdf>

LGBTI: Lesbian, Gay, Bisexual, Transgender, and Intersex Offenders (Selected Resources for Criminal Justice Professionals) <http://nicic.gov/Library/026518>

The Equity Project

<http://nicic.gov/assets/ExternalLink.aspx?url=http://equityproject.org/index.html>

Andrea Fields, et al., Plaintiffs-Appellees, Cross-Appellants, v. Judy P. Smith, et al., Defendants-Appellants, Cross-Appellees. Appeals from the United States District Court for the Eastern District of Wisconsin". No. 2:06-cv-00112-CNC, August 5, 2011.

The U.S. Appeals Court affirms the District Court's decision that Wisconsin's Act 105, the Inmate Sex Change Prevention Act, violates the Eighth Amendment's ban on cruel and unusual punishment. It should be noted that the plaintiffs had been receiving hormone treatment prior to the Acts passage.

<http://nicic.gov/Library/025835>

Cohen, Fred. Transgender Prisoners' Right of Access to Medical Care in Prison, *Correctional Mental Health Report* 13, no. 4 (2011): 49-63. This article discusses the overturning of Wisconsin law (Act 105) denying inmates diagnosed with Gender Identity Disorder (GID) medical care for hormonal therapy and sexual reassignment surgery. Also, includes references to additional GID case law.

LGBTI Populations: Their Safety, Your Responsibility

"Preventing the Sexual Abuse of Lesbian, Gay, Bisexual, Transgender, and Intersex People in Correctional Settings". Washington: National Center for Transgender Equality; San Francisco: National Center for Lesbian Rights; New York: American Civil Liberties Union; San Francisco: Transgender Law Center; New York: Lambda Legal. Last modified May 10, 2010. The "need for all four sets of standards [found in the National Standards to Prevent, Detect, and Respond to Prison Rape] to account for the vulnerabilities of LGBTI [lesbian, gay, bisexual, transgender, and intersex] individuals in detention" is explained (p. 2). Sections of these comments include: LGBTI people in detention are particularly at risk of sexual abuse; support for specific standards; recommendations to enhance the standards; responses to questions in the ANPR (Advance Notice of Proposed Rulemaking); and conclusion.

http://www.nclrights.org/site/DocServer/PREA_Standards_Comments_-_ACLU_Lambda_NCLR_NCTE_TLC.pdf?docID=7542

"Vanessa Adams, legal name, Nicholas Adams, Plaintiff, v. Federal Bureau of Prisons, et al., Defendants". United States District Court, District of Massachusetts. Civil Action No. 09-10272-JLT, June 7, 2010.

"Plaintiff, an inmate in the custody of the Federal Bureau of Prisons, asserts that Defendants have subjected her to cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution by denying her appropriate medical treatment for her diagnosed condition of Gender Identity Disorder.

<http://nicic.gov/Library/025834>

" Wolf, Mark L. MICHELLE L. KOSILEK, Plaintiff, v. LUIS S. SPENCER, in his official capacity as Commissioner of the Massachusetts Department of Correction, Defendant. Memorandum and Order on Eighth Amendment Claim". C.A. No. 00-12455-MLW. September 4, 2012.

This is "an unprecedented court order requiring that the defendant Commissioner of the Massachusetts Department of Correction (the "DOC") provide him with sex reassignment surgery to treat his major mental illness, severe gender identity disorder."

<http://nicic.gov/Library/026502>

Segment 2: Dispelling Misconceptions & Overcoming Challenges

Objectives

- ✓ Dispel myths & misconceptions, address fears and promote a greater understanding of the needs of LGBTI offenders.
- ✓ Discuss ways to address challenges and eliminate barriers to meeting the needs of LGBTI offenders.
- ✓ Identify common values that define professional obligations to LGBTI populations.

Common Misconceptions

- Few LGBTI individuals in custody or under supervision
- Being LGBTI is an invitation to sexual victimization
- Being LGBTI a choice
- People can catch being gay
- LGBTI individuals can be changed

Research – Positive Outcomes of Parent Acceptance of LGBTI Youth

Family Acceptance Project - Family Acceptance of LGBT youth protects against suicide, depression, substance abuse and predicts better health and self esteem

Caitlyn Ryan, PhD, ACSW, Stephen T. Russell, PhD, David Huebner, PhD, MPH, Rafael Diaz, PhD, MSW, and Jorge Sanchez, BA

Familyproject.sfsu.edu/files.FAP_Family%20Acceptance_JCAPN.pdf

Findings: Family acceptance predicts greater self-esteem, social support, and general health status; it also protects against depression, substance abuse, and suicidal ideation and behaviors

Conclusions: Family acceptance of LGBT adolescents is associated with positive young adult mental and physical health. Interventions that promote parental and caregiver acceptance of LGBT adolescents are needed to reduce health disparities.

Family Acceptance Project – Research on Family Rejection of LGBT Adolescents establishes link to negative health outcomes

Caitlyn Ryan, PhD, ACSW, Stephen T. Russell, PhD, David Huebner, PhD, MPH, Rafael Diaz, PhD, MSW, and Jorge Sanchez, BA

Pediatrics.aappublications.org/content/123/1/346.full?ijkey=NrncY0H897IAU&keytype=ref&siteid=aapjournals

Results: Higher rates of family rejection were significantly associated with poorer health outcomes. On the basis of odds ratios, lesbian, gay, and bisexual young adults who reported higher levels of family rejection during adolescence were 8.4 times more likely to report having attempted suicide, 5.9 times more likely to report high levels of depression, 3.4 times more likely to use illegal drugs, and 3.4 times more likely to report having engaged in unprotected sexual intercourse compared with peers from families that reported no or low levels of family rejection. Latino men reported the highest number of negative family reactions to their sexual orientation in adolescence.

Additional Information

Hilton, Bruce, *Can Homophobia be Cured?*, Abingdon Press, 1992

White, Mel, *Strangers at the Gate*, Plume / Penguin Books, 1994

Ryan, Caitlin, PhD, ACSW, Stephen T. Russell, PhD, David Huebner, PhD, MPH, Rafael Diaz, PhD, MSW, and Jorge Sanchez, BA, Family Acceptance Project, <http://familyproject.sfsu.edu/publications>

Irvine, Angela. "‘We’ve Had Three of Them’: Addressing the Invisibility of Lesbian, Gay, Bisexual and Gender Non-Conforming Youths in the Juvenile Justice System". *Columbia Journal of Gender and Law* 19, no. 3 (2010): 675-701. <http://nicic.gov/Library/026476>

Segment 3: Operational Practices

Objectives

- ✓ Describe requirements, considerations and reasonable accommodations from the standpoints of legal obligations, risk management, security and positive practices.
- ✓ Highlight promising practices and policy components (such as showers, allowable property, etc.) that can inform operational practices to reduce risk and increase dignity, respect and fairness.

Operational Practices – Areas of Consideration for LGBTI Offenders

- Intake / Classification
- Needs Assessment
- Housing
- Medical
- Mental Health
- Searches
- Allowable Property List
- Showers
- Visits
- Communications
- Programming
- Staffing

A Quick Guide for LGBTI Policy Development in Adult Prisons and Jails

This Outline is provided for general information purposes.

Please see the complete guide available at www.nicic.gov/lgbti

I. Assess Agency/Facility Culture

1. Experiences, needs, and risks of LGBTI Inmates and Staff
2. Current Staff and Administration Knowledge and Attitudes Relating to Sexual Orientation and Gender Identity and Expression
3. Current Agency/Facility Norms, Informal Procedures, Written Policies, and Training Relating to LGBTI Inmates

II. Establish Development and Implementation Mechanisms

III. Develop Awareness of Current Legal Responsibilities to LGBTI Inmates

IV. Foundational Issues

V. Intake Screening/Risk Assessment

1. Initial Questions
2. Follow up questions
3. Medical/MH referral
4. Searches
5. Dissemination of information
6. Consistency of identification

VI. Assessment and Housing Placement

1. Place to prioritize individual safety of inmates
2. Considerations specific to LGBTI inmates when making housing placement decisions.
 - A. Isolating to Protect
 - B. Housing options
 - C. Housing Transgender and Intersex Inmates
 - D. Re-assessment

VII. Medical and Mental Health Care

1. Intersex individuals
2. Transgender individuals
 - A. Gender Identity Disorder.
 - B. Practitioner Experience and Qualifications
 - C. Medical Treatment
 - Gender expression
 - Hormone therapy
 - Surgical procedures
 - Psychotherapy
 - D. Mental Health Treatment and Counseling
 - E. Treatment Consideration

VIII. Information Management

1. Privacy and Confidentiality Rights and Responsibilities
2. Staff Need-to-Know
3. Staff Responses to Disclosure

IX. Inmate Management

1. Clothing and Grooming
2. Communication Between Inmates
3. Visitation Rules
4. Appropriate Social and Recreational Outlets

X. Specific Safety and Privacy Concerns for Transgender and Intersex Inmates

1. Showering, Restroom Practices
2. Searches
3. Cross-gender Supervision
4. Transportation
5. Use of Segregation

XI. Staff, Volunteer and Contractor Training Requirements

XII. Inmate Education

A Quick Guide for LGBTI Policy Development in Youth Confinement Facilities

This Outline is provided for general information purposes. Please see the complete guide available at www.nicic.gov/lgbt

I. Assess Agency/Facility Culture

1. Experiences, needs, and risks of LGBTI Youth and Staff
2. Current Staff and Administration Knowledge and Attitudes Relating to Sexual Orientation and Gender Identity and Expression
3. Current Agency/Facility Norms, Informal Procedures, Written Policies, and Training Relating to LGBTI Youth

II. Establish Development and Implementation Mechanisms

III. Develop Awareness of Current Legal Responsibilities to LGBTI Youth

IV. Foundational Issues

V. Intake Screening/Risk Assessment

1. Initial Questions
2. Follow up questions
3. Medical/MH referral
4. Searches
5. Dissemination of information
6. Consistency of identification

VI. Assessment and Housing Placement

1. Place to prioritize individual safety of youth
2. Considerations specific to LGBTI youth when making housing placement decisions.
 - A. Isolating to Protect
 - B. Housing options
 - C. Housing Transgender and Intersex Youth
 - D. Re-assessment

VII. Medical and Mental Health Care

1. Intersex individuals
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 - B. Practitioner Experience and Qualifications
 - C. Medical Treatment
 - Gender expression
 - Hormone therapy
 - Surgical procedures
 - Psychotherapy
 - D. Mental Health Treatment and Counseling
 - E. Treatment Considerations

VII. Information Management

1. Privacy and Confidentiality Rights and Responsibilities
2. Staff Need-to-Know
3. Staff Responses to Disclosure
4. Communicating with Family

IX. Youth Management

1. Clothing and Grooming
2. Communication Between Youth
3. Visitation Rules
4. Appropriate Social and Recreational Outlets

X. Specific Safety and Privacy Concerns for Transgender and Intersex Youth

1. Showering, Restroom Practices
2. Searches
3. Cross-gender Supervision
4. Transportation
5. Use of Segregation

XI. Staff, Volunteer and Contractor Training Requirements

XII. Youth Education

XIII. Family Services and Re-entry

1. Family Services
2. Family Education and Outreach
3. Reunification plans

Denver Sheriff Department – Blue Card

- Created for inmate to have specific information related to transgender / gender-variant status
- Card can be presented to any officer during interactions
- Eliminates need for verbal explanations
- Lessens potential for harassment or discrimination

Blue Card Contents

- Search preference
- Preferred name and preferred pronoun
- Criminal descriptor (CD number)
- Booking number
- Booked name
- Inmate and supervisor signatures
- Date

Promising Policy Practices

Adult Agencies

- Cumberland County, Maine Sheriff's Office
- Cook County, IL Department of Corrections, Interagency Directive
- District of Columbia Department of Corrections
- Miami-Dade Corrections and Rehabilitation
- Massachusetts Department of Correction
- California Correctional Health Care Services and CDCR
- Idaho Department of Corrections
- Federal Bureau of Prisons
- Denver County Sheriff's Department

Youth Agencies

- Hawaii Youth Correctional Facility
- New Orleans Juvenile Detention Center
- Washington DC, Department of Youth Rehabilitation Services
- New Orleans Juvenile Detention Center
- New York Office of Children and Family Services

Additional Information

Non-Discriminatory, Developmentally-Sound Treatment of Lesbian, Gay, Bisexual and Transgender (LGBT) Youth - New Orleans Juvenile Detention Center (New Orleans, LA); Louisiana Dept. of Human Services (Baton Rouge, LA).

<http://nicic.gov/Library/025748>

Opportunities to Diagnose, Treat, and Prevent HIV in the Criminal Justice System

<http://nicic.gov/Library/025675>

Estrada, Rudy and Jody Marksamer. "The Legal Rights of Young People in State Custody: What Child Welfare and Juvenile Justice Professionals Need to Know When Working with LGBT Youth". San Francisco: National Center for Lesbian Rights; New York: Lambda Legal, 2006. The legal rights of LGBT (lesbian, gay, bisexual, and transgender) youth are discussed through the use of scenarios that show professionals in child welfare and juvenile justice what they may experience working with this population.

http://www.nclrights.org/site/DocServer/LegalRights_LGBT_State_Custody.pdf?docID=1741

Kendig, Newton E. and Charles E. Samuels, Jr. "Gender Identity Disorder Evaluation and Treatment". *U.S. Bureau of Prisons*. Memorandum for Chief Executive Officers, May 31, 2012. A memorandum regarding the evaluation and treatment of inmates with Gender Identity Disorder (GID) is presented. It is to be immediately implemented in response to a lawsuit settled with Vanessa Adams, a FEDERAL Bureau of Prisons (BOP) inmate at FMC Butler (NC) who has GID. "In summary, inmates in the custody of the Bureau with a possible diagnosis of GID will receive a current individualized assessment and evaluation. Treatment options will not be precluded solely due to level of services received, or lack of services, prior to incarceration."

<http://nicic.gov/Library/025522>

"Scope of Services for the Treatment of Gender Identity Disorder". *Colorado Department of Corrections*. Administrative Regulation 700-14, November 1, 2009.

"It is the purpose of this administrative regulation (AR) to serve as a standard of care for the treatment of gender identity disorder and define the extent and general limits of health services that will be provided to this population" (p.1). Procedures cover: relative contraindications; Gender Identity Disorder Management and Treatment Committee; sexual reassignment treatment; other treatment modalities; and facility placement.

http://www.doc.state.co.us/sites/default/files/ar/0700_14.pdf

Wilber, Shannan, Caitlin Ryan, and Jody Marksamer. "CWLA Best Practices Guideline: Serving LGBT Youth in Out-of-Home Care". Washington: Child Welfare League of America, 2006.

<http://www.nclrights.org/site/DocServer/bestpracticeslgbyouth.pdf?docID=1322>

LGBTI Populations: Their Safety, Your Responsibility

Hembree, Wylie C., et. al. "Endocrine Treatment of Transsexual Persons: An Endocrine Society Clinical Practice Guideline". *Journal of Clinical Endocrinology & Metabolism* 94, no. 9 (2009): 3231-3154. Accessed September 12, 2012. Objective: The aim was to formulate practice guidelines for endocrine treatment of transsexual persons.

<http://www.endo-society.org/guidelines/final/upload/endocrine-treatment-of-transsexual-persons.pdf>

"Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People". 7th Version. *World Professional Association for Transgender Health Inc.* Accessed September 12, 2012.

"The overall goal of the SOC [Standards of Care] is to provide clinical guidance for health professionals to assist transsexual, transgender, and gender nonconforming people with safe and effective pathways to achieving lasting personal comfort with their gendered selves, in order to maximize their overall health, psychological well-being, and self-fulfillment."

<http://nicic.gov/Library/025747>

"Lesbian, Gay, Bisexual, Transgender and Questioning Youth". Albany, NY: New York State Office of Children and Family Services, 2008. Accessed September 12, 2012.

This policy is designed "to maintain and promote a safe environment for lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth in OCFS [New York State Office of Children and Family Services] operated residential and after-care programs."

http://www.equityproject.org/pdfs/LGBTQ_Youth_Policy_PPM_3442_00.pdf

Segment 4: Successful Strategies for Policy Building and Implementation

Objectives

- ✓ Discuss the importance of addressing agency culture and highlight strategies for shifting organizational culture.
- ✓ Discuss the importance of engaging community partners.
- ✓ Discuss successful strategies for policy development.
- ✓ Discuss successful strategies for staff training and development.

Engaging Community Partners

- LGBTI Community
- Advocacy Groups
- Law Enforcement
- Faith-based Organizations
- Medical and Mental Health

Staff Development and Training

- Awareness Training
- Understanding laws related to policy
- Development of training aids

NIC LGBTI Resources

<http://www.nicic.gov/LGBTI>

- NIC LGBTI Resources Card
- Technical assistance
- Advisory group for best practices
- Full length and Quick Policy Guides
- One-hour e-course on Respectful Communications
- Annotated bibliography
- 2013 presentations and conferences

Promising Policy Areas and Sample Policy Language

Education and Non-Discrimination provisions (for staff, volunteers, contracted services)

- Staff shall not discriminate against or harass, physically or verbally, any youth in our care because the juvenile is LGBT or because a staff member perceives a juvenile to be LGBT. Staff must also protect youth from being discriminated against or harassed, physically or verbally by other youth for being LGBT, or because juveniles believe another juvenile is LGBT. All staff will ensure that LGBT juveniles are safe and accepted and will support LGBT juveniles with fair and equal treatment, without bias and in a professional and confidential manner.
- All direct care staff and service providers will be trained and affirmatively demonstrate their commitment to creating and maintaining a safe and accepting environment. This policy will be provided to all new staff, and new staff training will include understanding and protecting LGBT youth.
- [The agency] shall provide training to officers and supervisory staff in gender identity disorder sensitivity and the role of the Gender Identity Committee in formulating Accommodation Plans. All officers must successfully complete and be certified in the prescribed course.

Education of Inmate/Youth

- When youth arrive, at the detention center, they will be told, in intake and on their unit by staff and other youth, that name-calling and other harassment is disrespectful and not accepted. Employees will remind juveniles that harassment of LGBT juveniles is not acceptable every time they are aware of an incident of harassment.

Classification and Housing

Classification & assessment

- The purpose of the Gender Identity Committee shall be to consider the case of each inmate who is clinically verified as having gender identity disorder and to recommend appropriate accommodations that shall be made for the inmate with regard to housing, clothing, commissary, showering, grooming, recreation, programming, escort, transportation, searches and other matters.
- All classification and housing decisions at [facilities] shall be based on youths' individualized needs, prioritizing the youth's physical and emotional well-being. Transgender and intersex youth shall not automatically be housed according to their genitalia. In addition to the general considerations that apply to all classification and housing decisions, [staff] shall make housing decisions for transgender youth taking into account the youth's perception of where he or she will be most secure, as well as any recommendations from the youth's health care provider.

Limitations on use of isolation and access to services

- An inmate with Gender identity disorder shall be housed in Protective Custody or Administrative Segregation only when there is reason to believe the inmate presents a heightened risk to self or others, or if there is an immediate risk of harm to the inmate by other inmates. This placement shall be for such limited periods of time during which the heightened security risk exists.
- LGBT youth will not be placed in isolation as a means of keeping them safe from discrimination, harassment or abuse. Staff will actively intervene in behaviors by other youth that make the youth feel unsafe or disrespected

No blanket housing/roommate policies

- The Transgender Review Committee shall avoid blanket housing policies, such as automatically putting all transgender inmates in segregation.
- LGBT youth will not be prohibited from having a roommate based solely on the youth's LGBT status.
- A male to female transgender youth will not be treated as a male guest on the girls' unit, but as a girl.
- LGBT youth will not be treated as sex offenders unless they have been found guilty of non-consenting sexual behavior.

Medical/Mental Health Services/Treatment

Specific medical and mental health care needs of transgender inmates/youth

- An offender who is receiving hormonal medications related to Cross-Sex Hormonal Therapy at the time of incarceration will be continued on such hormonal medications unless current medical providers determine there is a medically compelling reason to discontinue treatment. An offender who is initially diagnosed with GID while incarcerated at IDOC will be eligible to receive hormonal medications as provided herein.

Counseling should not try to change LGBTI identity

- In accordance with accepted health care practices which recognize that attempting to change a person's sexual orientation or gender identity is harmful, DYRS shall not employ or contract with mental health providers who attempt to change a youth's sexual orientation, gender identity, or gender expression.

Sex offender treatment should not discriminate against LGBTI inmates and LGBTI inmates should not be required to undergo sex offender treatment unless required by the court

- To the extent that LGBTQI youth require sex offender treatment or counseling, such treatment shall not discriminate based on sexual orientation, gender identity, or gender expression, and shall not criminalize or pathologize LGBTQI identity.

Searches, showers and specific privacy/safety concerns

Searches of transgender arrestees/inmates

- Prior to searching a transgender inmate, when possible complete the Statement of Preference form C-120C to determine the sex of the staff member who will be conducting the search. All searches of the transgender inmate's person will be done by an officer of the gender requested by the transgender inmate.

Searches of juveniles

- Transgender youth may request that male or female staff conduct a strip search when such search is required. This request will be accommodated, whenever possible, considering staffing and safety needs.

Showering, restroom practices that protect inmate from abuse by other inmates

- Transgender youth will not be required to use the shower or bathroom or dress in front of youth or staff, and staff efforts to ensure privacy will be done in a way that is not humiliating.

Allowable Properties

Clothing and grooming

- Youth shall be permitted to dress and present themselves in a manner consistent with their gender identities. [Agency] staff shall provide all youth at [secure facilities] with institutional clothing, including undergarments, of the youth's choice. Grooming rules and restrictions, including rules regarding hair, makeup, and shaving, shall be the same in male and female units at [secure facilities]. Youth shall not be required to maintain hairstyles or to dress in keeping with a style perceived to be appropriate for one gender or the other.

Access to LGBT supportive materials and programs

- [Superintendent] shall ensure that youth have access to supportive and age appropriate information, including books, periodicals, community resources, and advocacy groups that provide information to youth about LGBTQI issues.

Communications & Confidentiality

No demeaning language

- Avoid using language that a reasonable person would consider demeaning, specifically, language aimed at a person's actual or perceived gender identity expression and/or sexual orientation.

Names and pronoun use

- Transgender youth will be called by the first name and pronoun they request even if their name has not been legally changed.

Booking name

- When booking a transgender arrestee, the Cumberland County Jail will use the arrestee's adopted name (i.e., non birth name that the inmate uses in self reference) in the booking, either as the primary name or as the "also known as" ("a.k.a."). Transgender inmates should be permitted to dress, groom, and use names and pronouns that are consistent with their gender identity.

LGBT youth confidentiality

- Staff will not disclose a youth's sexual orientation or gender identity to family, friends, and the court or outside agencies without the youth's permission.

Additional Information

Denver Sheriff Department. Office of the Director of Corrections/Undersheriff. "Transgender and Gender-Variant Inmates". Department Order 4005.1, Denver, CO, 2012. Implementation and procedural guidelines.

<http://nicic.gov/Library/026337>

"Policy Recommendations Regarding LGBT People in California Prisons". *Transgender Law Center*. Effective practices for ensuring the rights of LGBT (lesbian, gay, bisexual, and transgender) inmates are explained. Strategies for protecting LGBT prisoners are organized according to: classification; harassment, abuse, and sexual assault; health care; and reentry.

<http://www.transgenderlawcenter.org/issues/prisons/policy-recommendations-regarding-lgbt-people-in-california-prisons>

Additional Resources Related to Employment of LGBTI Individuals

<http://www.eeoc.gov/federal/otherprotections.cfm>

<http://www.fedglobe.org/home.html>

http://www.aclu.org/hiv-aids_lgbt-rights/employment-non-discrimination-act

<http://www.aele.org/law/Digests/empl118.html>

<http://www.transgenderlaw.org/ndlaws/index.htm>

Fourth Hour On-Site Discussion (Optional)

Following the three-hour broadcast, site participants have the option of continuing the conversation with an on-site discussion.

This exercise is intended to encourage further discussion regarding the safe and respectful management of LGBTI populations.

Discussion Questions:

1. Identify four practices you can incorporate into existing procedures that will address some of the LGBTI issues discussed in this broadcast. What first steps would you need to take to begin incorporating these identified practices within your organization?
2. Identify essential justice partners for making changes to existing procedures affecting individuals identifying as LGBTI. What first steps would you need to take to begin working with these justice partners?
3. Identify at least two community partners that could serve as resources in developing strategies to address LGBTI issues. What first steps would you need to take to begin working with these community partners?
4. Identify at least three gaps that exist in your current policies in addressing the LGBTI population and describe the steps required to close those gaps.
5. What barriers do you think you might encounter related to policy and staff development around LGBTI populations? Identify two strategies you could employ to address those barriers.
6. Identify at least two strategies you will use to promote LGBTI policy development within your organization.