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Policy Review and Development Guide: Lesbian, Gay, Bisexual, Transgender, and Intersex Persons in Custodial Settings, 2nd Edition

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in collaboration with
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Foreword

The Project on Addressing Prison Rape ^[1] (the Project) at American University's Washington College of Law ^[2] (WCL) has had a cooperative agreement with the National Institute of Corrections ^[3] (NIC) to provide training and technical assistance to high-level correctional decisionmakers on key issues in preventing and addressing staff sexual misconduct since 1999. In 2003, with the enactment of the Prison Rape Elimination Act (PREA), the Project's focus shifted to addressing prison rape—both staff sexual misconduct and inmate-on-inmate sexual abuse. Beginning in 2006, Smith Consulting began a collaborative effort with the Project and NIC to focus efforts on providing technical assistance to the field of corrections on a variety of issues.

Since the passage of PREA in 2003, increased national and international attention has been paid to the issue of sexual abuse of individuals in custody. As identified by the National Prison Rape Elimination Commission ^[4] (NPREC) during its fact-finding process, lesbian, gay, bisexual, transgendered, and intersex (LGBTI) individuals—both adults and youth—under custodial supervision are one of the groups most at risk for abuse. In June 2009, NPREC proposed comprehensive standards for eliminating sexual abuse of LGBTI individuals in custodial settings. The final standards promulgated by the U.S. Department of Justice ^[5] (DOJ) in May 2012 recognized the unique vulnerabilities of LGBTI populations kept intact most of NPREC's findings and recommendations and in several instances, strengthened the protections for LGBTI populations. DOJ is continuing to issue guidance on gender non-conforming individuals as it relates

to the standards specifically through the FAQ section on the [National PREA Resource Center's](#) [6] website.

However, this fundamental question remains unanswered: Have the conditions changed that allow the abuse of LGBTI individuals in custodial settings to occur? Although several state and local systems have made strides in addressing sexual abuse of LGBTI individuals in their care, much work remains. With the final standards as benchmarks, along with stronger laws protecting LGBTI individuals from abuse, progress can be swift and abuse of LGBTI individuals in custody can be significantly reduced.

In the first edition of this guide, we aimed to reach out to correctional agencies in order to help them identify, address, and respond to abuse of LGBTI individuals through agency policies and procedures. We hoped to deepen the dialogue between staff and administrators as well as community leaders and criminal justice advocates about strategies to eliminate abuse of LGBTI individuals in custody. The second edition of this guide provides updated key information to correctional agencies about PREA's impact on agency practice as it relates to LGBTI individuals in custody.

Acknowledgments

Policy Review and Development Guide: Lesbian, Gay, Bisexual, Transgender, and Intersex Persons in Custodial Settings Second Edition is the work product of many organizations and individuals concerned about preventing and addressing the abuse of LGBTI adults and youth in custody. It addresses rapidly developing areas of practice and law in the United States. The information in this publication is current as of August 30, 2014. Both law and best practices in this area are continuing to evolve; we will remain abreast of those changes and we encourage you to contact us with new information as it becomes available.

We would like to thank the many contributors who have given us insightful and honest commentary about the situations that LGBTI individuals face in custodial settings, which provided insight into promising ways correctional officials can address with respect and dignity the needs of LGBTI individuals in custodial settings. We would also like to thank the Project's research staff and deans fellows who collected and analyzed new information for this edition: Caleb Bess, Melissa Loomis, Rebecca Heinsen, Deanna Glickman, and Emma Burgess Roy.

Additionally, we thank the following individuals from the National Institute of Corrections for supporting this important work: Mr. Jim Cosby, Director; Mr. Robert Brown, Deputy Director; and Ms. Lorie Brisbin, Correctional Program Specialist, Community Services Division.

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[2] <https://www.wcl.american.edu/>

[3] <https://nicic.gov/>

[4] <https://cybercemetery.unt.edu/archive/nprec/20090820154829/http://www.nprec.us/>

[5] <https://www.justice.gov/>

[6] <https://www.prearesourcecenter.org/frequently-asked-questions>

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