

# PREA Standards for LGBT+ Prisoners

Sexual violence in prison and detention facilities throughout the United States is widespread, with over **200,000** inmates reporting sexual abuse annually. Lesbian, gay, bisexual, transgender, intersex (LGBTI), and gender nonconforming people are perhaps the most vulnerable and at risk of abuse. Data from the Bureau of Justice Statistics shows inmates who identify as LGBT+ were more likely to experience sexual victimization than heterosexual inmates.<sup>1</sup>

- **39.9%** of transgender adults in federal prisons and **26.8%** of transgender adults in local jails reported experiencing being sexual victimized in the past twelve months.<sup>2</sup>
- Lesbian, gay, and bisexual prisoners were sexually abused by other inmates at a rate more than **10x** higher than heterosexual prisoners (12.2% vs. 1.2%).<sup>3</sup>

Congress passed the Prison Rape Elimination Act (PREA) in 2003, to combat the problem of sexual violence in the prison system. The U.S. Department of Justice issued federal regulations implementing PREA, which includes key protections for LGBT+ individuals.<sup>4</sup>

## The following PREA standards specifically address LGBTI inmates:<sup>5</sup>

- **§115.41, 115.241, and 115.34 Screening for Risk of Victimization and Abusiveness:** Must include whether an inmate is—or is perceived to be—LGBT+ or gender nonconforming.
- **§115.42, 115.242, and 115.342 Use of Screening information:** Decisions about housing and facility placement for transgender and intersex individuals must be made on a case-by-case basis. Inmates' views of their own safety must be given serious consideration in this process. Decisions cannot be made on the basis of a person's anatomy or gender assigned at birth.
- **§115.15, 115.115, 115.215, and 115.315 Limits to Cross-Gender Viewing and Searches:** No transgender or intersex inmate can be searched for the sole purpose of determining genital status. Instead, this information can be ascertained through conversations with the inmate or by reviewing medical records. If necessary, an exam can be conducted by a medical professional.
- **§115.31, 115.231, and 115.331 Employee Training:** Employees must receive training in how to communicate effectively and professionally with all inmates, including LGBT+ and gender nonconforming individuals.

## Definitions<sup>6</sup>

- **Sexual Orientation:** A person's physical, romantic, emotional, aesthetic, and/or other form of attraction to others; being heterosexual, homosexual, bisexual, or asexual.
- **Gender Identity:** One's internal sense of being male, female, neither of these, both, or other gender(s).
- **Gender Expression:** The physical manifestation of one's gender identity through clothing, hairstyle, voice, body shape, etc.

## PREA Definitions<sup>7</sup>

- **Gender Nonconforming:** Describes a person's appearance or manner that does not conform to traditional societal gender expectations.
- **Intersex:** A person whose sexual and reproductive anatomy and chromosomal pattern does not seem to fit a typical definition of male or female.

<sup>1</sup> Allen J. Beck et al, "Sexual Victimization in Prisons and Jails Reported by Inmates, 2011–12", Bureau of Justice Statistics, May 2013.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> "National Standards to Prevent, Detect, and Respond to Prison Rape." U.S Department of Justice, May 2012

<sup>5</sup> <https://www.prearesourcecenter.org/training-technical-assistance/prea-101/prisons-and-jail-standards>

<sup>6</sup> "LGBTQ+ definitions." Trans Student Educational Resources. Retrieved from <http://www.transstudent.org/definitions>

<sup>7</sup> <https://www.prearesourcecenter.org/training-technical-assistance/prea-101/prisons-and-jail-standards>