

NATIONAL
PREA
RESOURCE
CENTER



NCCCD | National Council on
Crime & Delinquency

Asking Adults and Juveniles About Their Sexual Orientation: Practical Considerations for the PREA Screening Standards

Angela Irvine, PhD, and Jill Silva, Stanislaus County

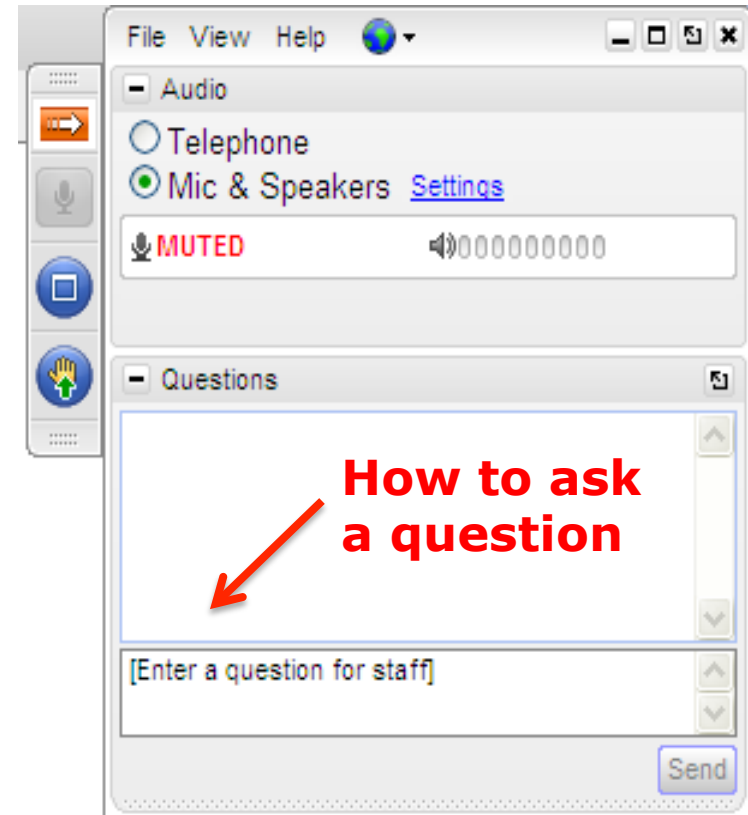
February 10, 2015

Notice of Federal Funding and Federal Disclaimer—This project was supported by Grant No. 2010-RP-BX-K001, awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

Logistics

Webinar Information

- Use the question box to ask a question, or email Tara Graham at tgraham@nccdglobal.org
- If you have technology issues, call Tara Graham at (510) 874-5921.



Collecting SOGIE Data

Agenda

- Introduction—What is “sexual orientation, gender identity, and gender expression” (SOGIE)?
- Why is it important to collect SOGIE data?
- Case study: Stanislaus County and the central region of California
- What questions should jurisdictions ask?
- Close

The National Council on Crime and Delinquency (NCCD) does not offer legal advice. The information presented in this training curriculum, including the handouts and materials, is for general informational purposes and should not be taken as legal advice. If you have a specific legal issue or problem, NCCD recommends that you consult with an attorney.



Welcome

Tom Talbot
PREA Management Office

NATIONAL
PREA
RESOURCE
CENTER

SOGIE Terminology

What is “SOGIE”?

SOGIE: sexual orientation, gender identity, and/or gender expression

Sexual orientation is about who you are emotionally, sexually, or romantically attracted to, whether you are lesbian, gay, bisexual, straight, asexual, questioning, or other.

Which is different from...

Gender identity, which is about how a person sees themselves and understands their own gender (a man, a woman, other).

Gender expression is about how a person expresses their gender identity through their manner of dress, speech, behavior, and/or other physical expressions of themselves.

SOGIE Terminology

Lesbian: A woman who is emotionally, romantically, and sexually attracted to other women.

Gay: A man who is emotionally, romantically, and sexually attracted to other men.

Bisexual: A man or woman who is emotionally, romantically, and sexually attracted to both men and women.

Straight: A person who is emotionally, romantically, and sexually attracted to another person who is of a different sex and/or gender.

Asexual: A person who is not sexually attracted to any sex and/or gender.

SOGIE Terminology

Gender-conforming is used to describe a person whose appearance or manner conforms to traditional societal gender expectations (e.g., a person who was designated female at birth identifies as a girl/woman and dresses in a way that society determines a girl/woman should dress).

Gender-nonconforming (GNC) is used to describe a person whose appearance or manner does not conform to traditional societal gender expectations (e.g., someone who identifies as a girl/woman but wears clothing typically assigned to boys/men).

SOGIE Terminology

Transgender is used to describe a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.

Note: "Gender Identity Disorder" was replaced with "Gender Dysphoria" in the fifth edition of the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders* (DSM-5).

Cisgender is used to describe a person whose gender identity is the same as the sex the person was assigned at birth.

Which are different from ...

Intersex, which is used to describe a person whose sexual or reproductive anatomy or chromosomal pattern do not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Note: Approximately 1 in every 1,500 to 2,000 people is born intersex.

Collecting SOGIE Data

Quiz Question #1

Everyone has a sexual orientation.

- a) True
- b) False

Collecting SOGIE Data

Quiz Answer #1

- a) True. Everyone has a sexual orientation. Most people become aware of romantic attraction around the age of 10 years.

Ryan, C., Russell, S. T., Huebner, D., Diaz, R., & Sanchez, J. (2010). Family acceptance in adolescence and the health of LGBT young adults. *Journal of Child and Adolescent Psychiatric Nursing*, 23(4), 205–213.

Collecting SOGIE Data

Quiz Question #2

Everyone has a gender identity.

- a) True
- b) False



Collecting SOGIE Data

Quiz Question #2

- a) True. Everyone has a gender identity. Gender identity is formed for everyone between the ages of 2 and 4 years.

Brill, S., & Pepper, R. (2008). *The transgender child: A handbook for families and professionals*. San Francisco, CA: Cleis Press.

Collecting SOGIE Data

Quiz Question #3

The majority of LGBTQ and GNC youth in juvenile detention facilities are white.

- a) True
- b) False

Collecting SOGIE Data

Quiz Answer #3

- a) False. 85% of LGBTQ and GNC youth in detention facilities are youth of color.

Irvine, A. (2014). *Dispelling myths: Understanding the incarceration of lesbian, gay, bisexual, and gender-nonconforming youth*. Upcoming working paper.

PREA Screening Standards

- **28 C.F.R. § 115.41(d)(7)–Screening for risk of [sexual] victimization and abusiveness.** The intake screening shall consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender-nonconforming.
- **28 C.F.R. § 115.341(c)(2)–Obtaining information from residents.** At a minimum, the agency shall attempt to ascertain information about: Any gender-nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse.

PREA Screening Standards

28 C.F.R. § 115.42(g)—Use of Screening Information

- Prohibits placement of LGBTI inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

Note: This standard does not apply to lockups.

Unique to Juvenile Facilities

- 28 C.F.R. § 115.342(c): Prohibits placement of LGBTI residents in particular housing, beds, or other assignments solely on the basis of their identification or status.
- 28 C.F.R. § 115.342(c): LGBTI identification *cannot* be used as a factor to predict sexual abusiveness.

PREA Screening Standards

28 C.F.R. § 115.42—Use of Screening Information

- Facility, housing, and programming assignments for transgender and intersex inmates or residents shall be made on a case-by-case basis considering the following:
 - » The inmate's or resident's health and safety;
 - » Management or security problems;
 - » The inmate's or resident's own view of their safety.
- Transgender and intersex inmates or residents must be given the opportunity to shower separately from other inmates or residents.

Note: This standard does not apply to lockups.

PREA Screening Interpretive Guidance

PREA Standards Require an Affirmative Ask

“While agencies are required to ask the inmate/resident if he or she chooses to identify as gay, lesbian, bisexual, transgender, and/or intersex, it is clear that the agency may not compel the inmate/resident to answer.”

—National PREA Resource Center (PRC) Frequently Asked Questions web page, “Screening” section, question 5.

See <http://www.prearesourcecenter.org/faq#n1061>

Why collect SOGIE data?

Using SOGIE Information for PREA and Beyond

- To make housing decisions that protect LGBTI and GNC inmates and residents, and to track outcomes within secure facilities, we need to ask about SOGIE.
- SOGIE data also should be used for community supervision.
 - » We need this information in order to identify where disparities exist in arrest charges, pretrial and detention decisions, sustained charges, or sentences and dispositions.
- As a field, knowledge about the best program referrals is lacking.
 - » By collecting SOGIE data and identifying points of disparity, probation and parole departments can begin to develop intervention programs to address specific problems.

Case Study



Stanislaus County and the Central Region of California

- Where is Stanislaus County and what is the central region of California?
- Why did Stanislaus County begin to collect SOGIE data? What were some challenges and successes?
- How did the central region of California begin to collect SOGIE data? What were some challenges and successes?
- Next steps. How will the region use the data?

Setting the Stage to Ask Questions

Making People Feel Comfortable

Mention that you ask everyone the same questions. Do this before every interview generally, not just before the SOGIE questions.

Your goal is to create a safe space for people to disclose their SOGIE at their own pace.

Be mindful of your own beliefs, cultural norms, and gaps in knowledge.

Remember “silent” communication: Ensure that your physical space is welcoming by including posters, signs, books, and materials that are affirming of LGBTQI people.

Perceptions of Sexual Orientation and Gender Identity

People may see themselves in a way that is different than the way you see them.

Keep in mind that many people do not use labels to define themselves, but you must be aware of behaviors and appearances that place them at risk of discrimination, sexual harassment, and sexual victimization.

Remember that some transgender people will refer to their gender as the one they transitioned to and not use the term “transgender” (e.g., someone assigned “male” at birth who transitioned to being a female or a girl will say she is a “girl” and not a “transgender girl”).

Recommended Questions

Asking these six questions will get you a lot of information.

- What is your gender?
- What was your sex at birth?
- What is your gender expression?
- What is your sexual orientation?
- Who are you attracted to?
- For the interviewer: Does the person's gender expression match the cultural and societal expectations for that gender in their general community?

Structuring the Questions

Order of Questions

- It is very important to weave SOGIE-related questions into other demographic questions, such as age and race/ethnicity, to make everyone as comfortable as possible.



Your Questions

For More Information

For more information about the **National PREA Resource Center** (PRC), visit www.prearesourcecenter.org. Direct questions to info@prearesourcecenter.org

For PRC assistance please contact one of the following:

Tara Graham
Senior Program Specialist
tgraham@nccdglobal.org

Sarah True
Program Associate
strue@nccdglobal.org

Presenter contact information:

Angela Irvine, PhD
Director of Research
airvine@nccdglobal.org

Jill Silva
Stanislaus County Probation Chief
SilvaJ@stancounty.com