

# Respectful Classification Practices with LGBTI Inmates Trainer's Manual

Prepared for the New York State Department of Corrections  
and Community Supervision with technical assistance from the  
National Institute of Corrections

## Course Rationale

Lesbian, gay, bisexual, transgender, intersex (LGBTI) and gender non-conforming inmates represent particularly vulnerable populations with unique medical, safety, and other needs. Though some of the concerns and vulnerabilities faced by these populations are similar, transgender and gender non-conforming inmates are distinct from gay, lesbian, and bisexual inmates in important respects. Basic principles of risk-based classification should be applied with LGBTI populations, accounting for unique characteristics that may affect their risk of victimization. For transgender inmates, this includes making individualized decisions regarding gender placement (i.e., whether the inmate will be housed in a facility for females or for males).

Reception staff must have clear guidelines allowing for the consistent identification of LGBTI inmates and collecting key information relevant to individualized risk assessment. Like other important characteristics, an inmate's sexual orientation or transgender status will not always be immediately obvious at reception, but can typically be identified with relatively simple procedures.

## Acknowledgements

Developed for the New York State Department of Corrections and Community Supervision with technical assistance from the National Institute of Corrections

Developed by Erica King, Orbis Partners and Maureen Baker, University of Southern Maine

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## Session Overview

**Time: 60 minutes**

### Learning Objectives:

By the end of this training, participants will be able to:

- ✓ Provide the rationale for improving correctional intake and classification practices with LGBTI inmates
- ✓ Given a glossary of terms, match 85 percent (11 of 13) of the definitions of identified LGBTI terminology
- ✓ Describe good correctional intake and classification practices to ensure a culture of respect and safety with LGBTI inmates

### Content of this session:

Lesson 1: Why LGBTI Responsive Intake and Classification Matters

Lesson 2: LGBTI Terminology

Lesson 3: Implementing Promising Intake and Classification Practices

Lesson 4: Closing and Moving Forward

### Materials:

- ✓ Power Point slides
- ✓ Myth or Truth Cards printed on cardstock
- ✓ Handout 1: Myth or Truth Answers
- ✓ Handout 2: LGBTI Matching Game
- ✓ Handout 3: New York DOCCS LGBTI Initial Security Classification Guideline "Other Security Characteristics"
- ✓ Handout 4: New York DOCCS Reception/ Guidance Questions Regarding Sexual Orientation and Gender Identity
- ✓ New York DOCCS Training Evaluation

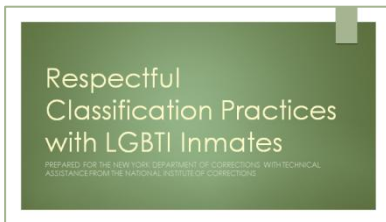
## Lesson 1: Why LGBTI Responsive Intake and Classification Matters (20 min)

### Materials to use:

- ✓ PowerPoint Slides 1-11
- ✓ Myth or Truth Cards
- ✓ Handout 1: Myth or Truth Answers

### 1:1 Training Modification Options

- ✓ Provide rationale for training
- ✓ Use Myth or Truth Cards (flip cards over one at a time) to clarify any misconceptions about LGBTI populations
- ✓ Review LGBTI Quick Facts
- ✓ Emphasize importance of Intake and Classification staff



Show Slide #1

Welcome participants to the training and briefly introduce yourself.



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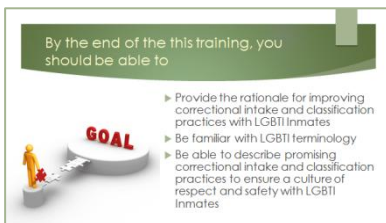
Explain that this training is made possible by the National Institute of Corrections in support of the New York Department of Corrections and Community Supervision's new LGBTI Security Classification Guideline Characteristics.

## Training Goal and Performance Objectives



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Say that the goal for this training is to encourage respectful communication with and about LGBTI correctional populations and provide participants with an opportunity to gain knowledge and skills about respectful intake and classification procedures.

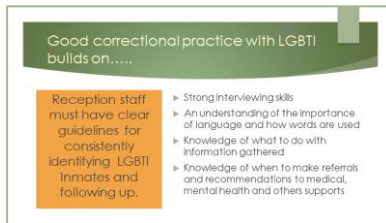


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Say that by the end of this training, we anticipate that they will be able to:

- ✓ Provide the rationale for improving correctional intake and classification practices with LGBTI inmates
- ✓ Given a glossary of terms, be able to match 85 percent (11 of 13) of the definitions of identified LGBTI terminology
- ✓ Describe good correctional intake and classification practices to ensure a culture of respect and safety with LGBTI inmates

## Good Correctional Practice



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Explain that reception staff must have clear guidelines for consistently identifying LGBTI inmates and following up. To do this effectively, staff must possess:

- ✓ Strong interviewing skills
- ✓ An understanding of the importance of language and how words are used
- ✓ Knowledge of what to do with information gathered
- ✓ Knowledge of when to make referrals and recommendations to medical, mental health and others supports



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Explain that we are here to build off training they have already had on interviewing skills and our focus will be on understanding the language and gathering information in a respectful and effective way.

## Anticipatory Set



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Explain that we will begin the training by taking some time to briefly get to know each other. We also want to build on their existing knowledge by discussing some of the common myths and frequently asked questions about LGBTI populations within corrections.

Emphasize the importance of creating a non-judgmental training environment so that participants feel free to raise questions or clarify information. Emphasize the importance of asking questions respectfully.



### Exercise 1: Introductions and Myth or Truth Cards

Distribute Myth or Truth cards around the room. Depending on the size of the group, either:

**Small Group Option:** Ask participants to introduce themselves briefly by sharing their first name and position they hold at DOCCS and then read the card they have been given. Invite the large group to decide if the statement is a myth or a truth.

or

**Large Group Option:** Divide participants into groups of 4-5. Ask each group to read the card/s they have been given and decide if it is a myth or truth. Then ask each person in the small group to stand up and introduce him/herself to the class (first name). Invite one person from the small group to read the statement/s and report on what the group decided.

Use the following information as a guide to provide more information on each of the statements.



## Myths/Truths:

### **Gender Identity, Sexual Orientation, and Gender Expression all basically mean the same thing.**

**FALSE:** "*Sexual orientation*" is an individual's physical and/or emotional attraction to the same and/or opposite sex.

"*Gender identity*" refers to a person's innate, deeply felt psychological identification as male or female.

"*Gender expression*" refers to all of the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech patterns and social interactions.

### **All gay men are drag queens.**

**FALSE:** People are all individuals and there are many ways to express sexual orientation. Not every gay man engages in cross-dressing or behaves in a flamboyant manner.

### **There is no connection between sexual orientation and child molesting.**

**TRUE:** "The empirical research does not show that gay or bisexual men are any more likely than heterosexual men to molest children. This is not to argue that homosexual and bisexual men never molest children. But there is no scientific basis for asserting that they are more likely than heterosexual men to do so. And... many child molesters cannot be characterized as having an adult sexual orientation at all; they are fixated on children." (From: Facts about Homosexuality& Child Molestation, Dr. Gregory Herek)

**A person can just stop being gay if they want to.**

**FALSE:** The most recent scientific evidence suggests that sexual orientation may have a biological element. However, this is a subject of debate and there is no definitive answer to the question of “why” are some people gay. The riddle of why we are attracted to one person and not to another cannot be easily answered, even for heterosexuals.

**If a person calls themselves a fag or a dyke, that doesn't give me permission to.**

**TRUE:** The use of terms that are considered offensive should be discouraged even if you hear inmates using these terms. It is always more appropriate to avoid using slang or any word or term that might generally be considered offensive.

**PREA standards require “special treatment” of LGBTI and gender non-conforming inmates.**

**FALSE:** The PREA Standards do not create “special treatment” for LGBTI and gender non-conforming inmates. Acknowledging people's differences is not treating them preferentially, or giving them special rights. It is recognizing specific risks to safety and security for both staff and inmates, as well as possible opportunities for ways to avoid risk.

**US DOJ studies show similar rates of sexual abuse and victimization among LGBTI populations and the general correctional population.**

**FALSE:** Studies conducted by the US Department of Justice, Bureau of Justice Statistics (BJS) have yielded important sexual victimization information for in-custody populations in prisons and jails. The studies consistently reveal much higher rates of sexual abuse and victimization among the LGBTI population.

**A correctional official may be held liable under the U.S. Constitution's Eighth Amendment and its "Cruel and Unusual Punishment" clause, if there is a finding that he or she was deliberately indifferent to a substantial risk of serious harm to an inmate.**

**TRUE:** Corrections staff may be liable under the 8<sup>th</sup> Amendment. So if intake questions are ignored or housing decisions are not appropriate, this could create exposure to liability.

**Having a transgender woman in a correctional facility does not "sexualize the environment."**

**TRUE:** The presence of a transgender inmate may result in certain reactions from other inmates, but whether an environment is "sexualized" or not has more to do with how inmate and staff behavior is managed. A sexualized environment is created by tolerating inappropriate language and behavior.

**A gender non-conforming inmate is not necessarily gay.**

**TRUE:** Gender non-conforming inmates have characteristics that might make others wonder about their sexual orientation. For example, an effeminate appearing male might have some mannerisms or speech patterns that others associate with being gay, when in fact, he is heterosexual. These individuals may be at risk in correctional facilities because of the assumptions others make about their appearance.

**Lesbian /gay inmates are predators.**

**FALSE:** There is no evidence to suggest that lesbian or gay inmates are more predatory than other inmates. Sexual behaviors that people engaged in before their incarceration more accurately affect how they may interact with other inmates.

**Transgender women want to have sex with all the other inmates.**

**FALSE:** Transgender inmates are individuals with different life experiences and different circumstances. While some inmates seek out sexual partners while incarcerated, others do not, and this is true for transgender inmates as well.

**Protections for sexual orientation, gender and gender identity are included in federal and some state civil rights laws.**

**TRUE:** In fact, enhanced penalties may apply when a crime is motivated by bias toward a particular group; commonly known as 'hate crimes.' As a category, hate crimes committed against people because of their sexual orientation are second in frequency only to racially motivated hate crimes.

**Everyone who identifies as transgender has had or wants to have sex reassignment surgery and take hormones.**

**FALSE:** While some do seek hormones and surgery to help the physical body match psychological identification, many of those who are transgender do not seek gender confirmation surgery (also referred to as sex reassignment surgery, gender reassignment surgery or a sex change). In New York, we will continue with hormones if they come in on them and refer them to be seen by a provider to assess the appropriate treatment needs for that individual. We will also refer an inmate for an assessment, diagnosis and establishment of a treatment regimen when appropriate.

Once everyone has had a chance to introduce themselves and all the statements have been discussed, ask for any questions and thank participants for their participation. Pass out **Handout 1: Myth or Truth Answers** which includes the information just discussed. Ask the group if they have any other myths or truths that they would like to discuss.

### Additional LGBTI Facts

Explain that there are legal and ethical reasons to ensure that reception staff follows a clear intake and classification protocol.



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- ✓ The Prison Rape Elimination Act of 2003 (PREA) includes standards that require staff to receive training on how to effectively and professionally communicate with LGBTI and gender non-conforming inmates.



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- ✓ A 2011/2012 BJS survey of inmates noted that 8% of prison and 7% of jail populations identified as something other than "heterosexual."
- ✓ BJS statistics also tell us that the LGBTI population is at a higher risk for sexual abuse by both inmates and correctional staff. This is true for all jurisdictions including adults and juveniles in jails, prisons, and community corrections.

New York State:

- ✓ In 2002, New York's Sexual Orientation Non-Discrimination Act (SONDA) took effect. SONDA "prohibits discrimination on the basis of actual or perceived sexual orientation in employment, housing, public accommodations, education, credit, and the exercise of civil rights."

- ✓ The Hate Crimes Act of 2000 covers sexual orientation but not gender identity.

## Intake and Classification Sets the Stage



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### Exercise 2: Large Group Discussion

Ask participants to brainstorm why it is important that reception staff have clear and consistent terminology and protocols for intake and classification with LGBTI inmates.



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Add the following points if they are not mentioned:

- ✓ Intake staff are the first point of contact for the correctional system and the facility; they are the first staff an inmate will talk to when entering the system.
- ✓ Intake and classification BEGIN the reentry process at reception, through gathering accurate information.
- ✓ Inaccurate or misleading information can lead to dire consequences for safety.

Ask for any questions and finish the lesson.

## Lesson 2: LGBTI Terminology (15 min)

### Materials to use:

- ✓ PowerPoint Slides 12-14
- ✓ Handout 2: LGBTI Matching Game
- ✓ Handout 3: New York DOCCS LGBTI Initial Security Classification Guideline "Other Security Characteristics"

### 1:1 Training Modification Options

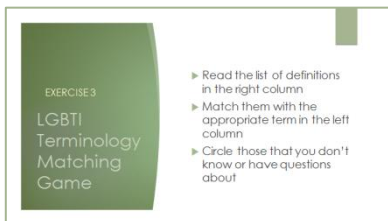
- ✓ Ask staff to complete LGBTI Matching Game
- ✓ Review responses and clarify terminology
- ✓ Introduce New York DOCCS LGBTI Security Classification Guideline Characteristics and address questions



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Explain that there are many misconceptions about LGBTI inmates; they may have questions about gender, sexual orientation, sexual identity, etc. This lesson will define commonly used terms to help them with a basic understanding in their communication with and about LGBTI persons.

### Review of Terms



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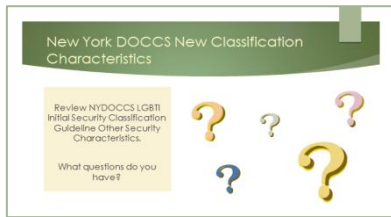


### Exercise 3: LGBTI Matching Game

Pass out **Handout 2: LGBTI Matching Game** to all participants. Ask everyone to take a few minutes to match up the term and the correct definition. When everyone is finished, review the materials as a group.

LGBTI Matching Game		
Match the definition on the right to the term on the left		
Term	Letter	Definition
A. Transgender	F	Romantic and/or physical attraction to members of the same or different sex.
B. Bisexual	I	A female who experiences physical, romantic, and/or emotional attraction to other females.
C. Heterosexual/ Straight	D	An acronym for an umbrella term referring to a group of sexual or gender minorities.
D. LGBTI	K	Refers to a person's internal, deeply felt sense of being male or female.
E. Gender Non-Conforming	J	A male who experiences physical, romantic, and/or emotional attraction to other males.
F. Sexual Orientation	M	A medical diagnosis for a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.
G. Gender Expression	B	A person who experiences physical, romantic, and/or emotional attraction to both males and females.
H. Transgender Female	A	A person whose gender identity is different from their assigned birth sex.
I. Lesbian	E	A person whose appearance or manner does not conform to traditional gender expectations.
J. Gay Man	C	Sexual or romantic attraction to the opposite sex.
K. Gender Identity	H	A person who was assigned the male sex at birth, but who has a female gender identity and lives or would like to live as a woman.
L. Transgender Male	G	Characteristics of appearance including dress, mannerisms, speech and social interactions.
M. Intersex	L	A person who was assigned the female sex at birth, but who has a male gender identity and lives or would like to live as a man.





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Following the game, pass out **Handout 3: New York DOCCS LGBTI Initial Security Classification Guideline “Other Security Characteristics”**

Ask participants if they have any questions about these terms. Debrief the exercise and discuss the following points:

- ✓ It is important to remember that there are many other terms in use and not everything could be included in this game.
- ✓ There are many disrespectful, inappropriate and pejorative terms used to describe the LGBTI population. If you hear a term or word you do not understand, do not make an assumption, but find out what it means by respectfully asking the person (if appropriate) or by researching it.
- ✓ Gender is not as simple as designating a person as male or female; making assumptions about sexual orientation can be damaging or even dangerous.
- ✓ Sexual Orientation and Sexual Identity are different things. Lesbian, Gay and Bi-Sexual are sexual orientation terms while Transgender is a term of sexual identity.
- ✓ We have used the acronym “LGBTI” to refer to a general group of individuals that may have similar issues or concerns in a correctional environment; Remember that LGBTI people can be as different from each other as heterosexual people are.
- ✓ Sometimes referred to as an “invisible minority,” many LGBTI people hide their gender and/or sexual orientation from others for many reasons.
- ✓ We did not name **Gender dysphoria** in this game. This was formerly known as gender identity disorder (GID), and is the formal diagnosis used by

psychologists and physicians to describe persons who experience significant dysphoria (discontent) with the sex they were assigned at birth and/or the gender roles associated with that sex.

- ✓ Emphasize that someone may identify as heterosexual and still express their gender in ways that are considered gender non-conforming.
- ✓ When determining whether or not Other Security Characteristic 13 (Same Gender Sexual Violence) applies, screen for a history of prior criminal convictions for same gender sex offenses. In addition, review prior inmate rule violations and Unusual Incidents Reports for institutional same gender sex offenses perpetrated by force, threat of force, or coercion.

Ask for any questions and finish the lesson.

### Lesson 3: Implementing Promising Intake and Classification Practices (15 min)

#### Materials to use:

- ✓ PowerPoint Slides 15-23
- ✓ Handout 4: New York DOCCS Reception/ Guidance Questions Regarding Sexual Orientation and Gender Identity

#### 1:1 Training Modification Options

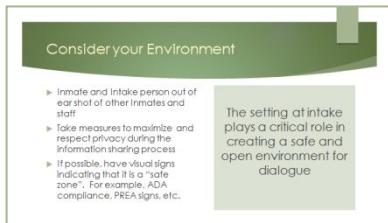
- ✓ Review promising intake and classification practices and New York DOCCS Reception/ Guidance Questions Regarding Sexual Orientation and Gender Identity



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Explain that in this lesson will explore good correctional practices that should be used at intake.

## Promising Practices with LGBTI Inmates



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Review the following points with participants:

**Consider Your Environment:** The setting at intake plays a critical role in creating a safe and open environment for dialogue.

- ✓ The inmate and Intake person should be out of ear shot of other inmates and staff.
- ✓ Take measures to maximize and respect privacy during the information sharing process.
- ✓ If possible, have visual signs indicating that it is a "safe zone". For example, ADA compliance, PREA signs, etc.



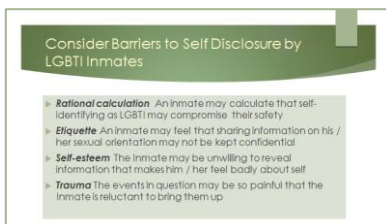
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Review the following points with participants:

**Consider Your Language:** Creating an environment that supports open dialogue also involves the tone of the interview process.

- ✓ **Communication must be respectful and professional** Staff should be approachable but not overly familiar with inmates. Speak without judging, blaming or being demeaning and refrain from name calling and potentially offensive humor.
- ✓ **Language can be verbal and non-verbal** Over 70% of our communication is nonverbal. Nonverbal communication can include our gestures, facial expressions, snickering, rolling eyes, ignoring, laughing, body language or imitating an inmate's mannerisms. Be aware of both your verbal and nonverbal communication.

- ✓ **Be empathetic not sympathetic listeners.**  
Empathetic listening decreases defensiveness and opens lines of communication between staff and inmates. It is important, however, that staff not sympathize with inmates. It is possible to understand another person's feelings without engaging in those feelings with them.
- ✓ **Be careful about use of pronouns.** Pronoun usage is important to consider when working with LGBTI, and especially transgender, inmates. Using the correct pronoun is a way to show respect and to demonstrate acknowledgement of their gender identity. You can use gender neutral terminology such as "Inmate Green" when addressing a transgender inmate. Be aware of your agency or facility policy concerning this.



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Review the following points with participants:

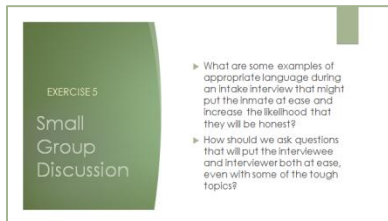
### Consider Barriers to Self-Disclosure by LGBTI Inmates:

There are four obstacles that may impact an inmate's willingness to provide good information:

- ✓ **Rational calculation.** An inmate may calculate that self-identifying as LGBTI may compromise their safety.
- ✓ **Etiquette.** An inmate may feel that sharing information on his / her sexual orientation may not be kept confidential.
- ✓ **Self-esteem.** The inmate may be unwilling to reveal information that makes him / her feel badly about self.
- ✓ **Trauma.** The events in question may be so painful that the inmate is reluctant to bring them up.

## Appropriate Language

Explain that generally, it is better to ask directly about sexual orientation and transgender status rather than to guess or try to interpret based on visible traits. It is most helpful to provide some explanation as to why the question is being asked and to clarify that the individual is not being singled out.



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### Exercise 4: Small Group Discussion

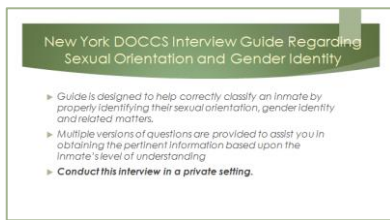
In small groups, ask participants to take 5 minutes to answer the following questions and then share with the large group:

- ✓ What are some examples of appropriate language during an intake interview that might put the inmate at ease and increase the likelihood that they will be honest?
- ✓ How should we ask questions that will put the interviewee and interviewer both at ease, even with some of the tough topics?

Debrief this exercise allowing participants to offer some suggestions of what they came up with in their small groups.

## New York State DOCCS Interview Guide Regarding Sexual Orientation and Gender Identity

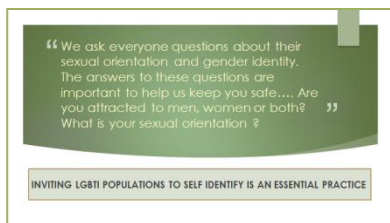
Pass out **Handout 4: New York State DOCCS Interview Guide Regarding Sexual Orientation and Gender Identity** to all participants. Ask everyone to follow along with the document as we review the following points.



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Explain that:

- ✓ This guide was created to help reception staff correctly classify an inmate by properly identifying their sexual orientation and gender identity.
- ✓ The guide offers multiple versions of each question.
- ✓ It is important to conduct this interview in a private setting.
- ✓ Emphasize here that gay, lesbian, bisexual, transgender or intersex can only be checked based upon the inmate's self-report.
- ✓ Gender nonconformance is based upon the interviewer's observations.



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Offer the following as an example of how you might phrase your questions:

“We ask everyone questions about their sexual orientation and gender identity. The answers to these questions are important to help us keep you safe. Your answers to these questions do not mean that you will automatically be placed in protective custody or some other specific setting. Your answer to these questions help us better evaluate your housing and program needs.”

Explain that by giving the inmate this information, you are laying the foundation for them to self-identify sexual orientation and gender identity.

“Are you attracted to men, women or both? What is your sexual orientation?”

Fill out the form to reflect the inmate's self-identified sexual orientation.

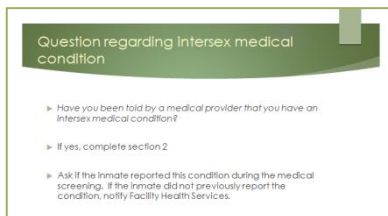


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Explain that the next group of questions are asking about gender identity.

“Do you see yourself as a man or a woman? Do you consider yourself to be transgender? What is your gender identity?”

Fill out the form to reflect the inmate's self-identified gender identity. If the inmate indicates that they are either a transgender male or female, you will complete section two.

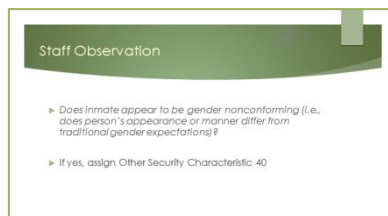


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Explain that the next question asks if the inmate has ever been told that they have an intersex medical condition.

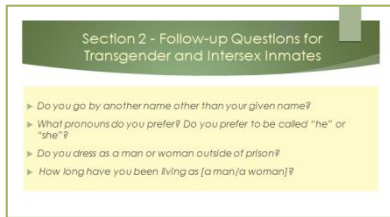
If the inmate says “yes” then you will complete section two.

Ask the inmate if he or she reported this condition during the medical screening. If the inmate did not previously report the condition, notify Facility Medical Director or Nurse Administrator.



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Explain that for this question reception staff are being asked if the inmate's appearance or manner differs from traditional gender expectations. This is not a question asked of the inmate.



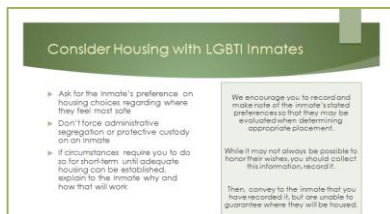
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## Section 2 -Follow-up Questions for Transgender and possible Intersex Inmates

Explain that because transgender or intersex inmates require an individualized decision regarding placement, additional information related to their gender identity, social role in the community, and related risk factors will need to be collected. This should be done using standard interview questions.

Questions on the DOCCS form include:

- ✓ *Do you go by another name other than your given name?*
- ✓ *What pronouns do you prefer? Do you prefer to be called "he" or "she"?*
- ✓ *Do you dress as a man or woman outside of prison?*
- ✓ *How long have you been living as [a man/a woman]?*



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## Consider Housing with LGBTI Inmates:

Explain that you will ask about the inmate's preference on housing choices regarding where they feel most safe.

- ✓ Don't force administrative segregation or protective custody on an inmate.
- ✓ If circumstances require you to do so for short-term until adequate housing can be established, explain to the inmate why and how that will work.

Explain that DOCCS encourages staff to record and make note of the inmate's stated preferences so that they may be evaluated when determining appropriate placement.



It may not always be possible to honor their wishes, however, staff should collect and record this information and then convey to the inmate that they recorded it, but are unable to guarantee where the inmate will be housed.

## Additional Resources



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Let participants know that there are additional resources available on all the topics we just covered.

- National Institute of Corrections:  
<http://nicic.gov/lgbt>
- American Psychological Association:  
<http://www.apa.org/topics/lgbt/transgender.pdf>
- American Jail Association: PREA and LGBTI Rights:  
<http://www.americanjail.org/prea-and-lgbt-rights/>
- National Center for Transgender Equality:  
[http://transequality.org/PDFs/JailPrisons\\_Resource\\_FINAL.pdf](http://transequality.org/PDFs/JailPrisons_Resource_FINAL.pdf)
- NIC Laws and Policies:  
<http://nicic.gov/library/package/lgbtilegal>
- NIC Satellite Broadcast: Their Safety, Your Responsibility:  
<http://nicic.gov/library/026763>

Ask for any questions and finish the lesson.

## Lesson 4: Moving Forward (10 min)

### Materials to use:

- ✓ PowerPoint Slides 28-30
- ✓ Evaluations

### 1:1 Training Modification Options

- ✓ Summarize learning
- ✓ Invite your participant to share their training take-aways to reinforce transfer of learning from training to practice



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Explain that it is important to take time to summarize what we have learned today, and to explore how it can impact our work. But first, we ask that they fill out an evaluation.



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### Evaluations

Pass out evaluations to participants and ask them to take a moment to fill them out.



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### Exercise 5: Commitment Talk

In closing, ask participants to share with the large group their response to one of the following statements:

- ✓ One thing I learned about working with LGBTI populations that I didn't know is.....
- ✓ The next thing I will do as a result of this training is.....

Encourage participants to write down their responses to these questions and to follow through on what they said they would do as soon as possible. Taking action steps following a training will help to transfer what they learned into their practice.

## References & Citations

Allen J. Beck, Marcus Berzofsky, Rachel Caspar, Christopher Krebs, Bureau of Justice Statistics, NCJ 241399, Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12 (2013), available at <http://www.bjs.gov/content/pub/pdf/svpjri1112.pdf>

Herek, G., (2006) Facts about Homosexuality and Child Molestation. Available at: [http://psychology.ucdavis.edu/faculty\\_sites/rainbow/html/facts\\_molestation.html](http://psychology.ucdavis.edu/faculty_sites/rainbow/html/facts_molestation.html)

## Handout 1: Myth or Truth Answers

**Gender Identity, Sexual Orientation, and Gender Expression all basically mean the same thing.**

**FALSE:** "*Sexual orientation*" is an individual's physical and/or emotional attraction to the same and/or opposite sex.

"*Gender identity*," refers to a person's innate, deeply felt psychological identification as male or female.

"*Gender expression*" refers to all of the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech patterns and social interactions.

**All gay men are drag queens.**

**FALSE:** People are all individuals and there are many ways to express sexual orientation. Not every gay man engages in cross-dressing or behaves in a flamboyant manner.

**There is no connection between sexual orientation and child molesting.**

**TRUE:** "The empirical research does not show that gay or bisexual men are any more likely than heterosexual men to molest children. This is not to argue that homosexual and bisexual men never molest children. But there is no scientific basis for asserting that they are more likely than heterosexual men to do so. And... many child molesters cannot be characterized as having an adult sexual orientation at all; they are fixated on children." (From: Facts about Homosexuality & Child Molestation, Dr. Gregory Herek)

**A person can just stop being gay if they want to.**

**FALSE:** The most recent scientific evidence suggests that sexual orientation may have a biological element. However, this is a subject of debate and there is no definitive answer to the question of "why" are some people gay. The riddle of why we are attracted to one person and not to another cannot be easily answered, even for heterosexuals.

**If a person calls themselves a fag or a dyke, that doesn't give me permission to.**

**TRUE:** The use of terms that are considered offensive should be discouraged even if you hear inmates using these terms. It is always more appropriate to avoid using slang or any term that might generally be considered offensive.

**PREA standards require “special treatment” of LGBTI and gender non-conforming inmates.**

**FALSE:** The PREA Standards do not create “special treatment” for LGBTI and gender non-conforming inmates. Acknowledging people's differences is not treating them preferentially, or giving them special rights. It is recognizing specific risks to safety and security for both staff and inmates, as well as possible opportunities for ways to avoid risk.

**US DOJ studies show similar rates of sexual abuse and victimization among LGBTI populations and the general correctional population.**

**FALSE:** Studies conducted by the US Department of Justice, Bureau of Justice Statistics (BJS) have yielded important sexual victimization information for in-custody populations in prisons and jails. The studies consistently reveal much higher rates of sexual abuse and victimization among the LGBTI population.

**A correctional official may be held liable under the U.S. Constitution's Eighth Amendment and its “Cruel and Unusual Punishment” clause, if there is a finding that he or she was deliberately indifferent to a substantial risk of serious harm to an inmate.**

**TRUE:** Corrections staff may be liable under the 8<sup>th</sup> Amendment. So if intake questions are ignored or housing decisions are not appropriate, this could create exposure to liability.

**Having a transgender woman in a correctional facility does not “sexualize the environment”**

**TRUE:** The presence of a transgender inmate may result in certain reactions from other inmates, but whether an environment is “sexualized” or not has more to do with how inmate and staff behavior is managed. A sexualized environment is created by tolerating inappropriate language and behavior.

**A gender non-conforming inmate is not necessarily gay.**

**TRUE:** Gender non-conforming inmates have characteristics that might make others wonder about their sexual orientation. For example, an effeminate appearing male might have some mannerisms or speech patterns that others associate with being gay, when in fact, he is heterosexual. These individuals may be at risk in correctional facilities because of the assumptions others make about their appearance.

**Lesbian /gay inmates are predators.**

**FALSE:** There is no evidence to suggest that lesbian or gay inmates are more predatory than other inmates. Sexual behaviors that people engaged in before their incarceration more accurately affect how they may interact with other inmates.

**Transgender women want to have sex with all the other inmates.**

**FALSE:** Transgender inmates are individuals with different life experiences and different circumstances. While some inmates seek out sexual partners while incarcerated, others do not, and this is true for transgender inmates as well.

**Protections for sexual orientation, gender and gender identity are included in federal and some state civil rights laws.**

**TRUE:** In fact, enhanced penalties may apply when a crime is motivated by bias toward a particular group; commonly known as 'hate crimes.' As a category, hate crimes committed against people because of their sexual orientation are second in frequency only to racially motivated hate crimes.

**Everyone who identifies as transgender has had or wants to have sex reassignment surgery and take hormones.**

**FALSE:** While some do seek hormones and surgery to help the physical body match psychological identification, many of those who are transgender do not seek gender confirmation surgery (also referred to as sex reassignment surgery, gender reassignment surgery or a sex change). In New York, we will continue with hormones if they come in on them and refer them to be seen by a provider to assess the appropriate treatment needs for that individual. We will also refer an inmate for an assessment, diagnosis and establishment of a treatment regimen when appropriate.

## Handout 2: LGBTI Matching Game

Match the definition on the right to the term on the left.		
Term	Letter	Definition
A. Transgender		Romantic and/or physical attraction to members of the same or different sex.
B. Bisexual		A female who experiences physical, romantic, and/or emotional attraction to other females.
C. Heterosexual/ Straight		An acronym for an umbrella term referring to a group of sexual or gender minorities.
D. LGBTI		Refers to a person's internal, deeply felt sense of being male or female.
E. Gender Non-Conforming		A male who experiences physical, romantic, and/or emotional attraction to other males.
F. Sexual Orientation		A medical diagnosis for a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.
G. Gender Expression		A person who experiences physical, romantic, and/or emotional attraction to both males and females.
H. Transgender Female		A person whose gender identity is different from their assigned birth sex.
I. Lesbian		A person whose appearance or manner does not conform to traditional gender expectations.
J. Gay Man		Sexual or romantic attraction to the opposite sex.
K. Gender Identity		A person who was assigned the male sex at birth, but who has a female gender identity and lives or would like to live as a woman.
L. Transgender Male		Characteristics of appearance including dress, mannerisms, speech and social interactions.
M. Intersex		A person who was assigned the female sex at birth, but who has a male gender identity and lives or would like to live as a man.

## Handout 3: New York DOCCS LGBTI Initial Security Classification Guideline “Other Security Characteristics”

### **(13) Same Gender Sexual Violence**

An inmate with this characteristic is a High Institutional Risk and should be classified no lower than Maximum.

An inmate who has any evidence of aggressive sexual acts against same gender adult(s) should have this characteristic applied.

### **(36) Lesbian or Gay**

An inmate with this characteristic will identify with one of the two following definitions:

**Lesbian** – A female who experiences physical, romantic and/or emotional attraction to other females.

**Gay** – A male who experiences physical, romantic and/or emotional attraction to other males.

This characteristic may only be applied if the inmate self-reports.

### **(37) Bisexual**

A person who experiences physical, romantic and/or emotional attraction to both males and females.

This characteristic may only be applied if the inmate self-reports.

### **(38) Transgender Female**

An inmate who was assigned the male sex at birth but who has a female gender identity and lives or would like to live as a woman.

This characteristic may only be applied if the inmate self-reports.

### **(39) Transgender Male**

An inmate who was assigned the female sex at birth but who has a male gender identity and lives or would like to live as man.

This characteristic may only be applied if the inmate self-reports.



### **(40) Gender Non-Conforming**

An inmate who may identify with their assigned sex at birth, however their outward gender expression differs from traditional expectations for men and women. This would include individuals who might informally be referred to as "effeminate" males and "butch" females.

This characteristic may be applied based on Offender Rehabilitation Coordinator's observation.

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## **New York DOCCS Extended Classification Reasons**

The following reasons are self-populating based upon Health Services diagnosis codes:

### **(41) Gender Dysphoria (GD) or Gender Identity Disorder (GID)**

Gender Dysphoria is a mental health diagnosis appropriate for a person whose gender at birth is contrary to the one they identify with. For a person to be diagnosed with GD, there must be a marked difference between the individual's expressed/experienced gender and the gender others would assign him or her, and it must continue for at least six months. This condition causes clinically significant distress or impairment in social, occupational, or other important areas of functioning.

Prior to the 2013 release of the fifth edition of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM-5), individuals may have been diagnosed with Gender Identity Disorder (GID). GID is a mental health diagnosis defined as strong and persistent cross-gender identification and not merely a desire for any perceived cultural advantages of being the other sex. Not all transgender individuals are diagnosed as having GD or GID.

### **(43) Intersex**

A medical diagnosis for an inmate whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

## Handout 4: New York DOCCS Interview Guide Regarding Sexual Orientation and Gender Identity

Inmate Name: \_\_\_\_\_ DIN: \_\_\_\_\_ DATE: \_\_\_\_\_

Completed by: \_\_\_\_\_ ORC Code/ID No.: \_\_\_\_\_

**Directions:** This is an interview guide designed to help correctly classify an inmate by properly identifying their sexual orientation, gender identity and related matters. Multiple versions of questions are provided for certain classifications to assist you in obtaining the pertinent information based upon the inmate's level of understanding. **This interview must be conducted in a private setting.**

### Section 1

**Advise inmate:** We ask everyone questions about their sexual orientation and gender identity. The answers to these questions are also important to help us keep you safe. Your answers to these questions do not mean that you will automatically be placed in protective custody or some other specific setting. Your answer to these questions help us better evaluate your housing and program needs.

Are you attracted to men, women or both? What is your sexual orientation (romantic and/or physical attraction to members of the same or different sex)?

- Heterosexual - Attracted only to members of the opposite sex
- Gay/Lesbian – Attracted to members of the same sex (Other Security Characteristic 36)
- Bisexual – Attracted to members of either sex (Other Security Characteristic 37)
- Declined to Answer

Do you see yourself as a man or a woman? Do you consider yourself to be transgender? What is your gender identity (distinct from sexual orientation and refers to a person's internal, deeply felt sense of being male or female)?

- Male
- Female
- Transgender Female (born male but identifies as a female)(Other Security Characteristic 38 – complete section 2)
- Transgender Male (born female but identifies as a male) (Other Security Characteristic 39 – complete section 2)
- Other/none
- Declined to Answer

Have you been told by a medical provider that you have an intersex medical condition?

- Yes (complete section 2 – Ask if inmate reported this condition during the medical screening. If not, notify Facility Medical Director or Nurse Administrator.)
- No
- Declined to Answer

Staff Observation: Does inmate appear to be gender nonconforming (i.e., does person's appearance or manner differ from traditional gender expectations)?

- Yes (Other Security Characteristics 40)
- No

### Section 2

**If Other Security Characteristic is 38 or 39 (i.e., the inmate identifies as transgender), or if the inmate reports being intersex, record answers to the following questions:**

Do you go by another name other than your given name?

What pronouns do you prefer? Do you prefer to be called "he" or "she"?

Do you dress as a man or woman outside of prison?

How long have you been living as [a man/a woman]?

Is there anything else you would like DOCCS to consider with respect to your safety in connection with decisions regarding your housing and placement? [DOCCS encourages staff to record and make note of the inmate's stated preferences so that they may be evaluated when determining appropriate placement. It may not always be possible to honor their wishes, however, staff should collect and record this information and then convey to the inmate that they recorded it, but are unable to guarantee where the inmate will be housed.]

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Distribution:      Guidance File (Section 7 - Classification / Psychiatric / Medical)  
                            Sexual Abuse Prevention & Education Office (for Security Characteristic 38, 39 or intersex)

**Information Contained on this form shall not be disclosed to anyone other than to the extent necessary to make security classification, housing/placement, programming, treatment, investigation, and other security and management decisions.**