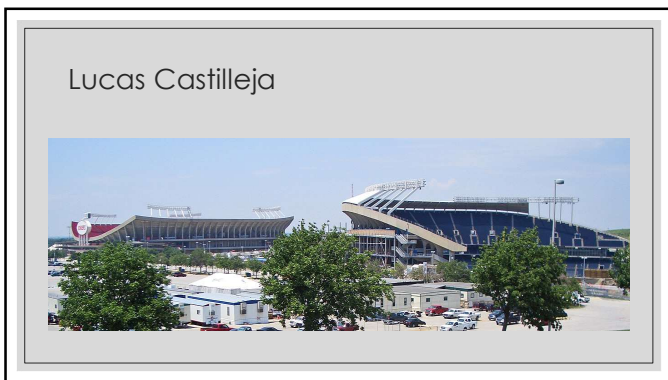
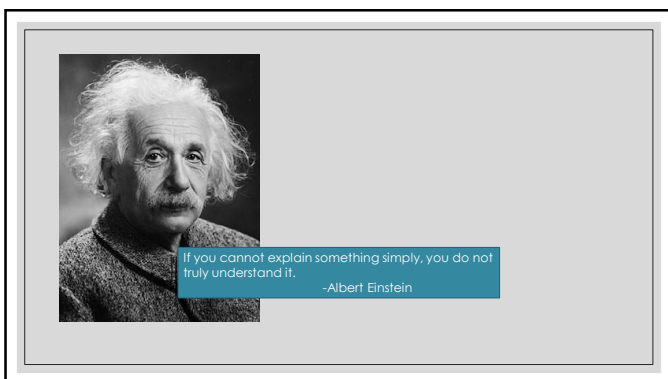


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Prison Rape Elimination Act (PREA)



4

PREA Resource Center

- Created in 2010
- Resource for Implementation
- Audit resources
- Training
- Standards and DOJ FAQ

5

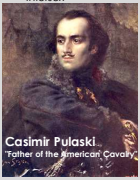
Key Principles

- Sexual assault and harassment is not part of a punishment.
- Zero Tolerance for prison rape
- Prevention is a top priority
- Implement National Standards
- Standardize definitions
- Increase accountability of officials
- Increase availability and reliability of data


6

Sex


- Male vs Female
- Intersex



Casimir Pulaski
Father of the American Cavalry



Caster Semenya
South African Athlete



Hanne Gaby Odiele
Belgian Model


7



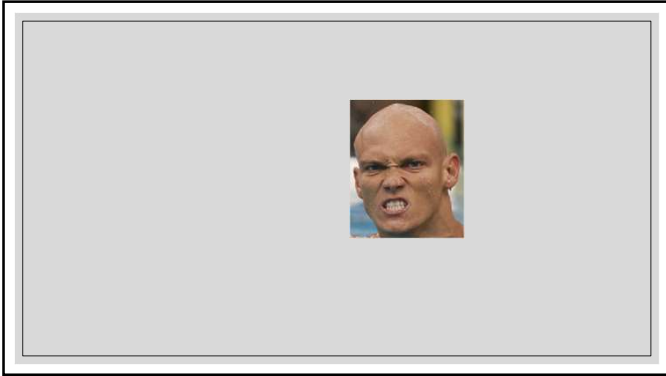
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Presentation

- Masculine vs Feminine
- Androgynous



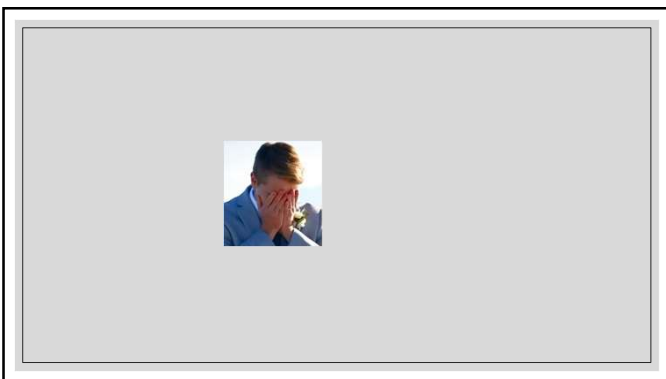
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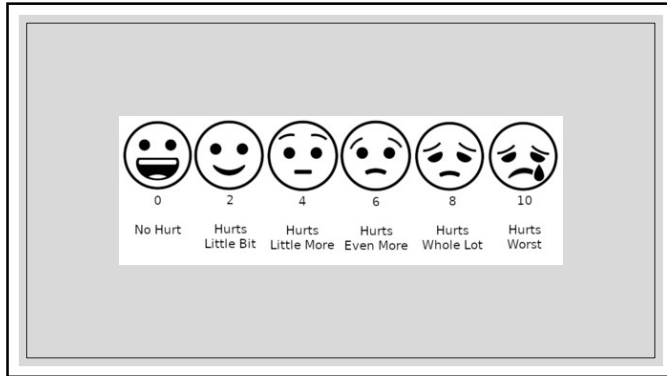
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16

Gender



"Gender identity refers to how a person understands their own gender (man, woman, other)." -PRC

Historically, American culture has categorized male and female.

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Orientation

- Heterosexual
- Homosexual
- Bisexual
- Pansexual
- Asexual

18

"TRANSGENDER"

- Adjective: a word or phrase naming an attribute, added to or grammatically related to a noun to modify or describe it.
- denoting or relating to a person whose sense of personal identity and gender does not correspond with their birth sex.
- Nominalized Adjective: an adjective used as a noun
- Root of the word is not "transition"

19

"TRANSGENDER"

- Psychiatrist John F. Oliven's 1965 work *Sexual Hygiene and Pathology* "[transsexualism] is misleading; actually, 'transgenderism' is meant, because sexuality is not a major factor in primary transvestism."
- Activist/Publisher Virginia Prince used it in the December 1969 issue of *Transvestia*.

20

CISGENDER



21

Preferred Pronouns

- "Although accidental misuse of a transgender employee's preferred name and pronouns does not violate Title VII, intentionally and repeatedly using the wrong name and pronouns to refer to a transgender employee could contribute to an unlawful hostile work environment." -US EEOC
- Voluntary compliance
- Transmasculine and transfeminine

22

Gender Dysphoria

- A concept designated in the DSM-5 as **clinically significant distress or impairment related to a strong desire to be of another gender**, which may include desire to change primary and/or secondary sex characteristics.
- Often begins in childhood, but may present later.
- A marked incongruence between one's experienced/expressed gender and primary and/or secondary sex characteristics (or in young adolescents, the anticipated secondary sex characteristics)
- A strong desire to be rid of one's primary and/or secondary sex characteristics because of a marked incongruence with one's experienced/expressed gender (or in young adolescents, a desire to prevent the development of the anticipated secondary sex characteristics)
- A strong desire for the primary and/or secondary sex characteristics of the other gender
- A strong desire to be of the other gender (or some alternative gender different from one's assigned gender)
- A strong desire to be treated as the other gender (or some alternative gender different from one's assigned gender)
- A strong conviction that one has the typical feelings and reactions of the other gender (or some alternative gender different from one's assigned gender)

23

Gender Affirmation

- Legal
 - Documents, identification, name
- Social
 - Name, pronouns, presentation
- Medical
 - Pubertal suppression, hormone treatments
- Surgical
 - Facial, breast/chest reconstruction, genital

24

PREA Standards

25

◦ § 115.41 Screening for risk of victimization and abusiveness

- (d) The intake screening shall consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization:
 - (1) Whether the inmate has a mental, physical, or developmental disability;
 - (2) The age of the inmate;
 - (3) The physical build of the inmate;
 - (4) Whether the inmate has previously been incarcerated;
 - (5) Whether the inmate's criminal history is exclusively nonviolent;
 - (6) Whether the inmate has prior convictions for sex offenses against an adult or child;
 - (7) **Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;**
 - (8) Whether the inmate has previously experienced sexual victimization;
 - (9) The inmate's own perception of vulnerability; and
 - (10) Whether the inmate is detained solely for civil immigration purposes.

26

◦ 115.15 Limits to cross-gender viewing and searches

- (a) The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.
- (b) As of August 20, 2015, or August 20, 2017 for a facility whose rated capacity does not exceed 50 inmates, the facility shall not permit cross-gender pat-down searches of female inmates, absent exigent circumstances. Facilities shall not restrict female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision.
- (c) The facility shall document all cross-gender strip searches and cross-gender visual body cavity searches, and shall document all cross-gender pat-down searches of female inmates.

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• 115.15 Limits to cross-gender viewing and searches (continued)

- (d) The facility shall implement policies and procedures that enable inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering an inmate housing unit.
- (e) The facility shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. If the inmate's genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

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• 115.15 Limits to cross-gender viewing and searches (continued)

- (f) The agency shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

◦ DOJ FAQ Feb 07, 2013

29

NATIONAL
PREA
RESOURCE
CENTER

30

◦ **§ 115.42 Use of screening information**

- (a) The agency shall use information from the risk screening required by § 115.41 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.
- (b) The agency shall make individualized determinations about how to ensure the safety of each inmate.
- (c) In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.
- (d) Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate.

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◦ **§ 115.42 Use of screening information (continued)**

- (e) A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration.
- (f) Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.
- (g) The agency shall not place lesbian, gay, bisexual, transgender, or intersex 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.

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◦ **§ 115.43 Protective custody**

- (a) Inmates at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment.
- (b) Inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document:
 - (1) The opportunities that have been limited;
 - (2) The duration of the limitation; and
 - (3) The reasons for such limitations.

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◦ **§ 115.43 Protective custody (continued)**

- (c) The facility shall assign such inmates to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.
- (d) If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, the facility shall clearly document:
 - (1) The basis for the facility's concern for the inmate's safety; and
 - (2) The reason why no alternative means of separation can be arranged.
- (e) Every 30 days, the facility shall afford each such inmate a review to determine whether there is a continuing need for separation from the general population.

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◦ **Q: What gender should transgender staff be considered for the purposes of complying with cross-gender viewing and search prohibitions established in standard 115.15?**

- **A:** Facilities should verify whether there are any specific legal authorities, statutes, or personnel policies that may be relevant to this determination. Absent any specific authorities, facilities should make an individualized determination based on the identified gender of the staff member, and not solely on the basis of the biological gender. This decision should be made at the request of, and in conjunction with, the transgender staff member. The determination may also change during the course of employment, as part of an on-going adjustment process, or as the staff member gains real-life experience living as a person of the identified gender. (DOJ FAQ APR 23, 2014)

35

Othering

- Policy and procedure
- PREA investigations vs. Standard incident investigations
- Speaking with Transgender individuals

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