

**Testimony Submitted to the Review Panel on Prison Rape
Sexual Victimization of Jail Inmates with Non-Heterosexual Orientations**

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I want to thank the Review Panel on Prison Rape for the opportunity to testify at this hearing on these important issues. I've been asked to address the victimization of jail inmates with non-heterosexual orientations.

Context for My Remarks

I am a Professor of Law at Western New England University School of Law in Springfield, Massachusetts. I teach criminal law and post-conviction rights, and some of my academic work has focused on issues of gender and sexuality in these areas. From 2011-13, I served as a Co-Chair of the Corrections Committee of the American Bar Association (ABA), and I remain an active member of that committee. I have taught a Gender & Criminal Law course in a correctional facility as part of the Inside-Out Prison Exchange network. I am a member of the Board of Prisoners' Legal Services of Massachusetts. Of course, my comments today reflect my own views and are not necessarily those of any institution or organization with which I'm affiliated.

Summary of Key Points

- Since the Bureau of Justice Statistics (BJS) began conducting surveys of inmate sexual victimization as required by the Prison Rape Elimination Act of 2003 (PREA), the surveys consistently reveal higher rates of sexual victimization for inmates with non-heterosexual orientations than for straight inmates. This is consistent with other research.
- Although we know that transgender inmates are at heightened risk, BJS currently is unable to provide statistical data about the experiences of transgender inmates, given the small number of respondents who select "transgender" as their gender identity in the National Inmate Survey. Given the extreme vulnerability of transgender inmates, BJS should explore any issues that may contribute to under-counting of this population. In future reports on sexual victimization in prisons and jails, if BJS is unable to provide statistics about the transgender population due to the small number of transgender respondents, the report should state that fact, rather than omit all reference to transgender inmates.
- The DOJ PREA regulations promulgated in 2012 provide important tools to help protect lesbian, gay, bisexual, and transgender (LGBT) inmates. These regulations represent the product of considerable time and expertise by many stake-holders. Among other key provisions, PREA regulations provide that housing assignments for transgender and intersex inmates are to be

made on a case-by-case basis, giving serious consideration to the inmate's own views regarding his or her safety, 28 CFR §115.42(c) and (e).

- The impact of the PREA regulations will depend in large part on how they are implemented. Many fear that achieving compliance in jails will pose particular challenges. Achieving substantial compliance with PREA will require a culture change in some circumstances, necessitating outreach to local corrections and law enforcement officials about the need to ensure safety and respect for LGBT inmates.
- Reducing our over-reliance on incarceration will decrease the number of people affected by the problem of prison sexual violence. This is particularly critical for LGBT youth, who face a heightened risk of family rejection, homelessness, and juvenile and criminal court involvement.

Consistently Higher Reported Rates of Victimization for Non-Heterosexual Jail Inmates

As the Review Panel is no doubt aware, the Bureau of Justice Statistics survey on Sexual Victimization in Prisons and Jails for 2011-12 reports troubling statistics regarding the victimization of inmates with non-heterosexual orientations. I have been asked to focus on the experiences of jail inmates, so I will highlight those disturbing numbers here, although I note that the victimization rates for non-heterosexual prisoners were even higher than for jail inmates. 8.5% of jail inmates with non-heterosexual orientations reported sexual victimization by another inmate, compared with 1.2% of straight jail inmates. 4.3% of gay, lesbian, or bisexual jail inmates reported victimization by staff, compared with only 1.7% of heterosexual jail inmates (p. 19). Heightened rates of victimization by non-heterosexual inmates were reported across every measured subgroup (p. 30). The numbers were worst for lesbian, gay, or bisexual (LGB) inmates with serious psychological distress (SPD)--14.7% of non-heterosexual jail inmates with SPD reported inmate-on-inmate sexual victimization (p. 27). These heightened reported rates of victimization by LGB inmates are consistent with all of the BJS self-reported sexual victimization surveys conducted under PREA (p. 30).

This is consistent with other research demonstrating that non-heterosexual inmates are at higher risk for victimization than straight inmates. See JENNESS, MAXSON, MATSUDA & SUMNER, VIOLENCE IN CALIFORNIA CORRECTIONAL FACILITIES: AN EMPIRICAL EXAMINATION OF SEXUAL ASSAULT 33 (2007)(reporting that 66.7% of non-heterosexual inmates reported being sexually assaulted while in custody, compared with 1.9% of heterosexual respondents).

Researchers agree that LGBT jail inmates are at heightened risk of victimization, even if these commentators sometimes disagree about specific means of protecting gay and transgender incarcerated people. Compare Sharon Dolovich, *Two Models of the Prison: Accidental Humanity & Hypermasculinity in the L.A. County Jail*, 102 J. CRIM. L. & CRIMINOLOGY 965 (2012)(arguing that the gay and transgender-dedicated K6G wing of the L.A. County Jail provides a haven from the violence and hyper-masculinity of that facility) and Sharon Dolovich, *Strategic Segregation in the Modern Prison*, 48 AM. CRIM. L. REV. 1 (2011)(describing the K6G unit), with Russell K. Robinson, *Masculinity as Prison: Sexual Identity, Race & Incarceration*, 99 CAL. L. REV. 1309 (2011)(criticizing the K6G unit as failing to protect vulnerable men in

the general population, as well as forcing inmates to “come out” to seek protection, and reinforcing government-sanctioned notions of sexual identity).

Observers frequently attribute the high rates of abuse of LGBT inmates to the hyper-masculinized and violent cultures of many American correctional facilities, which harm all inmates but particularly those who are perceived as gay or gender non-conforming. See Craig Haney, *The Perversions of Prison: On the Origins of Hypermasculinity and Sexual Violence in Confinement*, 48 AM. CRIM. L. REV. 121 (2011); Terry A. Kupers, *The Role of Misogyny and Homophobia in Prison Sexual Abuse*, 18 U.C.L. A. WOMEN’S L.J. 107 (Fall 2010); Kim Shayo Buchanan, *Our Prisons, Ourselves: Race, Gender & the Rule of Law*, 29 YALE L. & POL’Y REV. 1 (2010).

The Experiences of Transgender Incarcerated People

I’ve been asked to address the victimization of non-heterosexual inmates, but I also want to highlight a gap in the BJS survey data regarding the experiences of transgender inmates. Statistics from the National Inmate Survey regarding inmates with non-heterosexual orientations (lesbian, gay, bisexual, or other) do not necessarily capture the experience of transgender inmates. Respondents to the National Inmate Survey are asked to select a gender from three choices (question D2 - male, female, or transgender), and to choose a sexual orientation (question D5 - straight or heterosexual; bisexual; homosexual, gay, or lesbian; or other). According to Allen Beck of the Bureau of Justice Statistics (BJS), who graciously explained the survey questions to me, the group of respondents who selected “transgender” is too small to make statistically significant statements about their victimization rates. Telephone call with Allen Beck, September 2013.

It is important to maintain focus on transgender inmates despite their small numbers, because we know that incarcerated people who are transgender are particularly vulnerable to victimization. When U.C. Irvine researcher Valerie Jenness and her collaborators surveyed all of the transgender inmates incarcerated in the California Department of Corrections and Rehabilitation, they discovered that 58.5% of the transgender inmates had experienced a sexual assault while incarcerated. VALERIE JENNESS, LORI SEXTON, JENNIFER SUMNER, *TRANSGENDER INMATES IN CALIFORNIA PRISONS: AN EMPIRICAL STUDY OF A VULNERABLE POPULATION* (2009) (Table 7). See also *Farmer v. Brennan*, 114 S.Ct. 1970 (1994) (announcing the deliberate indifference standard for failure to protect claims under the Eighth Amendment in the case of a transgender woman, Dee Farmer, housed in a facility designated for men); DAN HUNT, JANET BAUS, REID WILLIAMS, *CRUEL AND UNUSUAL* (2006) (documentary examining the experiences of transgender women housed in facilities designated for men). In fact, transgender prisoners were a focus of particular attention in the PREA regulation process, because they are understood to be at particular risk.

BJS should take measures to ensure that there is no under-counting of the transgender population. Surveying incarcerated people about their gender identity and sexual orientation can be complicated. Asking respondents to select “male, female, or transgender,” may under-report the number of transgender respondents if respondents simply select the gender with which they identify (male or female). For example, in the Jenness study of California transgender inmates, 76% of the transgender inmates in facilities designated for men identified as female, 3% as male, 14% as both

female and male, 3% as “neither,” and 4% as “other” or “it depends.” See VALERIE JENNESS, LORI SEXTON, JENNIFER SUMNER, *TRANSSEXUAL INMATES IN CALIFORNIA PRISONS: AN EMPIRICAL STUDY OF A VULNERABLE POPULATION* (2009) (figure 2). To disaggregate the issues of gender identity and transgender status, BJS might consider breaking the gender inquiry into two questions—one question about gender identity (male/female/other), followed by a second question about transgender or inter-sex status.

On the other hand, transgender inmates’ experience of victimization may be partially reflected in the BJS statistics regarding inmates who identify as lesbian, gay, bisexual, or other. In the Jenness study of transgender inmates in California, 33% identified as homosexual and 11% as bisexual (18% identified as straight, 20% listed “transgender” as their sexual orientation; and 18% chose “something else”). Thus, the experiences of some transgender people may be captured by the responses of some individuals in the non-heterosexual category of the BJS survey. See VALERIE JENNESS, LORI SEXTON, JENNIFER SUMNER, *TRANSSEXUAL INMATES IN CALIFORNIA PRISONS: AN EMPIRICAL STUDY OF A VULNERABLE POPULATION* (2009) (figure 3).

Because the transgender population is relatively small, it may be feasible for researchers to learn about their experiences through qualitative research methods. Valerie Jenness and her collaborators have done an interviewing project in the California Department of Corrections. See Valerie Jenness, *From Policy to Prisoners to People: A “Soft Mixed Methods” Approach to Studying Transgender Prisoners*, 39(5) J. CONTEMPORARY ETHNOGRAPHY 517 (2010) (describing process of interviewing transgender inmates); Sexton, Jenness & Macy, *Where the Margins Meet: A Demographic Assessment of Transgender Inmates in Men’s Prisons*, 27(6) JUSTICE QUARTERLY 835 (2010).

PREA Regulations: Reason for Hope

If there is any hopeful news in this picture for incarcerated LGBT people, it is that, since the last Review Panel hearings in 2011, the DOJ has promulgated regulations under the Prison Rape Elimination Act of 2003 (PREA). These regulations represent a significant investment of time and expertise and were the product of extensive notice-and-comment by a variety of stake-holders, including free-world LGBT advocacy groups. See, e.g., PREVENTING THE SEXUAL ABUSE OF LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND INTERSEX PEOPLE IN CORRECTIONAL SETTINGS, COMMENTS ON THE NATIONAL STANDARDS TO PREVENT, DETECT, AND RESPOND TO PRISON RAPE, submitted by the National Center for Transgender Equality, the National Center for Lesbian Rights, the ACLU, the Transgender Law Center, and Lambda Legal, May 10, 2010.

The new DOJ PREA regulations also are consistent with the ABA Standards on the Treatment of Prisoners, particularly in their emphasis on the heightened vulnerability of LGBT prisoners, and their requirement of case-by-case housing determinations for transgender prisoners. See Margaret Colgate Love & Giovanna Shay, *Gender & Sexuality in the ABA Standards on the Treatment of Prisoners*, 38 WM. MITCHELL L. REV. 1216 (2012).

General Provisions

Many provisions of the PREA regulations protect all incarcerated people, but may be especially important for non-heterosexual inmates, who are at higher risk for sexual victimization. For example,

PREA requires that agencies: adopt a “zero tolerance” policy towards all forms of sexual abuse and harassment, 28 C.F.R. § 115.11; investigate allegations of prison sexual violence, 28 C.F.R. § 115.21-22 & 115.71-73; train staff on these standards and discipline wrong-doers, 28 C.F.R. §115.31 & 115.76-78; and provide medical and mental health care for survivors of sexual abuse, 28 C.F.R. § 115.81-83, as well as access to outside confidential support services, 28 C.F.R. § 115.53. PREA regulations also promote accountability, by requiring that institutions accept complaints of sexual abuse even if they are submitted after the institutional grievance deadline, 28 C.F.R. § 115.52(b)(1), and that they take reports of sexual abuse from third parties, 28 C.F.R. § 115.54. In a particularly important provision for transparency, the regulations mandate audits every three years by independent auditors, 28 C.F.R. § 115.93.

Screening for Vulnerabilities

Some of the PREA provisions for Adult Prisons and Jails specifically address the heightened vulnerabilities of inmates with non-heterosexual orientations. For example, the screening provision, 28 CFR §115.41, provides that inmates shall be screened upon intake for heightened risk of sexual abuse. Among a number of criteria to be assessed is “whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming,” 28 CFR § 115.41(d)(7). Inmates cannot be disciplined for refusing to answer questions regarding their sexual orientation. 28 CFR § 115.41(h). Inmates are to be reassessed after 30 days and when warranted, and this information is to be used by the agency in housing, work, education, and program assignments, with a goal of preventing victimization, 28 CFR § 115.41(f)-(g), 28 CFR § 115.42(a).

Safeguards on LGBT-Dedicated Units

With respect to the sometimes controversial use of LGBT units, the PREA regulations offer some safeguards. LGBT inmates are not to be housed in separate dedicated units unless there is a “consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates,” 28 C.F.R. §115.42(g). This has the effect of requiring external scrutiny of LGBT-dedicated housing. This safeguard is important because “gay” units sometimes have been used to stigmatize prisoners who are or who are perceived to be gay or gender non-conforming. See JOEY MOGUAL, ANDREA J. RITCHIE & KAY WHITLOCK, QUEER (IN)JUSTICE: THE CRIMINALIZATION OF LGBT PEOPLE IN THE UNITED STATES 97 (2011)(describing the creation of a so-called “butch wing” at a Virginia correctional facility for women).

Moreover, since housing placements under PREA are to be individualized, 28 CFR §115.42(b), placement in a dedicated unit presumably would not be mandated for all LGBT people in the jail, even if the unit were authorized. This is important, because some gay and transgender incarcerated people feel safer in an LGBT-dedicated unit, while others prefer not to be singled out. See NATIONAL CENTER FOR TRANSGENDER EQUALITY, LGBT PEOPLE & THE PRISON RAPE ELIMINATION ACT (July 2012)(“Some people may prefer to be housed [in LGBT-dedicated units] because they may feel they are safer from being abused by other inmates.”), and *contrast* Robinson, *Masculinity as Prison*, 99 CAL. L. REV. 1309 (criticizing the way the L.A. County Jail operates the gay and trans-dedicated K6G unit).

Limits on Use of Isolation

Nor can jails rely solely on holding LGBT inmates in long-term isolation in order to “protect” them. PREA requires that involuntary segregated housing be used to protect an inmate only when there are “no available alternative means” of separating the inmate from likely abusers. 28 C.F.R. § 115.43 (a) PREA further requires that involuntary segregation can be used for no more than 30 days without being reassessed, and that prisoners who are segregated must be permitted access to programs, work, and educational opportunities. 28 CFR § 115.43(b) and (c).

Case-by-Case Housing Determinations for Transgender and Intersex Inmates

The PREA regulations on housing placements are particularly important for the safety of transgender and inter-sex prisoners. PREA provides that corrections officials should make “case-by-case” decisions about whether a transgender inmate will be housed in a facility designated for men or women, taking into account whether the “placement would ensure the inmate’s health and safety and whether the placement would present management and security problems,” 28 C.F.R. § 115.42(c). An inmate’s “own views” about his or her safety and security should be given “serious consideration” in deciding whether to house the inmate in a male or female designated facility, C.F.R. § 115.42(e), and housing arrangements should be reassessed at least twice per year, C.F.R. § 115.42(d). PREA also requires that transgender and inter-sex prisoners be permitted to shower separately from other inmates, C.F.R. §115.42(f).

Corrections agencies should adopt policies spelling out criteria to guide discretion in making these case-by-case decisions about appropriate housing for transgender and intersex inmates. According to ACLU Attorney Chase Strangio, who provided a helpful summary of model policies , jurisdictions that have adopted instructive policies in this area include Cook County, Illinois; the District of Columbia; the City and County of Denver; and Cumberland County, Maine. *See* Cook County IL Interagency Directive 64.5.43.0, effective March 7, 2011; Cumberland County Sheriff’s Office Policy No. N-243A, effective Dec. 2009; D.C. Dept. of Corrections Program Statement 4020.3C, effective December 28, 2011; Denver Sheriff Dept. Order 4005.1, effective June 6, 2012. *See also* Adrienne Lu, *For Transgender Detainees, a Jail Policy Offers Some Security*, N.Y. TIMES, Dec. 22, 2011 (describing the implementation of the Cook County, IL policy). These jurisdictions use committees to making housing placements for transgender individuals. Such committees should consider factors including the inmate’s institutional history, history of prior housing placements, medical and medical health needs, state of transition, the inmate’s expressed feelings about where she or he will be safest, and other safety and security issues. *See, e.g.*, Cumberland County Sheriff’s Office Policy No. N-243A. Email from Attorney Chase Strangio, Oct. 1, 2013.

Professional and Respectful Searches

PREA also places some limits on strip and body cavity searches. The regulations forbid searches of transgender and inter-sex inmates for the “sole purpose of determining an inmate’s genital status,” and require that all searches of trans prisoners be conducted in a “professional and respectful” manner, and in the “least intrusive manner possible.” 28 C.F.R. § 115.15 (e) and (f). The regulations further forbid cross-gender strip and body cavity searches except in exigent circumstances, and provide a

phased-in ban on cross-gender pat searches of adult women prison and jail inmates. 28 C.F.R. § 115.15. (a) and (b).

Of course, many prisoners and their advocates feel that the strip, body cavity, and pat-searching that is routine in American corrections is inherently abusive. These stake-holders argue that these searches constitute violations that cannot be ameliorated through regulations mandating “professionalism.” See Jessi Lee Jackson, *Sexual Necropolitics and Prison Rape Elimination*, 39 SIGNS 197, 206 (quoting Andrea Ritchie’s testimony to the National Prison Rape Elimination Commission that strip and body cavity searches “are both subjectively experienced as and objectively constitute sexual assaults” and “amount to a form of systemic, state-sanctioned sexual assault.”) For this reason, among others, it is important to reduce our over-reliance on incarceration, as described further below.

Challenges to Implementing PREA in Jails

Although the new PREA regulations provide an important tool to end sexual victimization, implementation is key. See Alex Friedman, *Prison Rape Elimination Act Standards Finally in Effect, But Will They Be Effective?*, PRISON LEGAL NEWS (Sept. 2013). Civil rights lawyer Joey L. Mogul, co-author of a book on LGBT people in the criminal legal system, warns that it is too soon to say whether PREA and related corrections policies will make a difference for LGBT inmates, because we have to see how these policies will work on the ground. Phone conversation with Joey Mogul, November 1, 2013. See also JOEY L. MOGUL, ANDREA J. RITCHIE & KAY WHITLOCK, *QUEER (IN)JUSTICE: THE CRIMINALIZATION OF LGBT PEOPLE IN THE UNITED STATES* (2011).

Implementation is even more complicated in jails. State corrections systems stand to lose a portion of their federal funding if they fail to implement the PREA regulations. 42 U.S.C. § 15607(e)(2) (stating that states will lose 5% of their federal funding for prison programs unless the chief executive certifies that the state has achieved full compliance with PREA or will use that 5% to work towards full compliance). However, jails are a patchwork of local facilities run by different authorities. Many are run by elected sheriffs. See Margo Schlanger, *Civil Rights Injunctions Over Time: A Case Study of Jail & Prison Court Orders*, 81 N.Y.U. L. REV. 550, 622-23 (2006). Local jails are not as dependent on federal funding, and so the officials that run them may believe that they have less to lose if they fail to implement the PREA standards. See David Kaiser & Lovisa Stannow, *Prison Rape: Obama’s Program to Stop It*, THE NEW YORK REVIEW OF BOOKS, Oct. 11, 2012. The frequent turn-over in jail populations can also make it more difficult for “free-world” community-members and advocates to monitor jails and ensure accountability.

Changing Corrections Cultures

Achieving PREA compliance in jails will require a culture change through education of corrections professionals about the need to ensure safety and respect for LGBT inmates. Lack of respect for LGBT inmates by corrections staff contributes to and reinforces the violent atmosphere that many observers blame for high rates of sexual assault. Using detainees’ and prisoners’ preferred names and pronouns, as well as speaking and referring to LGBT inmates with respect, can contribute to a safer culture in a correctional facility. See NATIONAL INSTITUTE OF CORRECTIONS, *LESBIAN, GAY, BISEXUAL,*

(2013)(providing policy checklists, as well as a useful overview and glossary of terms (e.g., “transgender” and “gender identity”) that can be used in training).

In implementing the PREA guidelines, corrections officials should draw on the expertise of LGBT advocacy groups and local LGBT communities. For example, the City and County of Denver policy on the housing of transgender inmates provides that, if necessary, staff should consult with a member of the LGBT community to gain information in making housing placements. It further provides that an inmate has the right to a representative at the housing placement hearing, which can include a volunteer member of the LGBT community. See Denver Sheriff Dept. Order 4005.1, effective June 6, 2012. (Again, thanks to Attorney Chase Strangio for providing a summary of model policies on transgender housing). Such policies have the effect of leveraging relevant knowledge and expertise, and of promoting transparency and accountability.

Agencies should strive to eliminate harassment and discrimination against LGBT prisoners at the same time that they work to end prison sexual violence. See AMERICAN BAR ASSOCIATION STANDARDS ON THE TREATMENT OF PRISONERS Standard 23-7.1(a) (“Correctional authorities should treat prisoners in a manner that respects their human dignity, and should not subject them to harassment, bullying, or disparaging language or treatment, or to invidious discrimination based on race, gender, sexual orientation, gender identity, religion, language, national origin, citizenship, age, or physical or mental disability.”)

Sadly, at least in some systems, it seems that perceived PREA obligations are used as a tool of harassment. PREA recognizes that an agency is free to ban all “sexual activity between inmates” and to discipline inmates for such conduct; however, it forbids agencies from deeming activity that is “not coerced” to be “sexual abuse.” 28 CFR § 115.78 (g). Nonetheless, Rev. Jason Lydon of Black and Pink, an organization that works with LGBT inmates, has received reports that LGBT prisoners have been disciplined, ostensibly under PREA, for expressing affection or holding hands with another incarcerated person. Telephone call with Rev. Jason Lydon, October 8, 2013. See also Jessi Lee Jackson, *Sexual Necropolitics and Prison Rape Elimination*, in 39 SIGNS 197, 218 (Autumn 2013) (quoting prisoners who describe punishments imposed under PREA for friendly, non-sexual contact like hugging). PREA should not be used as a sword to harass or discipline LGBT inmates who are not engaging in sexual misconduct.

Reducing Over-Reliance on Incarceration

One of the best ways to reduce prison sexual violence is to decrease our over-reliance on incarceration. In 2013, United States Attorney General Eric Holder told the ABA that “too many Americans go to too many prisons for far too long and for no good law enforcement reason.” He said that this “widespread incarceration” imposed not only “significant economic burdens” but also “human and moral costs that are impossible to calculate.” Charlie Savage, *Justice Department to Seek to Curtail Stiff Drug Sentences*, N.Y. TIMES, August 12, 2013.

That’s why even states with tough-on-crime reputations are implementing reforms to reduce their reliance on incarceration. See Erica Goode, *U.S. Prison Populations Decline, Reflecting New*

Approach to Crime, N.Y. TIMES, July 25, 2013. Investing resources in education and communities rather than prisons can help to reduce our incarcerated population. See THE SENTENCING PROJECT, ENDING MASS INCARCERATION: SOCIAL INTERVENTIONS THAT WORK (2013) (explaining that preschool programs, rehabilitative efforts in juvenile justice, and community-based programs have been demonstrated to reduce incarceration rates in a cost-effective manner).

Decarceration efforts are particularly critical for LGBT youth, who suffer heightened rates of juvenile and criminal court involvement, in part due to increased risk of family rejection and homelessness. See Kathryn E.W. Himmelstein & Hannah Bruckner, *Criminal-Justice and School Sanctions Against Nonheterosexual Youth: A National Longitudinal Study*, PEDIATRICS (2010) (demonstrating that non-heterosexual youth face a heightened risk of criminal sanction); JEROME HUNT & AISHA MOODIE-MILLS, THE UNFAIR CRIMINALIZATION OF GAY AND TRANSGENDER YOUTH: AN OVERVIEW OF THE EXPERIENCES OF LGBT YOUTH IN THE JUVENILE JUSTICE SYSTEM (2012).

Other Resources

Individuals and organizations that can provide further technical assistance to protect LGBT incarcerated people include:

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