

Sexual Orientation and Gender Identity (SOGI) Data Action Plan for the U.S. Department of Justice

Introduction

In June 2022, President Biden issued [Executive Order 14075](#), Advancing Equality for Lesbian, Gay, Bisexual, Transgender, and Intersex Individuals. Section 11(c) of that Order requires each agency that conducts relevant programs or statistical surveys to submit a Sexual Orientation and Gender Identity (SOGI) Data Action Plan, detailing how the agency plans to use SOGI data to advance equity for LGBTQI+ individuals.

The Order also created a subcommittee of the Interagency Working Group on Equitable Data to guide agencies in developing their SOGI Data Action Plans and directed the Working Group to develop a Federal Evidence Agenda on LGBTQI+ Equity. The Order further requires that agency SOGI Data Action Plans identify how the agency plans to implement the recommendations in that Agenda.

In January 2023, the Interagency Working Group published the [Federal Evidence Agenda on LGBTQI+ Equity](#). The Agenda establishes a systematic plan for identifying and addressing priority questions relevant to the programs, policies, and regulations of an agency. In particular, it identifies a number of “Learning Questions,” and directs agencies to address in their SOGI Data Action Plans the ways in which the agency’s data collection efforts do or can be used to answer those or other questions regarding the agency’s policies and programs as they relate to LGBTQI+ people, including, as appropriate, to the federal workforce.

The Department of Justice’s (DOJ) mission includes programs, policies, or regulations related to the *Safety, Security, and Justice* topic identified in the Federal Evidence Agenda on LGBTQI+ Equity. The Department has accordingly assessed the ways in which answers to the identified Learning Questions and other relevant questions would improve the Department’s ability to make evidence-based decisions related to its programs, policies, operations, and/or regulations, or would improve the ability of Department partners to make evidence-based decisions related to their programs.

Learning Questions

This Plan categorizes the Learning Questions into three groups: (1) questions that may be answered by existing DOJ data collections¹; (2) questions that may be answered in the near term because DOJ is adding SOGI measures to data collections that can answer these questions; and (3) questions that

¹ SOGI data are currently collected on the following surveys: National Crime Victimization Survey (NCVS), Survey of Prison Inmates (SPI), National Inmate Survey (NIS), and National Survey of Youth in Custody (NSYC). Gender identity data are collected on the Survey of Sexual Victimization. Intersex data are collected on the Survey of Sexual Victimization. See [Sexual Orientation and Gender Identity in BJS Data Collections](#) for more information.

cannot be answered at this time or in the near term because DOJ would need additional resources to develop or expand data collections to answer these questions.

Group 1: Questions that may be answered by existing DOJ data collections²

1. To what extent do lesbian, gay, bisexual, or transgender (LGBT)³ people experience a higher rate of intimate partner violence or domestic violence compared to the general population?
2. To what extent do LGBT people experience bias-motivated hate crimes?
3. To what extent do LGBT people utilize crime victim service assistance compared to the general population?
4. To what extent do LGBT students experience bullying compared to the general student population?
5. To what extent do LGBT people have different experiences with the correctional system (e.g., prisons, jails, juvenile facilities) than non-LGBT people?
6. What are the differences in rate of recidivism for LGBT people compared to non-LGBT people?
7. To what degree and in what forms do LGBT and intersex adults in incarceration experience victimization as compared to the total population of people in incarceration?
8. To what extent do LGBT young people in incarceration experience more victimization compared to all young people in incarceration? Does this differ by type of facility (e.g., facilities that primarily house adults vs. those that house youth)?

Group 2: Questions that may be answered in the near term because DOJ is adding SOGI measures to data collections that can answer these questions

9. To what extent do LGBT people's experiences with law enforcement differ from those of non-LGBT people?

Group 3: Questions that cannot be answered at this time or in the near term because DOJ would need additional resources to develop or expand data collections to answer these questions

10. To what extent does law enforcement engage with LGBTQI+⁴ stakeholders to solicit their recommendations on how law enforcement officials can improve their investigative, prosecutorial, and victim services response?
11. What have been effective or promising practices that prevent or interrupt violent crime targeting LGBTQI+ people?
12. How effective are bullying interventions for LGBTQI+ youth compared to non-LGBTQI+ youth?

² Preliminary analyses must be done for each of these questions in order to assess sample sizes and statistical reliability of estimates. Multiple years of data may need to be aggregated before statistical estimates can be released.

³ Existing BJS data collections follow the recommendations outlined in the [Recommendations on the best practices for the collection of sexual orientation and gender identity data on federal statistical surveys](#) published by the Office of Management and Budget's Office of Information and Regulatory Affairs. The survey items included in these recommendations do not include explicit response categories for queer and intersex, thus, LGBT is used instead of LGBTQI+.

⁴ Depending on recommendations from future research in the collection of SOGI data on federal statistical surveys, future DOJ data collections could include explicit response options for queer and intersex, thus, the LGBTQI+ acronym is used here.

13. What have been effective or promising practices that improve the conditions of confinement in jails and prisons for LGBTQI+ persons?
14. To what extent do prisons and jails provide gender-affirming care to transgender people with gender dysphoria?

Evidence-Building Activities

Group 1 Learning Questions: Questions that can be answered by existing DOJ data collections

In order to **build** evidence related to the **Learning Questions 1, 2, and 3** listed above, the Department of Justice will explore the following activities over the next 12 months:

- *SOGI data are collected from persons age 16 or older in the **National Crime Victimization Survey (NCVS)**. Crime victims are asked about the types of crimes experienced, including whether these crimes are intimate partner violence, domestic violence, or bias-motivated crimes. Crime victims are also asked about assistance sought from a victim service agency following a victimization. Although these data are currently collected on the NCVS and these Learning Questions can be answered, preliminary analysis must be done in order to assess sample sizes and statistical reliability for some estimates. Multiple years of data may need to be aggregated before statistical estimates can be released for these crime types and victim service assistance by SOGI status. Statistical estimates for intimate partner violence and domestic violence committed against persons who identify as lesbian or gay, bisexual, or straight are included in BJS' statistical report [*Violent Victimization by Sexual Orientation and Gender Identity, 2017-2020*](#), however, sample sizes were not sufficient to examine intimate partner violence and domestic violence by gender identity.*

In order to **build** evidence related to **Learning Question 4** listed above, the Department of Justice will explore the following activities over the next 12 months:

- *As discussed above, SOGI data are collected from persons age 16 or older in the NCVS. SOGI data can also be linked to data from the **NCVS School Crime Supplement** in order to understand bullying experiences for students ages 16-18 by SOGI status. Preliminary analysis must be done in order to assess sample sizes and statistical reliability before estimates can be released.*

In order to **build** evidence related to **Learning Question 5** listed above, the Department of Justice will explore the following activities over the next 12 months:

- *SOGI data are collected on a number of BJS data collections focused on correctional institutions, including the **Survey of Prison Inmates (SPI)**, **National Inmate Survey (NIS)**, and **National Survey of Youth in Custody (NSYC)**. Gender identity data are collected on the **Survey of Sexual Victimization (SSV)**, including data on persons who identify as intersex. Statistical estimates for the percent of all prisoners, federal prisoners, and state prisoners by sexual orientation and gender identity are included in BJS's statistical report [*Profile of Prison Inmates, 2016*](#) which analyzes data from the 2016 **Survey of Prison Inmates**. Estimates from the **National Inmate Survey (NIS-3)** were published in [*Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12*](#) examining the sexual orientation and gender identity of prison and jail inmates experiencing sexual victimization in correctional facilities. BJS will publish a statistical report(s)*

analyzing data from the 2023-2024 NIS and will include estimates by SOGI status if they are statistically reliable. A [BJS statistical report](#) analyzing data from the **National Survey of Youth in Custody** examined the percentage of youth who experienced sexual victimization in juvenile facilities by sexual orientation and gender identity. BJS released two statistical reports analyzing data on [youth](#) and [adults](#) who experienced sexual victimization by gender identity from the **Survey of Sexual Victimization**. BJS continues to collect and analyze these data to examine differences in correctional system experiences by SOGI status. The 2024 **Survey of Inmates in Local Jails (SILJ)** data collection will start in November 2024 and end in February 2025. SOGI estimates will be included in forthcoming SILJ reports if they are statistically reliable.

In order to **build** evidence related to **Learning Question 5** listed above, the Department of Justice will explore the following activities over the next 36 months:

- *BJS is adding SOGI measures to the next administration (2024) of the **Survey of Inmates in Local Jails**. With the addition of these measures, BJS can provide additional evidence on the extent that SOGI status impacts experiences with the correctional system. These data will likely be collected in late 2024 and BJS will conduct preliminary analysis in order to assess sample sizes and statistical reliability to determine if statistical estimates can be released.*

In order to **build** evidence related to **Learning Question 6** listed above, the Department of Justice will explore the following activities over the next 12 months:

- *Analysis will be conducted to explore the feasibility of answering this question using data from the 2016 **Survey of Prison Inmates**. This analysis will also include an assessment of sample sizes and statistical reliability for some estimates.*

In order to **build** evidence related to **Learning Question 7** listed above, the Department of Justice will explore the following activities over the next 24 months:

- *BJS currently collects data on SOGI status and sexual victimization experienced in correctional facilities through the **National Inmate Survey and National Survey of Youth in Custody**. Statistical estimates for the percent of youth reporting sexual victimization in juvenile correctional facilities by sexual orientation and gender identity are included in BJS' statistical report [Victim, Perpetrator, and Incident Characteristics of Sexual Victimization of Youth in Juvenile Facilities, 2018 – Statistical Tables](#). Statistical estimates on the prevalence of sexual victimization against adults in correctional institutions by sexual orientation and gender identity are included in two BJS statistical reports: [Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12](#) and [Supplemental Tables: Prevalence of Sexual Victimization Among Transgender Adult Inmates](#). BJS will collect data on gender identity and intersex status for inmate and youth victims and perpetrators of sexual victimization as part of the **Survey of Sexual Victimization (SSV)** starting with the 2023 reference year. Previously, the SSV collected inmate or youth transgender and intersex status under a single measure of sex or gender. Statistical estimates for the percent of transgender or intersex victims or perpetrators in substantiated incidents of sexual victimization are included in BJS' special reports *Substantiated Incidents of Sexual Victimization in Adult Correctional Facilities, 2016-2018* and *Substantiated Incidents of Sexual Victimization in Juvenile Justice Facilities, 2013-2018*. BJS continues to field additional*

administrations of these data collections, sample sizes and statistical reliability will be determined, and statistical estimates will be published as appropriate.

In order to **build** evidence related to **Learning Question 8** listed above, the Department of Justice will explore the following activities over the next 12 months:

- *BJS currently collects SOGI data on incarcerated youth, regardless of age, through the **National Survey of Youth in Custody**. These data can be used to examine SOGI status and sexual victimization that occurs in juvenile facilities. Statistical estimates for the percent of youth reporting sexual victimization in juvenile correctional facilities by sexual orientation and gender identity are included in BJS's statistical report [Victim, Perpetrator, and Incident Characteristics of Sexual Victimization of Youth in Juvenile Facilities, 2018 – Statistical Tables](#). BJS will continue to assess estimate reliability and release these statistical estimates as appropriate after data are collected.*

Group 2 Learning Questions: Questions that can be answered in the near term because DOJ is adding SOGI measures to data collections that can answer these questions

In order to **build** evidence related to **Learning Question 9** listed above, the Department of Justice will explore the following activities over the next 36 months:

- *BJS is currently involved in a multi-year project to redesign the **National Crime Victimization Survey (NCVS)** instrument. This new instrument will be administered to persons age 12 or older in NCVS sampled households in 2024 and includes a rotating module on police performance. The NCVS will continue to collect data on SOGI from persons age 16 or older, thus allowing for the examination of experiences with law enforcement by SOGI status. BJS will receive these data in 2025 and will conduct preliminary analysis in order to assess sample sizes and statistical reliability to determine if statistical estimates can be released.*

Group 3 Learning Questions: Questions that cannot be answered at this time or in the near term because DOJ would need additional resources to develop or expand data collections to answer these questions

In order to **build** evidence related to **Learning Question 10** listed above, the Department of Justice will explore the following activities over the next 12 months:

- *BJS will evaluate the ability of its law enforcement agency surveys (**Law Enforcement Management and Administrative Statistics (LEMAS) Survey; Census of State and Local Law Enforcement Agencies**) to collect data to enhance our understanding of how law enforcement agencies engage with LGBTQI+ stakeholders.*
- *The National Institute of Justice (NIJ) will continuously assess what is known and gaps that remain around best practices on the investigative, prosecutorial, and victim services response to LGBTQI+ communities and individuals.*

In order to **build** evidence related to **Learning Questions 11, 12, 13, and 14** listed above, the Department of Justice will explore the following activities over the next 12 months:

- *NIJ will annually review its competitive solicitations to identify where topical focus areas responsive to Learning Questions 11, 12, and 13 might be added consistent with its approved program plan and existing resources.*
- *NIJ will assess the feasibility of developing competitive solicitations or adding categories to existing solicitations and determine the amount of funding necessary for new research and evaluation efforts in fiscal year 2025. This will potentially include research focused on preventing or interrupting violent crime targeting LGBTQI+ persons, effective bullying interventions for LGBTQI+ youth, and practices that improve the conditions of confinement for LGBTQI+ persons in correctional settings.*
- *BJS will evaluate the feasibility of collecting data on gender-affirming healthcare from prisons.*

Evidence-Building Infrastructure

Successful execution of evidence-building activities often requires infrastructure – policies, processes, staff, etc. In order to support the evidence-building activities described above, the Data Governance Board of the Department of Justice will explore creating a subcommittee that would take stock of the range of work being done and data collected by the various components that collect and use SOGI data. In so doing, this subcommittee, working in concert with various components, including BJS would explore, for example, the following activities over the next 24 months:

- Develop a list of DOJ data collections that currently include SOGI measures and include the components who conduct these data collections.
- Work with the Department of Justice Gender Policy Working Group and Civil Rights Division LGBTQI+ Working Group to increase awareness and use of relevant datasets inside the Department. Components would brief the Working Groups and seek to collaborate on webinars and presentations, resource guides, and other tools that help explain the availability and utility of SOGI data in various data collections and published statistics.
- Components will enhance their public-facing websites devoted to SOGI data available with the goal of sharing these websites with DOJ components and relevant affinity groups (e.g., DOJ pride) who may find these SOGI data useful.

Evidence Use Activities

In order to ensure that evidence generated that is related to **Learning Questions 1 through 9** listed above is used in decision-making, the Department of Justice will explore the following activities over the next 24 months:

- The subcommittee created above would conduct individual outreach to Department components whose work can be informed by SOGI data and (a) offer to assist in assessing and improving their data collections to better capture SOGI data and (b) make sure they can readily access the datasets they need and know which datasets are the most current for their purposes. The evidence generated from these Learning Questions has the potential to inform work for a number of DOJ components, including but not limited to future grantmaking for violence prevention initiatives at NIJ and other DOJ grantmaking components, efforts to promote

awareness of victim services at the Office for Victims of Crime, and reforming the Bureau of Prisons' system of correctional institutions.

- The subcommittee will conduct an internal process to determine where SOGI data are currently collected and where they will be collected in the near term. This work will also entail a review of published statistical reports and products to determine what statistics have been released on this community. That process will be led by the DOJ's Statistical Official, BJS's Principal Deputy Director, and other BJS and DOJ staff designated by the DOJ Statistical Official. Participants in that internal process will include subject matter experts on SOGI data collection and survey methodology. DOJ will seek support from the Subcommittee on Equitable Data's Interagency Working Group on SOGI Data as needed.

Monitoring Progress

Milestones or metrics: The Department of Justice will use the following milestones or metrics to ensure progress is made in implementing the activities laid out in the SOGI Data Action Plan:

- Analyze data from the NCVS, aggregating years as necessary, to determine the statistical reliability of estimates for bias-motivated crimes (hate crimes) by SOGI status and intimate partner violence and domestic violence by gender identity.
- Analyze data from the NCVS SCS to determine the statistical reliability of bullying estimates for students ages 16-18 by SOGI status.
- Submit Information Collection Request (ICR) to the Office of Management and Budget (OMB) for 2024 SILJ with SOGI questions added.
- Complete assessment of 2016 SPI data file for producing estimates of recidivism for LGBT populations.
- Complete an evaluation of the ability of the BJS law enforcement agency surveys (Law Enforcement Management and Administrative Statistics (LEMAS) Survey; Census of State and Local Law Enforcement Agencies) to collect data to enhance understanding of how law enforcement agencies engage with LGBTQI+ stakeholders.
- Analyze data from the police performance module in the NCVS redesigned instrument and determine feasibility of releasing statistical estimates on police performance by SOGI status for persons 16 or older.
- Analyze data from the NIS-4 to determine the feasibility of releasing statistical estimates on sexual victimization in correctional facilities by SOGI status.
- Correspondence to and/or meetings with Department components whose work can be informed by SOGI data.
- Subcommittee review of current data sources, published statistical reports, and data products collecting SOGI data.

Responsible Official

Kevin M. Scott, PhD
Acting Director, Bureau of Justice Statistics, U.S. Department of Justice
DOJ Statistical Official