

413 – Lesbian Gay Bisexual Transgender Queer and Intersex (LGBTQI)

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I. Purpose

This policy provides guidelines for the Harris County Sheriff's Office (HCSO) to follow in order to meet federal statutes and regulations, American Correctional Association (ACA) standards, National Commission on Correctional Health Care (NCCHC) standards, Prison Rape Elimination Act (PREA) standards, and other Texas standards, statutes, regulations, guidelines, directives, or requirements that:

- A. Facilitate the elimination of discrimination against;
- B. Address the appropriate classification, housing, and treatment of;
- C. Provide for the specific safety, security, and medical needs of lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI) persons in a humane and respectful manner while maintaining the safety, security, and good order of all HCSO facilities; and
- D. Establish sanctions for any violation of this policy.

NOTE: The Harris County Sheriff's Office recognizes and values are employees who are members of the LGBTQI community. Please refer to Department Policy 202 – Discrimination in the Workplace, section I. B. Discrimination Prohibited.

II. Definitions

Bisexual / Bi: Sexually and emotionally attracted to both sexes / genders.

Gay: Men who are sexually and emotionally attracted to men.

Gender Classification Committee: A committee established by the HCSO consisting of the Criminal Justice Command chief deputy or his or her designee, the medical director of the jail or his or her designee, a licensed mental health practitioner, and a certified gender classification specialist.

Gender Classification Specialist: A HCSO employee who has been specially trained and then certified by the gender classification committee as qualified to conduct interviews with an inmate or

detainee to discuss gender issues.

Intersex: A person who is born with genitalia or secondary sex characteristics determined as neither exclusively male, female, or combined male and female features. A person with an intersex condition is born with sex chromosomes, external genitalia, or an internal reproductive system that is not considered “standard” for either male or female.

Lesbian: Women who are sexually and emotionally attracted to women.

LGBTQI: An abbreviation that refers to lesbian, gay, bisexual, transgender, queer, and intersex persons.

LGBTQI Liaison: A designated HCSO employee who shall be a liaison between the LGBTQI community and LGBTQI-related issues within the HCSO.

Pat-down Search: A running of the hands over the clothed body of an inmate, detainee, or resident by an employee to determine whether the person possesses a weapon or contraband.

Queer or Questioning: “Queer” is an umbrella term for sexual and gender minorities that do not identify as heterosexual or other normative definitions. It can be used to denote “questioning,” a term used to describe a person who is in the process of discovery and exploration about his or her sexual orientation, gender identity, gender expression, or a combination thereof.

Safe Zone Project: A project that promotes a positive relationship of solidarity between HCSO employees and the LGBTQI community. HCSO staff will wear an obvious identifier (e.g.: uniform pin) on their uniform for easy identification within the LGBTQI community. The “safe zone” will ensure an atmosphere of a community of respect and safety.

Strip Search: A search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person’s breasts, buttocks, or genitalia.

Transgender: A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person’s assigned sex at birth

III. Policy

The HCSO shall treat all persons, whether in custody or not, in a respectful, courteous, and professional manner while maintaining safety and security. Discrimination or harassment of any kind based on sexual orientation or gender identity is strictly prohibited. (See HCSO Department Policy #303 – Conduct Prohibited, section III, and subsection (A) (10)).

IV. Procedure

A. Employee Conduct

1. The HCSO has zero tolerance for any staff sexual misconduct or sexual harassment directed towards LGBTQI inmates or detainees. Any substantiated claim of sexual conduct, sexual contact, or sexual harassment by a staff member towards an inmate or detainee may result in termination of the staff member's employment, referral for criminal charges, civil penalties, or other punitive actions as deemed appropriate.
2. Staff will address LGBTQI persons by their chosen name (including corresponding pronouns) or as "Inmate [LAST NAME]." A notation of the proper name and pronoun shall be made on each transgender inmate's classification record, armband, and transfer card. At all times, staff will use the proper pronoun corresponding to the person's gender identity.
3. The HCSO will have zero tolerance for derogatory terms used towards members of the LGBTQI community, including LGBTQI inmates. The use of derogatory terms towards LGBTQI persons is a violation of this policy and HCSO Department Policy #303 – Conduct Prohibited, section I, and subsection (D) (13).
4. Questions relating to a person's anatomy or surgical status shall only be asked by gender classification specialists or authorized medical personnel as necessary for ensuring proper medical treatment.

B. Notification

1. If known, the transporting or arresting agency shall notify Prisoner Processing Division staff as to a prisoner's LGBTQI status.
2. A transgender status of an inmate will be confirmed by a gender classification specialist. All HCSO entities involved in the processing of prisoners shall ensure that whichever person or division an LGBTQI prisoner is released to is advised of that status for the protection of the prisoner.
3. HCSO divisions shall be required to notify areas that come in contact with the identified prisoner of his or her LGBTQI status.
4. All notifications shall be done in a respectful, professional, and confidential manner.

C. Identification

1. The following shall be used as identifiers:
 - a. Prisoner's appearance or behavior: If a prisoner's appearance or behavior does not match the name or gender marker on the prisoner's arrest or transportation paperwork or identification, they shall be

identification indicators.

b. Prisoner self-reporting,

c. Prior booking records, or

d. Any questioning done by personnel (shall be conducted in a private and respectful manner).

2. Due to his or her vulnerability, a prisoner identified as transgender shall be expedited from time of arrest to classification.

D. Searches

1. All strip searches shall be conducted and documented according to HCSO Department Policy #507 – Search Procedures, section II and subsection H.

2. All strip searches shall be conducted per PREA Standard 115.15. No cross-gender strip searches will be permitted.

3. At no time shall any search be conducted solely for the purpose of determining an inmate's or detainee's biological sex or gender. Any questions regarding an inmate's gender shall be referred to a gender classification specialist.

4. LGBTQI persons shall not be subjected to more invasive searches than non-LGBTQI persons. Additional searches require supervisor approval.

5. If a pat-down search is required and a prisoner has been identified as transgender, the prisoner shall be asked to indicate his or her preference as to the gender of the deputy or detention officer who will perform the pat-down search. A cross-gender search preference form shall be made available and signed by the inmate if he or she wishes to have a pat-down cross-gender search. This request will be honored unless exigent circumstances dictate the need for an immediate pat-down search by available personnel as determined by a supervisor.

Nothing in this policy is meant to restrict a standard *Terry v. Ohio*, 392 U.S. 1 (1968), pat-down search conducted at the time of arrest for a deputy's safety.

6. In all other instances, searches shall be conducted by persons of the same gender as the prisoner.

7. Requests to remove appearance-related items, such as: prosthetics, clothing that conveys gender identity, wigs, and cosmetics, shall be consistent with the requirements for the removal of similar items for non-LGBTQI persons.

8. All cross-gender pat-down searches shall be documented on an approved cross-gender search form or in the offense report if conducted at the time of arrest for a deputy's safety.

9. Searches shall be conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

E. Intake Screening

1. Supervisors assigned to the Prisoner Processing Division will be certified as gender classification specialists. They shall supervise and manage the intake screening process so that it complies with this policy.

2. The receiving deputy will notify the gender classification specialist supervisor on duty in the Prisoner Processing Division when an LGBTQI inmate is received. The supervisor will be responsible for the initial determination of vulnerability of the prisoner and shall notify a gender classification specialist in Classification of the prisoner's status.

3. LGBTQI prisoners may not be placed in segregated housing against their will due to the sole purpose of their sexual orientation. (See the Classification manual for procedures on reassessment periods).

4. Specially-trained gender classification specialists shall assist in the process upon which the Classification Division will base their housing decisions. The mere identification of an inmate as LGBTQI is insufficient to warrant an assumption of enhanced risk that the inmate will be sexually abusive.

5. Due to his or her vulnerability, a transgender prisoner shall be expedited through the entire booking process until Classification has determined housing in accordance with PREA standards. The Prisoner Processing Division supervisor on duty will be responsible for expediting the LGBTQI prisoner to Classification.

6. All inmates, within 72 hours of arrival at a HCSO detention facility, shall be assessed for their risk of being sexually abused by or sexually abusive towards other inmates in compliance with PREA standards.

7. If an indication of need arises, a gender classification specialist shall conduct a screening interview in a private and respectful manner. The gender classification specialist will only ask questions related to sexual orientation, gender identity, or gender expression for the purpose of making intake, housing, and classification assignments. If necessary, the inmate will be referred to HCSO Medical for screening.

An inmate or detainee shall be referred to a gender classification specialist at any time during his or her custody in a Harris County detention facility when any of the following occurs:

- a. Self-Reporting: An inmate indicates he or she is LGBTQI upon arrest, at the Prisoner Processing Center or anytime during his or her custody.
 - b. Observation: An inmate's gender identity, appearance, overt expression, or behavior differs from his or her apparent birth sex or genitalia.
 - c. Complaint: An issue has been raised that focuses on an enhanced risk of an inmate being sexually abused or sexually abusive during his or her custody in a Harris County detention facility based on LGBTQI identity.
 - d. Error: It is discovered that a gender designation made by the HCSO differs from a gender designation that has previously been made by any public entity, government agency, or law enforcement agency.
8. Screening assessments of all inmates, including LGBTQI inmates, shall be respectfully conducted using department-approved screening instruments.
9. Inmates may not be disciplined for refusing to answer or for not disclosing complete information in response to screening questions.

F. Gender Classification Committee

The gender classification committee has the final authority in all matters related to the classification of LGBTQI inmates.

1. Additional responsibilities:
 - a. Gender classification specialist certification and assistance,
 - b. Housing assignment arbitration, and
 - c. Required reporting.
2. Mandatory review meetings:
 - a. Placement of transgender inmates,
 - b. Gender classification specialist weekly documentation review,
 - c. Inmate housing appeals, and

d. 30-day reviews.

3. **Monitoring and Reassessment:** The housing and well-being of LGBTQI inmates shall be monitored and reassessed when needed by the gender classification committee. The committee will document and maintain records of all such monitoring and any reassessment deemed necessary.

G. Reassessment

1. The gender classification committee shall reassess all LGBTQI inmates within thirty (30) days from the inmate's arrival at the facility. The committee will reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening.

2. An LGBTQI inmate's risk level shall immediately be reassessed due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness.

3. Inmates may not be disciplined for refusing to answer or for not disclosing complete information in response to screening questions.

H. Complaints and Grievances

1. Any staff member who is notified of a complaint regarding employee misconduct towards or mistreatment of an LGBTQI person shall treat it with the highest priority and immediately notify his or her immediate supervisor.

2. Any supervisor notified of a complaint of abuse towards an LGBTQI person shall immediately secure the inmate and determine, based on the inmate's outcry, if immediate medical attention is needed.

3. The supervisor shall formally document the incident and make notification through his or her chain of command and to the HCSO Office of Inspector General (OIG).

4. All complaints and grievances made by or on behalf of LGBTQI detainees or inmates shall be tracked.

5. The OIG will be notified and shall determine the necessary investigation to be conducted.

6. A third party reporting avenue shall be provided by the HCSO for LGBTQI-related complaints.

I. Inmate Services

LGBTQI inmates shall have equal access to all available services to include mental health services, counseling, and support groups. Specialized LGBTQI services shall be developed based on identified needs.

J. Use of Screening Information and Confidentiality

1. A person's LGBTQI status is considered confidential information. This information, including electronic records, shall have strict dissemination controls. The HCSO shall keep LGBTQI screening information confidential except as necessary to conform to required protocols.
2. The HCSO shall implement appropriate controls on the dissemination within the facility and to the media of information in response to questions asked in order to ensure that sensitive information is not exploited to the inmate's detriment by staff, other inmates, or the media. Any media request or media notification must first be screened and approved for dissemination by the HCSO Public Information Officer (PIO) or HCSO media department prior to any release.
3. Classification shall use the information from the risk screening to determine housing, bed, work, education, and program assignments with the goal of keeping LGBTQI inmates at high risk of being sexually victimized separate from those at high risk of being sexually abusive.
4. Classification shall make individualized determinations on how to ensure the safety of each inmate.
5. In deciding whether to assign a transgender inmate to a facility for male or female inmates, and in making other housing and programming assignments, Classification 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.
6. The policy and procedure for and record of placements for transgender inmates shall be reassessed at least twice each year to review any threats to safety experienced by the inmates. Classification will record and keep these findings for permanent review and referrals for future training.
7. An LGBTQI inmate's own views with respect to his or her own safety shall be given significant consideration and recorded on his or her inmate record.
8. Classification shall strive not to place LGBTQI inmates in dedicated facilities, units, or wings solely on the basis of such identification or status unless such placement is necessary for his or her safety or 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.

K. LGBTQI Liaisons

1. The Sheriff will appoint a LGBTQI advisory committee and LGBTQI liaisons. Liaisons shall be visible to the public and the point people for all complaints from the community and external agencies. Contact information will be available publicly via the Internet.
2. Each division in the HCSO shall have a designated LGBTQI liaison.

V. Employee Training

The HCSO Academy shall develop LGBTQI related training that all HCSO employees, volunteers, and contractors shall attend.

A. Training Content

1. The HCSO Mission Statement and Core Values as it relates to the LGBTQI population;
2. Basic information about the LGBTQI population;
3. The HCSO zero tolerance policy for sexual abuse, sexual harassment, the failure to report incidents of sexual abuse, sexual contact, or sexual harassment of inmate to inmate or staff and inmates, and the available sanctions for violations of this policy;
4. All LGBTQI-related policies;
 - a. How to identify violations of policy,
 - b. How to respond to violations of policy, and
 - c. How policies are enforced.
5. Professional boundaries and avoidance of inappropriate relationships;
6. How to communicate effectively and professionally with LGBTQI inmates in a respectful and non-discriminatory manner;
7. Confidentiality responsibilities;
8. Legal responsibilities;
9. Detection, response, and prevention of sexual abuse, sexual misconduct, and victimization of LGBTQI inmates by other inmates; and
10. Resources available to LGBTQI persons.

B. Refresher Training

The Academy shall provide each employee with refresher training every two (2) years to ensure all employees know the agency's current LGBTQI policies and procedures.

NOTE: All allegations of a violation of this policy shall be formally investigated.

Revision

This policy has been revised on the below listed dates:

November 13, 2013

July 13, 2017

April 29, 2021

August 27, 2021

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