

# California Department of Corrections and Rehabilitation

## *SB 132 The Transgender Respect, Agency, and Dignity Act Implementation Review Report*

*November 2022*



THE MOSS GROUP, INC.

*Experienced Practitioners Committed to Excellence in Correctional Practice*

*In partnership with the  
California Department of  
Corrections and Rehabilitation*



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# Executive Summary

The California Department of Corrections and Rehabilitation (CDCR) contracted with The Moss Group (TMG) to review and assess its implementation efforts in response to the adoption of State Senate Bill 132 *Transgender Respect, Agency, and Dignity Act* (SB 132). This act requires CDCR to ask each individual entering into its custody to specify gender identity, pronoun, honorific, and search preference. It also requires that individuals be housed according to gender identity and individual preference. To gain understanding of how this act has been translated into practice, TMG reviewed relevant data, documentation, and classification processes; conducted interviews with key personnel, stakeholders, and incarcerated individuals who transferred to women's institutions under SB 132; and conducted an onsite assessment at the Central California Women's Facility (CCWF) in Chowchilla, California. The onsite assessment was conducted April 5 – 8, 2022, and included observations, operational tours, interviews with key personnel, staff focus groups, and discussion groups with incarcerated individuals.

In recent years, there have been several significant influencing factors for the department including the shift in institution dynamics that occurred as a result of AB109 which changed the risk and offense profile of the facility, the detrimental consequences of COVID-19, and the transitions that have accompanied enhancements in practice specific to the housing and management of transgender, non-binary, and intersex (TGNBI) individuals in custody. The latter included the development of the transgender housing and searches policy workgroup in January 2019, state legislation, reviews by the California Office of the Inspector General, and both support and concern from various stakeholders. Further, an internal working group was charged with drafting policy and procedure as well as integrating necessary resources to support the implementation of SB 132.

## Overall Themes, Strengths, and Opportunities for Enhancement

Agency and institution leadership have demonstrated a high level of commitment to safe placements consistent with gender identity. CDCR developed a thoughtful approach to preparing both staff and incarcerated individuals for a successful transition in housing assignment processes as well as changes in practice to increase safety and respect in the management of TGNBI individuals. Since 2016, the agency has been developing a variety of processes and procedures to support respectful management of transgender and gender diverse individuals. Examples include but are not limited to, the development of a new questionnaire to allow individuals to specify gender identity, honorific, pronoun, and search preference; a card that allows access to authorized property, canteen, and clothing; and educational materials for the population—informational brochure, handbook updates, video, and a four-week pre-transfer course— as well as training for staff.

The evolution of the Institution Classification Committee (ICC) review process for gender-identity based housing transfer requests is a notable strength. The ICCs at hub institutions are chaired by one of the three wardens of the female designated institutions who rotate these duties. During assessment observations, incarcerated individuals requesting transfer were present at committee reviews and the individual's own perception of safety was seriously considered in determination of institution placement. Another strength is the observed, and reported, commitment by most staff to use the pronoun and honorific identified by the incarcerated individual, and to honor search preference.

It will be imperative for the department to maintain the fidelity of the promising practices mentioned above to build upon those foundational strengths. Figure 1 below summarizes key recommendations designed to incorporate the agency's lessons learned and practices that have been effective in other jurisdictions in a way that promotes long term, sustainable change.

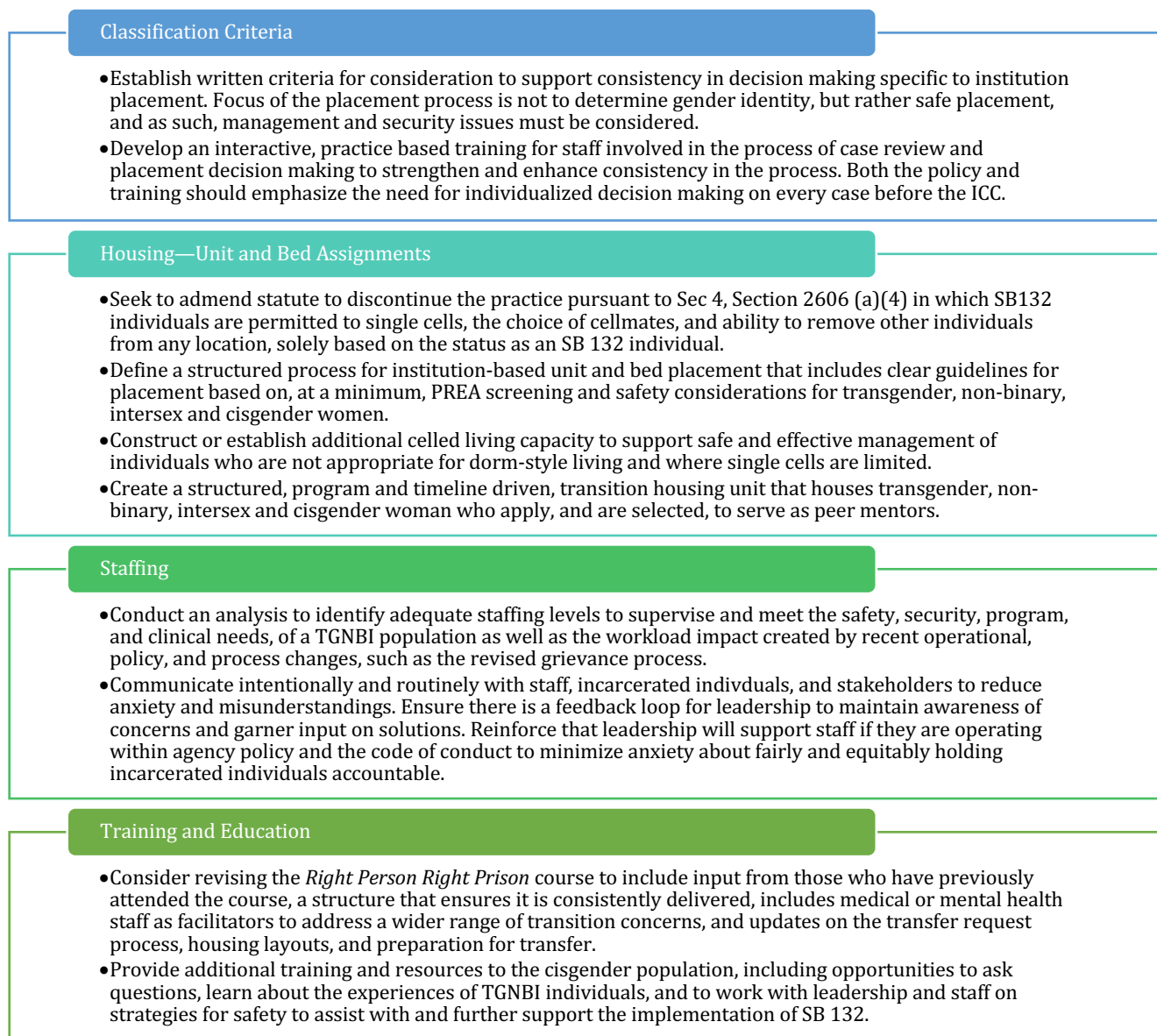


Figure 1: Sampling of Key Recommendations

## Next Steps

TMG will host a report debrief session for CDCR leadership to provide an opportunity for additional clarification on findings and recommendations, as well as to ensure the report is factually accurate, such as housing units properly identified, accurate acronym usage, and timelines. Recommendations require varying degrees of time, effort, and resources to implement. Therefore, the plan for further enhancement of practice based on this report will need to be sequenced appropriately considering strengths, barriers, and resources. As such, TMG welcomes the opportunity to provide ongoing technical assistance to support the development of an action plan and implementation of prioritized recommendations.

## Appreciation for Collaboration

On behalf of TMG and the project team, we would like to thank CDCR leadership, the Female Offender Programs and Services (FOPS) division as well as the leadership, staff, and population housed at CCWF and community stakeholders. The strength of the recommendations in this report are due in large part to the thoughtful work CDCR has done in response to SB 132 and to the openness and candidness of those who contributed by sharing their experiences.

# Assessment Overview

## Introduction

The Moss Group, Inc. (TMG), a Washington, DC-based criminal justice consulting firm, was contracted by the California Department of Corrections and Rehabilitation (CDCR) in 2022, to assess implementation of its special housing mission in alignment with State Senate Bill 132 *Transgender Respect, Agency, and Dignity Act* (SB 132). The act became effective January 1, 2021. The assessment of CDCR interim policies and practices was designed to identify strengths and challenges in the agency's efforts to operationalize its demonstrated commitment to housing TGNBI incarcerated individuals in institutions that align with identity, as opposed to sex assigned at birth.

To complete this work, TMG conducted a review of relevant documentation, such as draft policy, memoranda, and training material; a process analysis of the Inmate Classification Committee (ICC); onsite observations of new or revised practices and their impact on institutions and those who work and live in them. CDCR selected Central California Women's Facility (CCWF) for TMG to conduct its onsite observation, which occurred April 5 – 8, 2022. While CCWF is the focus of the onsite observation, the outcomes and recommendations of this assessment have implications housing and management of TGNBI individuals agency wide. See **Attachment A** for the *Summary of Recommendations*.

## Methodology

The TMG assessment model has been shaped by research and evidence-based literature, practitioner experience, knowledge of organizational culture dynamics, and collaborative partnerships with federal, state, and private entities. TMG's approach is built on nationally accepted operational and management best practice<sup>1</sup> and was customized to meet the needs of CDCR. The protocol for this assessment was aligned with SB 132, as well as related practice and cultural norms necessary for consistent and sustainable implementation. Specifically, the assessment protocol focused on policy, procedure, and practice as outlined below.

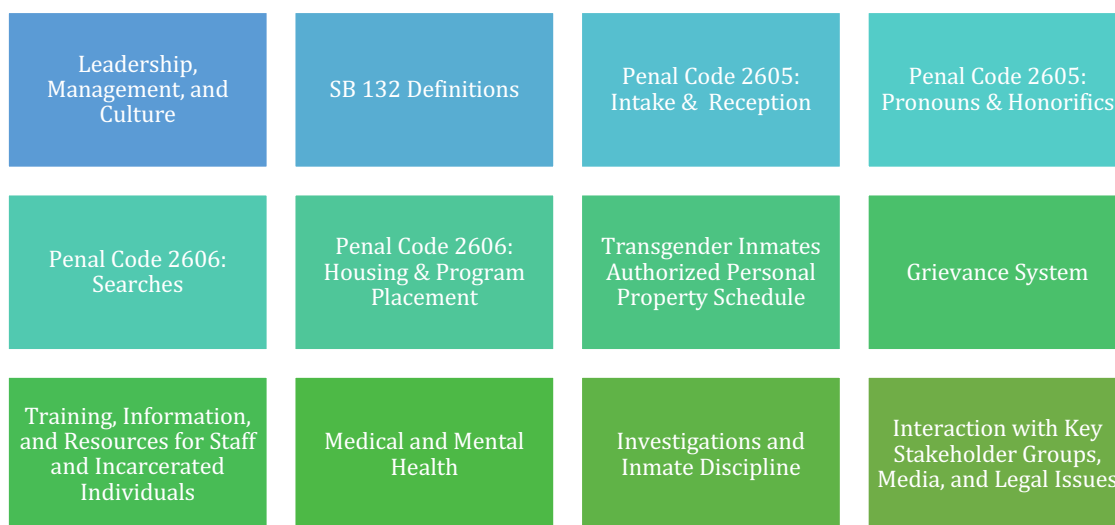
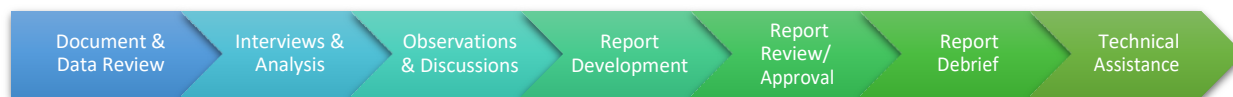


Figure 2: Assessment Areas of Focus

<sup>1</sup> Including research, selected American Correctional Association (ACA) Standards for Adult Correctional Facilities, selected PREA Standards for Prisons and Jails, National Commission on Correctional Healthcare, key DOJ Guidance in Restrictive Housing, and the National Resource Center for Justice Involved Women (NRCJIW), and resources, such as the *Gender-responsive Discipline and Sanctions Policy Guide for Women's Facilities* and *Using Trauma Informed Practices to Enhance Safety and Security in Women's Correctional Facilities*

The TMG seven-step assessment process which began with the initial meeting with the agency and facility leadership will culminate with the provision of assistance as the agency implements recommendations. The graphic below illustrates the process.



*Figure 3: Assessment Seven-step Approach*

The first phase, document and data review, assisted in understanding the language, terminology, acronyms, and formal guidance relevant to SB 132. It also informed areas to be explored further during onsite and offsite assessment activities. See **Attachment B** for the *Document & Data Request Lists*. The document and data review phase included the following activities:

- **Document Request & Review.** TMG submitted a detailed comprehensive request for documents, including reports, policies, procedures, training materials, and other relevant forms. FOPS provided a thorough and well-organized binder to each TMG team member with several of the requested documents in hard copy as well as electronically.
- **Data Request and Application Submission.** TMG submitted a detailed request for data, including demographic information and summary data for classification and placement, grievances and reporting, investigations, and discipline. To meet the requirements of CDCR regulations, TMG also provided sample protocols, submitted a research application to the Research Oversight Committee, and entered into a data sharing agreement to obtain data.
- **Classification Chronos and Documentation Review.** TMG requested and reviewed summary reports submitted to the ICC as well as classification chronos from the last 24 months. In addition, TMG reviewed the classification processes, instrumentation, needs assessment data, PREA screening for risk of sexual victimization or abusiveness, gender identity questionnaires, and any additional information taken into consideration for housing and placement decisions.

The second phase, interviews and analysis, included contact with agency and institution leadership, discussion of influencing factors, presenting issues, strategic plans, and intended outcomes. Virtual interviews were conducted and meetings related to SB 132 were observed. Specific activities included:

- **Headquarters and Stakeholder Interviews.** TMG conducted a series of interviews with key personnel at CDCR headquarters, including FOPS, classification counselors, ombudsman, legal affairs, community relations, and identified stakeholders, including community partners, advocates, and legal groups.
- **ICC Meeting Observations.** TMG observed two ICC meetings—one with the institution and one with headquarters—convened to review classification chronos for placement of transgender females in women’s institutions. Observations allowed for review of strengths and areas of concern specific to summary reports and classification chronos, processes, instrumentation, assessment data, and overall outcomes.
- **Interviews with Classification Agency Personnel.** TMG conducted virtual interviews with key agency personnel, including ICC members, receiving and release custody supervisors who administer the GIQ, PREA compliance managers, caseworkers, classification & parole representatives, medical and mental health staff, and correctional counselor IIs.
- **Interviews with Voluntary Returns.** TMG conducted five interviews with transgender women who had been transferred to CCWF under SB 132 and later voluntarily returned to a male designated institution.

The third phase, observations and discussions, was completed at CCWF and included targeted interviews with key institution personnel, structured observations of operations and programs, focus groups with a random sample of custody and non-custody staff members, and individual and group discussions with a random sample of cisgender and TGNBI incarcerated individuals.

The fourth phase, report development, involved the synthetization of all document and data review, interviews and process analysis, and onsite observations and discussions with staff and incarcerated individuals. It is a snapshot of themes based upon the policies and documentation provided, operational procedures observed, and information reported at the time of assessment. Themes are noted in their respective sections throughout this report with accompanying recommendations for enhancement of practice. See Figure 4 for a description of report organization. To ensure both inclusion and clarity, when the report refers to transgender, non-binary, and intersex individuals, the acronym “TGNBI” will be used.

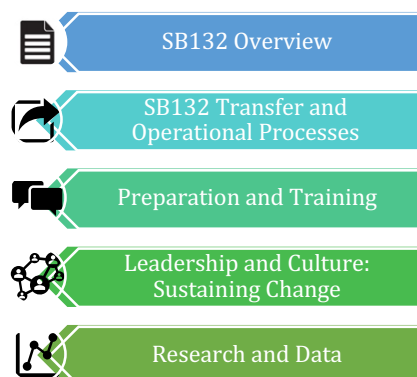


Figure 4: Report Organization

## Influencing Factors

It is TMG’s practice to consider major influencing factors that affect daily operations. Influencing factors at CDCR and CCWF are outlined below. While not an exhaustive list these areas were raised as important considerations in successfully implementing any proposed recommendations.

**Innovation in an Emerging Area.** The safe housing and placement of TGNBI incarcerated individuals is an important area of emerging practice being considered by correctional agencies, nationwide. Some states have responded to the need to improve practice in this area with legislation or policy that allows individuals to be housed in an institution that aligns with gender identity as opposed to sex assigned at birth. However, implementation of SB 132 requires implementation of change to longstanding correctional practices without existing models that have been tested and proven. The work being done at the agency and facility level will contribute to the developing body of best practice throughout the country. Leadership and staff at all levels are grappling with understanding both the intent of SB 132 and safe and effective methods of implementation. The complexities cannot be understated, and the fact that CDCR began the process of implementation prior to housing by gender identity being required by state statute is commendable.

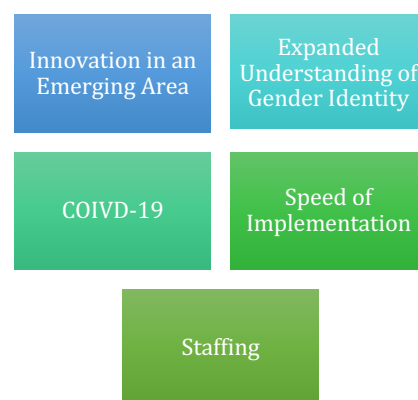


Figure 5: Influencing Factors

**Expanded Understanding of Gender Identity.** CDCR has a longstanding commitment to gender responsive practice in female designated institutions. In July 2005 CDCR was reorganized to effectively address inmate rehabilitative and reentry needs. As a part of this effort, the Female Offender Programs and Services (FOPS) office was established to oversee adult female programs designed to reduce recidivism for incarcerated women in the CDCR system. Along with the Gender responsive Strategies Commission, the *Master Plan for Female Offenders: A Blueprint for Gender-responsive Rehabilitation* was developed and published in 2008. As early as 2012 the agency began providing for placement by gender identity. SB 132 purposefully expanded the range of gender identities to be considered for changes in key operational practices such as housing, search preference, and property allowances.

The cultural dynamics of changing practice to manage TGNBI individuals safely and respectfully within corrections agencies are very similar to those that we see in our communities. The realities of transition are highly personal and sensitive but vital to understand and support. Some individuals must also grapple with how to manage their own personal or religious beliefs and conduct their job duties with professionalism and respect. In addition, many struggle to understand how to integrate their understanding of the needs of TGNBI individuals into gender responsive practice which until recently has focused largely on cisgender women.



**COVID-19.** While CDCR and CCWF have been creative in implementing practices to comply with national safety protocols, the consequences of COVID-19 have impacted the functioning of correctional institutions nationwide—altering the routine functioning of operational procedures, population movement protocols, exercise and recreation activities, programming, religious services, kitchen and cafeteria use, housing and bed assignments, medical and mental health services, and more. These challenges are compounded in a women’s institution as women rely heavily on relational programming, and pro-social activities for rehabilitation. In addition, training schedules were widely interrupted due to pandemic related restrictions.

**Speed of Implementation.** The COVID-19 pandemic and the passage of SB 132 legislation occurred nearly simultaneously, creating unforeseen challenges that were further complicated by the required pace of implementation. These factors compounded an already challenging transition process by limiting the ability of multidisciplinary work groups to complete their work, expediting the process of engaging staff and incarcerated individuals in understanding the intent of SB 132 and resulting changes, and interrupted the processes outlined during implementation planning to support successful placement, such as *Right Person Right Prison* classes and case reviews. While early experiences were difficult, the agency can capitalize on lessons learned in early implementation efforts to strengthen practice moving forward.

**Staffing.** Nationwide, corrections agencies are facing an unprecedented staffing crisis requiring a fresh look at recruitment, hiring, and retention strategies to fill the need for qualified professionals. While these factors appear to be less pronounced in California, litigation and increases in workload (i.e., greater numbers of PREA reports and grievances) have contributed to staffing shortages. For example, SB 132 requirements have increased workloads and responsibilities for some staff, including shifting responsibility for more gender affirming medical care to CCWF with individuals transitioning to the facility, case work ups, and additional training. In addition, other changes in practice, such as revision of the grievance process, are reported to have added significantly to the workload of some who were also impacted by SB 132. Finally, where training opportunities continued, staff availability to attend has been negatively impacted by both time constraints and staffing availability. This limits opportunities for staff to develop professionally and gain confidence in new areas of practice. The combination of these factors makes prioritization and sequencing of new initiatives vitally important for sustainable change.



# SB 132 Overview

As the community and the field expanded its knowledge of the TGNBI population, CDCR worked to align with emerging best practices, findings from formal reviews and audits, and input from external stakeholders. Key innovations include the following:

- In 2012 the department designated eleven—currently fourteen— institutions to house TGNBI individuals in an effort to meet their specific needs. Since then, the department has revised its classification process, allowed access to property and clothing items consistent with gender identity, such as bras and boxers, and in 2017 began providing gender-affirming healthcare.
- In 2019, the department formed its Transgender Housing and Search Working Group to address and strengthen its policy, procedures, resources, systems, and technology. This group met routinely and collaborated with external stakeholders to administer a survey to better understand the experiences and needs of incarcerated TGNBI individuals.

## SB 132 Adoption and Announcement

On September 26, 2020, Governor Gavin Newsom signed SB 132, *Transgender Respect, Agency, and Dignity Act* into law. It became effective on January 1, 2021, added Sections 2605 and 2606 to the California Penal Code, and required CDCR to implement SB 132 in full. Key provisions of the act include:

- During initial intake and classification, and in a private setting, each individual entering into the custody of the department must be asked to specify their gender identity, whether the individual identifies as transgender, non-binary, or intersex, and their preferred gender pronoun and honorific. It prohibits the department from disciplining a person for refusing to answer or not disclosing complete information in response to these questions.
- Staff, contractors, and volunteers are prohibited from failing to consistently use the gender pronoun and honorific an individual has specified. This applies to verbal and written communications with, or regarding, that individual. Incarcerated individuals who are transgender, non-binary, or intersex must be searched according to the gender designation of the institution where they are housed or based on the individual's search preference.
- Incarcerated individuals are required to be housed in a correctional institution designated for men or women based on their preference.
- If CDCR has management or security concerns with an individual's search preference or preferred housing placement, the secretary, or designee, must certify in writing a specific and articulable reason the department is unable to accommodate that search or housing preference.
- CDCR must not deny a search preference or housing placement based on any discriminatory reason, including the anatomy or sexual orientation of the incarcerated person or a factor present among other people incarcerated at their preferred type of institution.

The department and FOPS have been intentional and thoughtful when building upon existing processes and incorporating SB 132 provisions into daily operations through activities including, but not limited to the following:

- Drafting revisions to current policy and practice,
- Developing and implementing the Gender Identity Questionnaire (GIQ),
- Convening an Institutional Classification Committee (ICC) chaired by women's facility wardens,
- Adding four specialist positions at headquarters to support the ICC,
- Developing training material and resources for staff and incarcerated individuals, and
- Updating electronic systems and databases to begin integration of new tools and practices.

The mission and changes to policy and practice were communicated to all institutions through various meetings, memoranda, and training. This messaging was tailored to staff and the incarcerated population. See the *Training and Preparation* section for additional information on the rollout of SB 132.

# Themes and Recommendations

The following four sections outline key themes and recommendations for enhancing CDCR's current practice in the safe and effective management and housing for TGNBI individuals and overall safety within CDCR institutions. We begin with an overview of SB 132 transfer and operational processes, move to a discussion of preparation and training to support gender-identity-based transfers, explore leadership practices and cultural norms as a foundation for sustainable change, and conclude with a discussion of the pivotal role of data and research in continuing to innovate and support transition.

## SB 132 Transfer and Operational Processes

This section of the report reflects the review of the overall SB 132 transfer process. While outcomes and recommendations provided below are influenced by the onsite observations, the information in this section is largely focused at the system level. Further, information below is supplemented or supported by interviews with agency leadership and relevant stakeholders.

**Overall Process Summary.** The agency has developed a roadmap to guide the transfer process of transgender individuals to an institution that is consistent with gender identity—see Figure 6.<sup>2</sup> The process is well thought out and addresses many key components for the safe and respectful management of transfer between institution placement based on sex assigned at birth and institution placement based on gender identity.

The first of several steps designed to support transfer is to conduct the GIQ at reception. If an individual identifies as TGNBI, they are asked to identify a search and a housing preference. Upon identification, and indication of desire to transfer, three processes are initiated as follows:

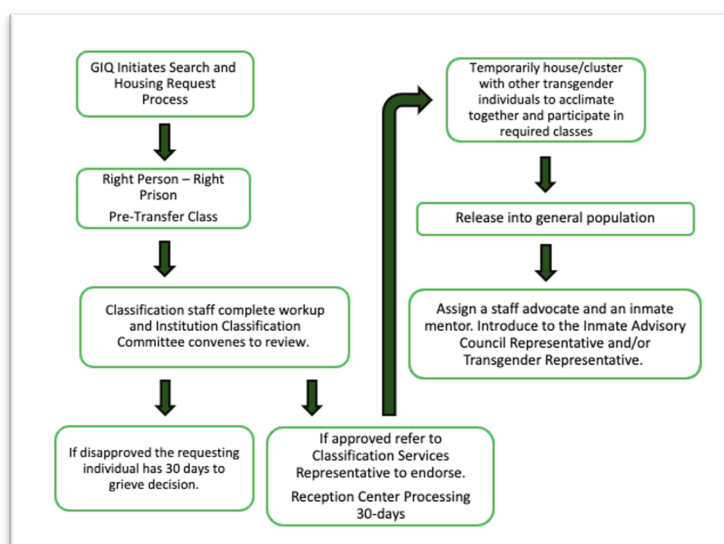


Figure 6: SB 132 Roadmap

- *Search Preference:* The PREA compliance manager reviews the search preference request and submits a recommendation for approval to the chief deputy warden for final action.
- *Pre-Transfer Class:* The incarcerated individual is placed in the pre-transfer class, titled Right Person Right Prison, which is designed to help them make an informed decision about placement by gender identity. See *Training and Preparation* for additional information.
- *Classification Workup and Review:* Housing requests are sent to the institution classification and parole representative (C&PR) who assigns it to classification staff for case workup. The ICC then reviews the request and makes a decision on institution placement.

If the request is denied an individual has 30 days to grieve the decision, the Office of Grievance meets with the incarcerated individual to evaluate the complaint; if no due process violations or additional information exists, it is referred to the Department Review Board (DRB) and the director or designee makes the final housing decision, which exhausts administrative remedies.

<sup>2</sup> Note that during the process of assessment policy was changed to allow an individual 60 days to grieve decisions about housing placement or search preference. At the time of assessment policy allowed 30 days which is reflected in the graphic and throughout the report. This revision strengthens the policy.

Upon approval of a request for housing consistent with gender identity and endorsement of the move, individuals are transferred to the institution of preference and participate in two stages of housing placement. First, they go to the reception center for thirty days. Upon completion of reception housing, an individual's case is again reviewed by the ICC for general population placement. By process, they are then to be housed in small cohorts with other individuals transferring in based on gender identity which are near, but not in, general population. See the *Reception Center Processing and Orientation Cohort* section below for additional information. Each step of this process is further discussed below.

**Gender Identity Questionnaire.** The GIQ is completed at reception by a custody supervisor and provides the opportunity for an incarcerated individual to disclose gender identity—whether they identify as transgender, non-binary, or are intersex—and specify preferred pronouns and honorifics. At the time of assessment, the questionnaire was completed as described in drafted changes to the Department Operations Manual (DOM) 54046.5.1. Gender Identity Questionnaire. This addresses the requirement of SB 132, Section 3. The questionnaire and administration process includes several strengths, including the following:

- The form includes an introductory paragraph to provide context to the questions.
- The interview was conducted in a private setting.
- The form is completed electronically.
- Policy states, and staff were aware, that individuals are not required to answer GIQ questions
- There is a brief explanation of the different types of search policies that the custody supervisor reads prior to asking the incarcerated individual their search preference.
- An e-mail is automatically generated, containing the search and housing preferences, to communicate requests to the PREA Compliance Manager and institutional C&PR staff.

During onsite observations, assessors noted an institutional challenge that is likely to occur agency wide. Specifically, while staff understood the requirement to administer the GIQ in a private setting, and had been doing so, a barrier to this practice emerged. Some of the medical operations had been temporarily moved to the Receiving and Release building, resulting in the custody supervisors being unable to use the private office where they had been conducting the GIQ. Another office was identified for use; however, concerns were raised about the location as it was a high traffic area, and the temporary arrangement was projected to last at minimum through the end of the year. Ongoing discussion of challenges to key components of practice, like privacy, will support effective, real time, collaborative problem solving.

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*Incarcerated individuals were aware they could go to staff to change their gender identity at any time.*

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### **Gender Identity Questionnaire Recommendations**

1. Consider entering pronouns for all incarcerated individuals to normalize sharing and using and using preferred pronouns. At the time of assessment, information on preferred pronouns was collected for all incarcerated individuals but only entered for those who identify as transgender, intersex, or non-binary.
2. Map the automatic population of information from the GIQ to determine additional opportunities to provide staff with ease of access to preferred pronouns to support respectful interaction. For example, at the time of assessment, pronouns were populated into a banner at the top of an incarcerated individual's electronic file in one system, however, in other systems the information was reported to be more difficult to find.
3. Implement a process by which institution senior management regularly spot check the reception areas during intake processing to ensure the GIQ is being completed in a private setting as required by SB 132 to support collaborative problem solving in unusual circumstances where space or process challenges arise.

**Search Preference Process Initiated by GIQ.** Provisions of SB 132, Section 4, 2606 (a)(2) and DOM 54120.4 require the following:

- Transgender, non-binary, or intersex individuals be searched “according to the search policy for their gender identity or according to the gender designation of the institution where they are housed, based on the inmates’ search preference.”
- Search preference should not be denied “based on 1) anatomy, including, but not limited to, the genitalia or other physical characteristics or 2) the sexual orientation of the inmate.
- Incarcerated individuals be provided with a copy of any request not approved and can grieve the decision within thirty days.

<i>DOM References</i>	
<i>52010.17</i>	<i>Staff Requirements/Urine Sample Collection</i>
<i>52050.16.4</i>	<i>Clothed Body Search of Female Inmates</i>
<i>52050.16.5</i>	<i>Unclothed Body Search of Inmates</i>
<i>52050.16</i>	<i>Unclothed and Clothed Body Searches of Transgender, Intersex, or Non-Binary Inmates</i>
<i>52050.23.7</i>	<i>Voluntary Bowel Movement</i>
<i>54120.4</i>	<i>Searching Based on Gender Identity</i>
<i>54046.5.1</i>	<i>Gender Identity Questionnaire</i>

Policy addresses the key components outlined in SB 132; however, opportunities exist to clarify policy now that practices have been implemented, such as the following in DOM 54120.4:

- There is repetitive language related to denial of requests.
- Procedural revisions are needed, such as an update where it specifies review of search requests are to be done by the PREA compliance manager to make a recommendation via form 128-B and submit to the deputy warden for final approval; however, in practice, these reviews appear to be done by the PREA coordinator.
- Incomplete sections, such as where it directs that “pertinent case factors” be reviewed but does not specify what should be considered or give any examples.

SB 132, Section 4(4)(d) indicates that if a housing or search preference is denied, individuals must be provided with a meaningful opportunity to verbally raise any objections to that denial, and have those objections documented. The agency and institution have robust processes in place for incarcerated individuals to submit grievances. The process is known by incarcerated individuals and provides a place within existing systems to address any concerns. Creating new processes when existing avenues to share concerns exist has the potential to be confusing to individuals seeking to appeal decisions. At the time of assessment, no search preference requests had been denied at CCWF; therefore, implementation of denial and grievance of decision policies could not be reviewed.

*Staff concerns regarding search preferences may intensify as the need to conduct searches increases as COVID restrictions relax. Leadership monitoring of this potential dynamic will allow for coaching and support to be provided as needed to support staff implementation of new practices.*

#### **Search Preference Process Recommendations**

1. Review policies listed to identify strategies to reduce repetition, enhance clarity, and identify modifications to be made post-implementation based on experience with the processes outlined.
2. Identify factors that should be considered when reviewing search preference requests.
3. Update staff job descriptions and performance evaluations to address consistent implementation of search preference policies to allow for staff performance and comfort to be monitored and coaching provided to support proficiency.
4. Submit a request to revise SB 132, Section 2606 (d) by substituting “the right to grieve and appeal” for “a meaningful opportunity to verbally raise any objections to that denial, and have those objections documented.” The existing grievance process includes documentation of concerns and responses.

**Transgender Access Cards and Property.** Operational procedure *C-099 Transgender, Intersex, and Non-Binary Access Card and Gender Identity Questionnaire* was enacted in September 2021 to provide a process for TGNBI incarcerated individuals to access authorized property, canteen, and clothing, and allow them to designate a search preference. Information is gathered through the GIQ and documented by a Transgender Access Card (TAC). The rationale for development of the TAC was strong, however, the benefits do not appear to have been realized in practice. While policy indicates that individuals are not required to carry the card, there was confusion among both staff and the population about when, and if, the cards are required to be carried.

The one area where there seems to be uniformity in both policy and perception is the requirement that the card be presented to access property, canteen, and clothing consistent with gender-identity. An area of concern raised was routine delays in issuance of TACs leading to delays in access to property consistent with gender identity. This concern was supported by a review of grievances.

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*While most incarcerated individuals who identify as TGNBI indicated they are addressed in a manner consistent with gender identity or by last name, it did not appear staff were using the TAC to identify the appropriate pronoun or honorific, rather staff reportedly ask, consult SOMS, or use gender neutral terms.*

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Specific to property, 3190. General Policy states that “the Transgender Inmates Authorized Personal Property Schedule (TIAPPS) (4/4/18) identifies a separate list of allowable personal property afforded to transgender, intersex, and non-binary incarcerated individuals. Specifically, the *TIAPPS-Designated Male Institutions* applies to TGNBI incarcerated individuals who are housed at male designated institutions and *TIAPPS-Designated Female Institutions* applies to TGNBI inmates who are housed at female designated institutions.”

This delineation is challenging because with a TAC a transgender man housed in a female designated institution can access commissary and property consistent with their gender identity. Often, women prefer men’s items, such as t-shirts, which are reported to fit better. Some cisgender women appeared to be obtaining a TAC for the purpose of access to the male uniform t-shirts. In addition to cisgender women seeking to obtain a TAC, it appears that this issue has caused an administrative and operational burden—process confusion, delays, grievances, bartering, and inaccurate information on identity—similar to earlier challenges reported before the decision was made to allow women to purchase boxer shorts. Allowing boxer shorts was reported to have been successful at reducing the burden while not adversely impacting safety or operations. At the time of assessment, CCWF had submitted a budget request to support provision of the t-shirts customarily assigned to men for the women.

#### ***Transgender Access Card and Property Recommendations***

1. Consider discontinuing the TAC and including preferred pronouns and search preference on state issued identification. This streamlines the process, removes the need for an additional card, and normalizes sharing and utilizing an individual’s preferred pronouns.
2. Consider allowing individuals to select a male or female uniform at reception or when it is time for new uniform issuance.

**Reception Center Processing and Orientation Cohort.** As described Operational procedure *C-108 Senate Bill 132 Implementation, Processing, Orientation, Housing Expectations, and Removal*, if a housing placement is approved, once endorsed, the individual is to be transferred to the appropriate reception center where they remain for thirty days. Those transferring to a female designated institution go to CCWF. Medical, nursing, and dental reception center processing are not required unless they are unassessed at the time of transfer. The identified purpose of this placement was to provide time for the individual transferring to acclimate to the women’s institution, place them in a supportive orientation cohort of others also transferring in, and safeguard their privacy.

The objective of this placement is vital to successful transition as it allows for the transferring individual to 1) engage in support groups and self-help groups designed to aid individuals in understanding and adapting to the culture of the institution, 2) access to staff advocates, transgender, and cisgender mentors, and the inmate advisory council via representatives, and 3) become familiar with these resources, as well as education and healthcare resources specific to their gender identity that are designed to continue throughout their prison term. CDCR's understanding of this need to set aside time to support transition is commendable.

Several unanticipated challenges and unintended consequences of this placement were reported, including the following:

- Restriction of contact with the larger population that does not allow for acclimation to the institution culture and population.
- Restriction of individuals' access to property and opportunities based on reception status though the process is most often not required. Many grievances are received from individuals transferred under SB 132 related to initial placement into reception. Grievance categories included: property, housing placement, and discrimination.
- Inability to observe how the individual interacts in the general institution setting restricting opportunities to provide resources and support for practical challenges and restricting opportunities to reinforce adjustment.
- Inability of women in the institution to get to know the individuals transferring in heightening anticipatory anxiety related to room placements.
- The "orientation cohort" structure was not realized due in part to the pace of transfers, and in part to COVID restrictions on movement between institutions.

The experiences described post-implementation indicate that there may be other strategies that would meet the objective for this placement more effectively. Specifically, by providing a transition opportunity that permits contact with women in the institution, provides more routine access to property, classes, education, etc., and allows staff the opportunity to observe interaction and provide support for practical challenges while also reinforcing adjustment.

### ***Reception Center Processing and Orientation Cohort Recommendations***

1. Convene multidisciplinary transfer case conferences between sending and receiving institutions once an individual is endorsed.
2. Create a post reception<sup>3</sup> transition unit housing both TGNBI individuals as well as cisgender women who apply, and are selected, to live in the unit and serve as peer mentors<sup>4</sup>. Ensure that unit design includes the following:
  - a. Clear and structured plan to include phase and overall program timelines. Opportunities progress from on-unit interactions to movement into the larger institution allowing experiences with programming and education while remaining in the transition unit. For example, first 30 days orientation and specialized programming, and the next 30 days ongoing support groups and education class attendance, and so on.
  - b. Specially trained clinical, custody, and case management staff to support transition, ongoing case review, and eventual unit, bed, and program placement decisions.
  - c. Routine multidisciplinary case reviews that include the individual transferring, to monitor the process of adjustment to the institution.
  - d. Specialized programming, such as orientation, *Healing Trauma Plus*, and support groups.
  - e. Structured quality assurance to ensure fidelity to the model, program curriculum, etc., planned engagement of feedback from staff and incarcerated individuals, and opportunities to adjust.

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<sup>3</sup> In this model reception placement would be brief.

<sup>4</sup> As is current practice, individuals transferring would continue to have access to TGNBI mentors who had successfully transitioned to living in the receiving facility.



**Institution Placement Process Initiated by GIQ.** Provisions of SB 132, Section 4 (a)(3) and 54120.1 and 3 require the following:

- That “an inmate who is transgender, non-binary, or intersex, regardless of anatomy, shall be housed at an institution designated for men or women based on the individual’s preference, including, if eligible at a residential program for inmates under the jurisdiction of the Department.”
- That “an inmate who is transgender, non-binary, or intersex, regardless of anatomy, shall have their perception of health and safety given serious consideration in any bed assignment, placement, or programming decision within the institution in which they are housed: including, but not limited to, granting single-cell status, housing the individual with another incarcerated person of their choice, or removing the individual or individuals who pose a threat from any location where they may have access to the individual who has expressed a safety concern. If the inmate is not granted an alternative placement based on their concerns about health and safety, the department shall document the specific reasons for that denial and notify the inmate via a CDC form 128B. If an incarcerated individual raises concerns for their health or safety at any time, their housing and placement shall be reassessed.”

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#### *DOM References*

54046.4	<i>Review of Inmate’s Case Factors</i>
54046.5	<i>Initial Screening</i>
54046.5.1	<i>Gender Identity Questionnaire</i>
54046.8	<i>Single-Cell Criteria</i>
54120.1	<i>TGNBI Inmates</i>
54120.3	<i>Housing Based on Gender Identity</i>
61010.1	<i>Policy</i>
61010.4	<i>RC Processing Staff Responsibility</i>
62010.3.2	<i>Institution Staff</i>
62010.4	<i>Considerations</i>
62010.8.1	<i>ICC Functions</i>
62010.8.2	<i>ICC Authority</i>
62010.9.1	<i>CDC Form 128-G</i>
62010.10.4	<i>Referral Criteria</i>

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Policy differs from SB 132 requirements in that it does not specify that housing placement cannot be denied due to any discriminatory reason to include a factor that is present among other people at the preferred type of institution; however, a review of approval and denial of placement decisions indicate that there is an awareness of this regulation.

**Classification Case Workup.** Once a housing request is made, it is sent to the institutional C&PR. The C&PR assigns the request to a CCII from FOPS who conducts an interview of the individual requesting transfer and a complete file review to include “confidential reports” and prior interviews. There is then a meeting prior to the ICC that allows for discussion of any questions and recommendations and for collection of additional information prior to the formal ICC. Operational procedure *C-108 Senate Bill 132 Implementation, Processing, Orientation, Housing Expectations, and Removal* indicates that prior to ICC review medical conducts a review of health records to support a “warm handoff” with the prospective transfer institution and mental health completes a review and makes a housing recommendation. The process culminates in a summary report to be provided to the ICC for review.

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*Placement decisions are not about proving or disproving an individual’s gender identity. Policy, process, and training must outline an approach to determine safe placement considering identity as well as management and security considerations.*

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**Institution Classification Committee Review and Classification Criteria.** The ICC is delegated primary authority for all classification actions within the institution. Review of all gender identity based housing transfer requests has been added as a case type to be reviewed by this committee. By policy, the ICC is a multi-disciplinary committee that must include the warden or chief deputy warden, assistant warden, psychiatrist or physician, captain, CCII or III, captain, assignment lieutenant, educational or vocational program representative, and others as required. When considering gender identity based housing transfer requests, the PREA coordinator, a mental health practitioner, and the warden from the receiving institution should be present.



This process has evolved and has clear strengths, including it being chaired by the wardens of the female institutions, the presence of the individual requesting transfer at the committee hearing, and the seriousness with which individual's own perception of safety is seriously considered. Observation of ICC meetings indicated that the individual is invited to discuss their perception of safety in their own words and from their own experiences. Further, mental health appears to be seriously considered. Mental health practitioners were observed to provide information related to status, risk factors, and adherence to treatment.

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*The key to implementation of SB 132 in a way that significantly and positively impacts safety is to recognize that safety has many meanings. Often when corrections professionals and community stakeholders reference the need for safety, they focus first on different definitions.*

*Corrections professionals are likely to first consider the threats to safety that are associated with criminogenic or anti-social behavior; community members are likely to first consider the threats associated with denial of identity.*

*Processes must be developed to mitigate risks where these forms of safety intersect.*

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Identification of criteria for consideration is vital to ensuring consistency in placement reviews. Common criteria recommended for consideration when determining housing placement based on gender identity include the following factors:

- Individual perception of safety
- Safety and health
- History of, and current, management and security problems
- Security level, criminal and disciplinary history
- Medical and mental health needs
- Vulnerability to sexual victimization and likelihood of perpetrating sexual abuse against others
- Gender identity and expression

Operational procedure *C-108 Senate Bill 132 Implementation, Processing, Orientation, Housing Expectations, and Removal* is clear that classification review must articulate and document the reason for the placement recommendations. It emphasizes that it is "critical this classification review be case factor driven and supported by source documentation and shall not rely upon personal conclusions of the caseworker." Focusing on case factors that are largely consistent with the factors above provides a strong foundation for a gender identity-based housing reviews that address both identity and safety. Case factors include the following:

- |  |  |
|--|--|
| • GIQ and history of identification as TGNBI                               | • Consultation with investigations                         |
| • Medical review   | • PREA review  |
| • Mental health review   | • Pattern of PREA allegations as a suspect                 |
| • Pre-transfer education completion  | • Pattern of PREA allegations as a victim                  |
| • Criminal history   | • Co-defendants and enemy concerns at transfer institution |
| • Classification, custody level, program history, length and term to serve | • Security Threat Group activity and validation            |
| • Cell, double cell, and dorm housing history                              | • Escape history   |
| • In-Custody disciplinary history  | • Release date, proximity to release, and next BPH Review  |
| • Victimization concerns   |  |
| • Predatory behavior concerns  |  |

At the time of assessment, CDCR classification professionals had access to information on all criteria listed above, however, they had not been trained on how to apply them to a decision about gender identity-based transfer requests. In the absence of clear training and criteria there appears to be a presumption of transfer. This is concerning given the serious challenges to safety based on institution type and staffing such as the following:

- Some individuals transferring from male to female designated institutions have custody classification scores that would contraindicate placement in CCWF<sup>5</sup> due to staffing patterns and housing options. CCWF is largely dorm living with few celled living options. At the time of assessment seventy to seventy-five percent of the population was level I or II.
- SB 132 prohibits CDCR from denying housing placement requests based on any discriminatory reason, including, a factor present among other people incarcerated at the institution. While there may be similar crimes or institutional misconduct findings present in a women's institution, there may also be distinctions between the scope and scale of those crimes and behaviors. Indications of a current risk of gender-based violence should be considered a key management and security concern. This is especially important considering the housing and supervision needed to manage such risks.

PREA standard §115.42 specifies that housing and institution placement for transgender and intersex people must be made on a case-by-case basis. To make a case by case, individualized decision, a variety of factors must be considered in the context of the individual and their current and proposed placement.

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### ***Institution Placement Trends***

*Based on a review of available documents and data, disciplinary charges related to violence, sexual behavior, enemy concerns, hesitancy of the requesting individual to transfer, safety of the current environment, and significant potential for adverse impact of the move (i.e., single cell to dorm) were the most common reason for denial of placement by gender identity.*

*While history of violence, diagnoses of gender dysphoria, and gender affirming therapies, all appeared to be considered as relevant in consideration for continuing care, none were treated as automatic inclusion or exclusion from gender identity based placement. This demonstrates case-by-case decision making.*

*The most common reason for approval of placement was described as "no case factors that were not currently present among individuals housed at a female institution."*

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**Removal and Involuntary Return.** Operational procedure *C-108 Senate Bill 132 Implementation, Processing, Orientation, Housing Expectations, and Removal* states that all decisions about removal from a placement made because of a gender identity based transfer shall be reviewed on a case-by-case basis if one of a variety of management and security concerns<sup>6</sup> are present. It is notable that none of the management and security concerns relate to gender identity; rather they relate to the ability of institutions designated for women to manage the level of risk presented by an individual.

### ***Institutional Classification Committee Review and Classification Criteria Recommendations***

1. Develop an interactive, practice based, training for CCII and IIIs to ensure consistency in case work ups, and for ICCs to support criteria-based decision making.
2. Develop, include in policy, and implement timelines for each step of the process from request for placement through arrival at receiving facility.
3. Ensure that case conferences convened to review potential alternate female designated housing placement or return to a male designated housing placement (or vice versa) includes representatives of medical and mental health.
4. Define clear criteria for consideration in case work up and ICC review to support consistency in decision making specific to institution placement. In addition to factors specific to identity, ability to manage risk through unit structure and staffing levels must be considered. After classification processes have been fully designed and implemented to ensure that placement decisions are made based on the individual's needs, and on the ability of an institution to safely house that individual, involuntary returns should be infrequent.

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<sup>5</sup> CCWF is the only level four female designated institution in the state.

<sup>6</sup> Examples of identified management and security concerns include, but are not limited to, single cell or celled living requirement, enemy concerns, or safety concerns, and documented sexual behavior.

**Housing and Access to Gender Affirming Medical Care.** An additional important consideration in institution placement, and timing of placement, is proximity to gender affirming medical services and access to housing that provides necessary privacy during post-surgery recovery. Due to the geographic location of women's institutions in the state, access to these services often requires significant travel. CCWF is likely to be disproportionately impacted by transportation needs and staffing demands required to ensure safe and effective medical services. Further, staff referenced concern about the safety of travel post-surgery and access to the level of privacy needed in housing placement for recovery.

***Housing and Access to Gender Affirming Surgery Recommendations***

1. Ensure that proximity to gender affirming medical care and privacy needs are considered in institution placement.
2. Conduct an analysis of the travel and staffing costs of travel for gender-affirming medical care compared to defining a housing option closer to these resources. As a part of the analysis, engage medical experts to ensure clarity on travel safety and requirements.

**Unit and Bed Placement.** Once an individual is placed in a male or female designated institution, bed or unit placement at the receiving institution is an important consideration for safety. While there did not appear to be a difference in TGNBI individuals' access to programs, services, or out of cell time when successfully placed,<sup>7</sup> the experience of unit and bed placement in the institution was observed to have marked differences. Bedspace appeared to be a driving factor in dorm or bed placement. It was not clear what other factors, if any, were considered.

SB 132, Section 4, 2606 (a)(4) allows a transgender person to remove other individuals from a room if safety concerns are expressed. While all housing decisions should be predicated upon safety, this practice creates inconsistency and a perceived imbalance of power in the population. Incarcerated individuals who refuse a cell assignment face disciplinary action. For instance, in practice, if a cisgender woman raises personal safety concerns about having a transgender woman in the room, it was reported by staff and incarcerated individuals that she would be written up and removed from the room. This process has had a significant impact on all of the women in the institution. For some, housing stability was disrupted. This often evoked fear on the part of cisgender women and rejection of transgender women triggering a cycle of anger, divisiveness, and loss. These dynamics were at times activated by myths, anxiety or fear, and other times by misperceptions and misunderstanding. For example, a transgender woman was given a private room following gender affirming surgery and it was clear that the other women on that unit felt that was unfair and were not aware of the reason for the placement in this case, postoperative privacy. While maintaining confidentiality is important, so too is addressing misunderstandings through early education as a preventative measure.

The process for unit and bed placement of TGNBI individuals is not structured to support physical, sexual, emotional, or relational safety and does not include a formal review process. Allowing incarcerated individuals input into placement is important when considered as a component of a larger process and not an expectation that all requests will be granted. Direct selection of roommates is a risk to safety and security. It is notable that this process has been identified as problematic prior to SB 132 implementation and regardless of gender identity. SB 132 added complexity to the challenge.

**Use of Administrative Segregation.** There is concern that the lack of structure or review of institution unit or bed placement has increased the use of administrative segregation for TGNBI individuals transferring into CCWF. Reasons for placement in administrative segregation included enemy and safety concerns, evidence of romantic and sexual relationships, battery, allegations of sexual battery, and potential gang activity. It was consistently communicated that if there is a PREA allegation, the alleged suspect automatically goes to segregation until an investigation is completed. There is a widespread belief among staff and incarcerated individuals that allegations are often misused to remedy

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<sup>7</sup> Access to out of cell time is difficult to interpret due to COVID restrictions. This statement is based on interviews and observations.

interpersonal or institutional issues. It is notable that concerns of this nature were not as common with transgender women who transferred in prior to SB 132; however, many believe that there has been an increase in PREA allegations made in bad faith coinciding with SB 132. It will be important to continue to monitor trends in this area as efforts continue to enhance safety in placements.

#### ***Unit and Bed Placement Recommendations***

1. Submit a request to revise SB 132 by removing the following language from Section 2606 (a)(4) “bed assignments” and “pursuant to paragraph (3) of subdivision (a) or subdivision (b) including, but not limited to, granting single cell status housing the individual with another incarcerated person of their choice, or removing the individual or individuals who pose a threat from any location where they may have access to the individual who has expressed safety concerns.” Include language that indicates that an incarcerated individual’s preferences for who they are housed with be taken into consideration as a part the overall placement process.
2. Develop a structured process for institution-based unit and bed placement that includes clear guidelines for placement based on at minimum PREA screening, safety, and privacy considerations for housing transgender, non-binary, intersex, and cisgender women together.
3. Consider housing by custody level and behavior; separation of level III and IV would allow CCWF to determine staffing and resources according to population risk and need.
4. Construct or establish additional celled living capacity to support safe and effective management of individuals who are not appropriate for dorm-style living and where single cells are limited.

**Staffing and Capacity.** At the time of assessment several areas of concern were noted about staffing in relation to implementation and sustainability of SB 132. For instance, the workload for clinical professionals was reported to have increased due to the need for gender affirming care assessments and tasks. Further, it was reported that there was an additional workload due to the implementation of the new grievance procedure, and the time limited positions that were brought on to implement SB 132 are expiring. Finally, it is unclear if the standardized staffing model accounts for the staffing needs of women’s institutions as a baseline.

#### ***Staffing and Capacity Recommendation***

1. Conduct an analysis to identify staffing levels that consider custody, non-custody, and clinical needs based on the mission of the institution, safety, performance expectations, nuances of supervising women and TGNBI populations, and the workload created by operational changes.
  - a. Consider a specialized case management structure for TGNBI care coordination.
  - b. Consider maintaining the psychology and psychiatry positions created to support SB 132 implementation.

## Preparation and Training

Consistent with the approach to making gender-identity based institution transfers, CDCR developed a thoughtful approach to preparing both staff and incarcerated individuals to support successful transition and respectful and safe management of TGNBI individuals in institutions that correspond with their gender identity. This approach was built on the foundational efforts of a long-term workgroup comprised of CDCR experts and diverse stakeholders.

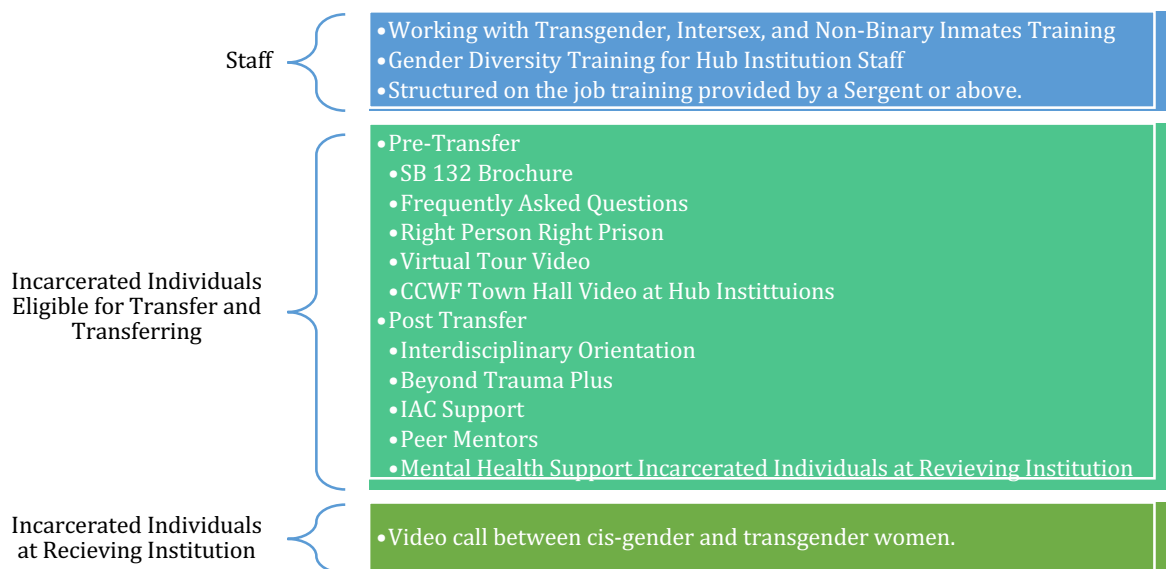


Figure 7: Preparation & Training Efforts

**Leadership and Staff.** Significant efforts were made to create multiple avenues for communicating and setting the tone for this critical transition. Several resources were provided for staff and leadership, including the following:

- *Overview of Senate Bill 132* as an on-the-job one-hour training module that included definitions, process flowcharts, direction on practices related to property and searches, and addressed frequently asked questions.
- *Working Successfully with Transgender, Intersex, and Non-binary Inmates* as an in-service one-hour training module that focused on culture, identifying pathways and experiences of a TGNBI population, and the resulting changes to policy and practice.
- *Transgender Cultural Fluency Training* was shared with the PREA compliance managers at the fourteen hub institutions.
- Development or delivery of flowcharts, talking points, presentations, memoranda, frequently asked questions, town halls, and other quick use resources.

During the onsite observation component of this assessment, it was clear through discussions and observations that many staff were grappling with implications of housing by gender identity that went beyond policy change into the deeper interaction of gender identity and gender responsive practice. Early communication was reported to be direct, quick and announcement driven rather than discussion based with many being unsure of where to ask questions.

Staff expressed that it had taken time and consistent training to shift the mindset of the institution to understand and treat women based on gender-responsive principles. While these changes do not negate the efforts expended to ensure use of a gendered lens, it will take time for staff to fully understand the implications for incarcerated TGNBI individuals. Additionally, the presence of transgender men in the institution complicates the issue for staff who are working to break habits such as referring to groups of individuals in the institution as “ladies.”

There was some indication that trainers believed that as a result of SB 132 transfers they needed to prepare the staff at CCWF to work with and manage men, rather than women. While it is true that as transgender women transition into a female designated institution staff will need to understand the dynamics and processes these individuals are used to and become more flexible in their skills. However, messaging that indicates that men are coming into the institution reinforce harmful stereotypes. It is notable that this sentiment at its core was related to ensuring safety in the institution. Education and practice can enhance staff's comfort and confidence in managing the population. The expected challenges of the transition were complicated by the fact that at the time of assessment, staff were unclear on the full meaning and impact of the SB 132 legislation. The system of policy in California is complex, as draft policy is finalized, providing staff with easy-to-use resources directing them to appropriate guidance will help create consistency in understanding policy and procedure.

**Incarcerated TGNBI Population.** To prepare those transferring to the institution of gender identity, several levels of training and preparation were provided, including written material, interactive training, pre-transfer support, post-transfer support, and programming designed for TGNBI individuals.

*Right Person Right Prison* is a four-week pre-transfer course that by policy is mandatory for those who have indicated a desire to transfer to an institution that aligns with their gender identity. The course as designed includes eight, two-hour in-classroom instruction sessions as well as eight corresponding journal assignments. The goal is to support the population in deciding if the transition is the best choice for them by providing information about women's institutions and ensuring the differences are discussed and understood prior to transfer. It was reported by most transgender women who had transferred to CCWF that the course was either delivered at a time other than planned by process or lacked key information to support their preparation for the realities of living in female designated institutions. Specifically, they indicated a need for more information about interacting with the population at the receiving institution to include cisgender women and transgender men.

**Incarcerated Cisgender Population.** The type and scope of preparation differed widely for the population transferring into CCWF and the population already at the institution. The warden met early on with the executive body of the Inmate Advisory Council (IAC) to explain the bill and its impacts. The IAC was then asked to discuss SB 132 throughout the institution, collect feedback, and share the feedback with the warden. It is unclear if these women fully understood the changes associated with implementation and it was clear that there were concerns about the transition. This advisory body would benefit from additional education and opportunities to interact with TGNBI individuals as colleagues and community members. Further efforts included the department hosting a virtual meeting with the IAC executive body at CCWF and a group of transgender women who wished to transfer to a women's institution. This was a promising practice for both populations to ask questions and learn more about one another's concerns. However, the women who the IAC met virtually did not ultimately transfer to CCWF contributing to a level of mistrust and confusion about what to expect.

The difficult nature of this transition was exacerbated by the overlap of SB 132 implementation with the COVID-19 pandemic related lockdown of programming. There was a sentiment that the women's institution locked down in March 2019 and re-emerged as something else, with a sense of instability and fear that it will never be

CDCR continues to work on enhancing resources to support women at receiving institutions. For example, the agency is partnering with the PREA Resource Center and Just Detention International to create a video series designed to provide education about individuals who identify as transgender, non-binary, or intersex people to include a discussion of pathways and similarities of transgender and cisgender women.

### ***Preparation and Training Recommendations***

1. Incorporate data to demonstrate trends, successes, and challenges into messaging and training.
2. Continue to engage, or re-engage, community stakeholders as advisors and providers as the implementation process continues.
3. Expand education and preparation for incarcerated individuals at receiving institutions and engagement of cisgender women in creating a safe institution culture for both cisgender and transgender women.
4. Expand staff in person training to build on initial offerings with a focus on scenario practice.
5. Evaluate the effectiveness of the on-the-job training program to ensure that it provides practical, supported learning. There were indications that the current process is less focused on learning and more focused on proof of practice (i.e., signing policy, etc.).
6. Expand training for trainers to ensure trainer confidence in correcting, and not reinforcing, misconceptions about the population transferring into receiving institutions.
7. Create a quality assurance structure to support consistency in training and program delivery by qualified and trained facilitators.
8. Review processes for agency wide dissemination of information regarding the option to request placement by gender identity.
9. Provide incarcerated cisgender women additional education, opportunities to ask questions and get to know TGNBI individuals, and conversation with staff about strategies for safety.
10. Engage cisgender women in transitional housing planning and support for TGNBI individuals.
11. Assess the effectiveness of current training for current, new, and transferring employees as a baseline and foundation for development of focused, interactive, scenario-based training.  
Ensure any additional training is operationally driven and connected to policy.
  - a. Clearly and concisely reinforce key components of initial training such as the distinction between gender identity and sexual orientation.
  - b. Provide staff with training to support understanding of the various components of transition—social, emotional, and physical factors—and engage in discussions regarding the meaning of situations when behavior or characteristics may appear to contradict stated identity, such as medication and trauma.
12. Update the job shadowing checklist to include the adaptive skills that are required at a female institution in addition to considerations for TGNBI individuals and technical processes and procedures that are evaluated by the Field Training Officer.
13. Ensure that both policy and training definitions are consistent with those outlined in SB 132.
14. Develop a “quick guide” for staff that summarizes and provides reference to all policy and formal guidance to support staff in respectfully supervising TGNBI individuals.
15. Ensure that trainers and facilitators of programs are trained both in content delivery and facilitation of sensitive conversations regarding safety and individuals concerns. While education and programing is not designed to change an individual’s personal beliefs, trainers, facilitators, and leaders must be able to communicate what professionalism entails in the institution setting regardless of personal beliefs.
16. Consider revisions to the current content and design of *Right Person Right Prison* class.
  - a. Include input from those who have previously attended the course’
  - b. Develop a structure that ensures that the *Right Person Right Prison* is consistently delivered at all institutions.
  - c. Consider engaging facilitators with clinical expertise to facilitate the class. While the institutions themselves often impact decision making— based on housing and program options—so too can an individual’s transition process, which may make the decision emotionally complex for some.
  - d. Revise and update information on the transfer request process, housing layouts, and preparation for transfer.
17. Provide ongoing training specific to medical and mental health care for clinical professionals at CDCR and maintain resources for consultation and coaching that are currently in place.
18. Consider including a TGNBI representative to the Inmate Advisory Council (IAC).



## Leadership and Culture: Sustaining Change

This section is focused largely on the onsite assessment of SB 132 implementation, policies and procedures developed to comply with requirements at CCWF, and its impacts on institutional culture and practice. See Figure 8 for a list of topics that will be further reviewed in this section. There are inferences from the CCWF assessment that will have implications agency wide. At all levels, the tone set by leadership, and creation of a culture to support new practices to improve safe and respectful housing and management of TGNBI individuals, are the keys to sustained change. Agency and institution leadership consistently demonstrated a commitment to safe placements that honor the identities of TGNBI individuals.

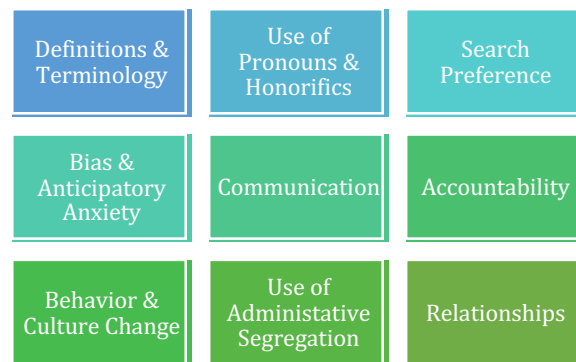


Figure 88: Leadership & Culture Indicators

**Definitions and Terminology.** Staff varied in understanding of key definitions and terminology related to the TGNBI population. While there was a broad understanding of what it means to be transgender, there are opportunities to build on this through training and formal guidance, such as the following:

- Clarify terms that staff may be less exposed to, such as non-binary and cisgender.
- Support a deeper understanding of the complexities of transition as not a one-time event but an individually driven constellation of social, emotional, and medical changes.

Existing policy definitions provided a general understanding of terminology, however, adoption of the definitions outlined in the legislation within department policy will support shared understanding and accurate use of terminology.

**Use of Pronouns and Honorifics.** It was reported by institutional leadership, institution staff, and the population that staff make sincere efforts to be respectful of preferred pronouns. In large part, it appeared that staff complied with this practice and the transgender population reported feeling comfortable addressing honest mistakes by both staff and the cisgender population. There were pockets of staff are reported to intentionally misuse pronouns, however, the efforts of the majority of staff signals an openness to not only compliance with, but eventual adoption of, comprehensive correctional best practice for the safe and effective management of TGNBI individuals.

**Search Preference.** A clear strength noted at the institution is that overall, individuals that assessors spoke with who had specified a search preference reported that it is honored. Some indicated that this is a clear difference from men's institutions where they were housed prior to transfer. While not all staff agreed with the search preference policy, they appear to have accepted it as part of their duties. This practice does present staff with the need to become proficient with practices that may not have been a routine part of their work prior to SB 132. Specifically, if a staff member has always worked at a women's institutions, they may be less comfortable with male search practices and vice versa.

**Bias, Anticipatory Anxiety, and Fear of Manipulation.** The shift from housing by sex assigned at birth to housing by gender identity represents a significant and important shift in philosophy and practice for correctional agencies nationally. It is to be expected that leadership and staff at all levels of an agency, and the incarcerated population, will be concerned about safe implementation of this new practice. Throughout the country, the practice of housing transgender individuals in an institution that aligns with gender identity has raised questions about the propensity for the system to be manipulated. SB 132 permits incarcerated individuals and those entering custody to be considered for housing aligned with their gender identity based on self-identification. Many worry that SB 132 will result in decreased physical and sexual safety because transgender women were transferring into female designated institutions. These fears reflect those that occur in community settings throughout the country as TGNBI populations become more visible and community members grapple with personal beliefs.

An important part of overcoming bias related to personal beliefs is to be aware of both implicit biases and confirmation biases. Implicit biases are the attitudes or beliefs that individuals hold about people, ideas, issues, etc. which are out of their conscious awareness but can impact their behavior. Confirmation bias is the unconscious tendency to seek and interpret information in ways that support existing beliefs or expectations. These biases are largely out of our awareness, however, there are ways to become aware of them to ensure that they do not impact our behavior in professional settings.

Issues of bias are complicated when there is significant anticipatory anxiety connected to a change. Anticipatory anxiety, in this setting, refers to the fear or worry that bad things will happen due to gender identity based housing. When a change feels out of an individual's immediate control, and when there are safety concerns, people can become fixated on the uncertainty. At CCWF, both staff and incarcerated individuals voiced concerns and anxieties prior to implementation, including physical and sexual safety concerns, contraband, and cultural changes that would shift to that of a male institution

Anticipation of challenges to plan and problem solve is an important practice; however, discussion of the fears without discussion of what is being done to promote safety is counterproductive. At the time of assessment, several staff and incarcerated cisgender women shared variations on the theme that their fears prior to the implementation of gender identity based housing were much worse than the reality. In reality, individuals transferred to CCWF have had a variety of experiences. Many have acclimated easily and reported feeling accepted, others faced hostility or felt ostracized.

Most staff reported having confidence and respect in institution leadership and reported appreciating the acknowledgement of their concerns about the implementation of SB 132. Similarly, most cisgender incarcerated women believed that staff and leadership understood their concerns. TGNBI individuals were mixed in the level of support that they felt from leadership and staff. Some felt supported, while others reported feeling that they were not wanted in the institution. It is likely that anticipatory anxiety and the unintended impacts of associated biases, myths, and misperceptions contributed to the difference in perceived attention to concerns between cisgender and TGNBI incarcerated individuals.

Direct experience, tracking and discussing very specific data will support continued enhancement of safety in the CCWF culture post-SB 132-implementation. These activities will help the people who live and work at CCWF, as well as other facilities housing TGNBI individuals, gain confidence in their understanding of strengths and challenges of the process. Recommendations in the *Research and Data* section of the report describe key considerations for streamlining the data needed to monitor processes and share outcomes. Continued education and attention to transition, as described in the *SB 132 Transfer Process* and *Preparation and Training* sections of the report, can build on the credibility institution leadership at CCWF has with staff and cisgender women, and increase trust and consistency of respectful interactions for TGNBI individuals.

**Communication.** In initial stages of implementation, CCWF leadership communicated directly with staff and incarcerated individuals about SB 132 and implementation efforts. Training was provided, and information was shared—see the *Preparation and Training* section for more information. As implementation has moved forward it appears that frequency of formal and direct communication on this topic has decreased. Information about operational functioning and incarcerated individuals is shared at the morning leadership meeting. However, because the agency does not have formal roll calls or musters, it appears that information is largely shared down the chain of command, via email, or on-the-job training. Due to the complexity of the transition to housing by gender identity, indirect communication can lead to misunderstanding and uncertainty as both validated and unclarified information is communicated verbally between staff. Supervisory communication is a vital part of supporting transition, however, with the complexity and sensitivity of issues related to identification as TGNBI, some may be fearful about saying the wrong thing.

At the time of assessment, staff at all levels and in all disciplines, as well as incarcerated individuals, referred to SB 132 as men moving to the women's institution. Clear and consistent messaging with ongoing coaching will be needed to shift that message to women transferring into an institution designated for women under SB 132. This will require broad messaging to staff and incarcerated individuals, as well as informal conversations about the impact of this mischaracterization and the leadership commitment to safety and respect. Intentional communication from leadership at all levels related to respect and adherence to policy, clear structures for accountability, and ongoing support for staff and incarcerated individuals through the transition is vital to sustained change.

**Behavior and Culture Change.** One consistent concern raised at all levels of the agency and institution was the potential of the changes associated with SB 132 to adversely impact the culture of the institution. For example, there were reported increases in possession and manufacturing of weapons, gang activity, PREA allegations, drug and alcohol use, and more sophisticated criminal behavior, such as a drone drop of drugs by a transgender woman who was transferred under SB 132. There were varying perceptions about violence and weapons increasing in the institution. Some believed the increase in violence and weapons to be rumors, others believe strongly that there have been increases. Further, while the prevailing fear was that transgender women would sexually victimize cisgender women, a few transgender women indicated that they were often sexually pressured or pursued, which indicates that there may be stereotypes threatening the sexual safety of transgender women.

Monitoring of trends in data that indicate broad changes in behavior or shifts in culture will be a key component of supporting the staff and incarcerated individuals in the institution through transition. Continually monitoring and contextualizing the data is one of the most effective tools leaders have to keep their institutions safe. For example, as indicated above, the institution reports an increase in deadly weapons. Specifically, in 2019 there were no infractions for possession of a deadly weapon, in 2020 there were five, in 2021, there were 8, and in 2022 there had been 5 at the time of assessment. Discussions with the institution indicated that the numbers do not directly correspond to possession by individuals transferring in under SB 132. Further exploration of the impetus for possession will help institution leaders and staff employ strategies to address presenting issues and enhance the safety of the institution. For instance, the increase in weapons may be related cisgender women being fearful due to the arrival of the transgender female population, it could also reflect transgender women who are fearful due to unsafe experiences in male institutions. It is even possible that the increase is due to factors unrelated to SB 132. Leadership action to support safety will vary depending on the root cause of any trend. Ongoing evaluation of this type would benefit from data system integration described in the *Research and Data* section of the report.

**Accountability and Consistency.** A clear theme identified through the discussions with institution leadership, staff, and incarcerated individuals was concern about staff's willingness to effectively hold TGNBI individuals accountable. It was reported some women who have transferred into the institution will push back when behavior is corrected by stating that they will engage an external resource such as an attorney or advocate. While these external resources are an important part of the system, staff should be empowered and know that if they are acting within policy and the code of conduct, they will have leadership support. Increasing the confidence of staff to hold all incarcerated individuals accountable appropriately and respectfully will require ongoing communication from leaders at all levels to reinforce support and coach staff on how to address these difficult interactions.

In addition, there were reported variations in how women perceived rules to be enforced. Some women who had transferred into CCWF indicated that while it is physically safer at the women's institution it is also much easier to receive a write up. Cisgender and transgender women assessors spoke with also reported that there is inconsistency in how rules are applied. For instance, some transgender women are reportedly not reprimanded for modifying clothing, while cisgender women are perceived to get written up for this routinely. Incarcerated individuals also noted that some individuals are never held accountable due to strong legal or community advocacy connections.

There was also a reported need for staff to intervene when inappropriate, disrespectful, or derogatory comments are made to TGNBI individuals. Assessors spoke with some cisgender women who reported hearing about incidents of violence or inappropriate sexual behavior by transgender women and being fearful even if they had not experienced these things. In part this was related to uncertainty of how they should react if something happens if staff are reluctant to step in. Addressing these concerns will require leadership to provide clear expectations that staff intervene, providing training on how to intervene in sensitive situations, and coaching in effectively interrupting bullying behavior.

**Relationships.** Both cisgender and transgender women emphasized the importance of safe and healthy relationships, which is also a hallmark of effective gender-responsive practice. One concern that was reported is a perceived increase in domestic violence issues. Some attribute this increase to the implementation of SB 132, others believe it is a result of COVID-19 based restrictions access to domestic violence and healthy relationship programs. In either case, it is important to note that intimate or romantic relationships in the facility are not a new development with SB 132. They are reported throughout the institution to include relationships between cisgender women and between cisgender women and transgender men.

Overall, while some cisgender women report not feeling safe with transgender women, others have no safety concerns. Some cisgender women categorically do not accept identities outside of the binary as valid, others are clear that acceptance is about the person rather than the identity. Many individuals, however, remarked on the reality that, before SB 132, “transgender women were treated like women” and generally settled in well. It is likely that the pace and uncertainty surrounding implementation of SB 132 complicated the transition process for transgender and cisgender women.

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### ***Voluntary Returns***

*Interviews with transgender women who voluntarily returned to male designated institutions indicated the following as contributing factors for the return:*

- *Feeling unsafe physically, sexually, emotionally, or economically*
    - *Perceived pressure to return*
  - *False allegations to be removed from room*
  - *Hostile reception from staff or incarcerated individuals*
  - *Issues with getting hygiene items, such as razors*
    - *Challenges adapting to dorm living*
    - *Incompatibility with roommates*
  - *Sexualized environment, including being sexually pressured or pursued*
- 

### ***Leadership and Culture Recommendations:***

1. Develop a dynamic agency level “working” strategic plan as a tool to organize all the recommendations accepted in this report and additional priorities related to the management of TGNBI individuals in CDCR. We recommend a model of strategic planning that is action oriented with a mechanism to document progress and that builds on current goals.
  - a. Engage institutions to develop an implementation plan consistent with the agency plan that supports the ongoing improvement of practice and safety. This will ensure that both staff and incarcerated individuals are clear on institution priorities and direction.
  - b. Share successes and their impact routinely. For example, reinforce staff for honoring pronouns and search preferences and provide specific information on how those practices support safety for everyone. Recognizing what is going well increases the likelihood that staff will feel confident—and increase self-efficacy— in implementing other changes to enhance safety or safely manage TGNBI individuals.
2. Continue to track trends in discipline, assault, PREA incidents, and contraband in order to identify strategies to guide decision making, increase safety, and address myths and misperceptions about individuals transferring into the institution under SB 132.
3. From leadership levels, communicate with intentionally to keep the workforce, incarcerated individuals, and stakeholders informed. Committing to timely—daily, weekly, or monthly—systems of communication can significantly reduce anxiety and misunderstandings.

- a. Ensure that communication systems have a feedback loop incorporated in them in order maintain leadership awareness of concerns and gain input on solutions to capitalize on the strengths of implemented processes and procedures.
  - b. Share operational and procedural adjustments, expectations, and provide clarification related to questions.
  - c. Communicate expectations about accurate and respectful communication. For example, rather than “bringing men into women’s facilities” reinforce accurate messages such as: “Women are transferring into our institution from male designed institutions because female designated institutions are appropriate based on their gender identity.”
  - d. Reinforce that leadership will support staff if they are operating within agency policy and the code of conduct to minimize anxiety about fairly and equitably holding incarcerated individuals accountable.
  - e. Address rumors and misperceptions, answer questions, identify areas of inconsistency and engage problem solving.
  - f. Conduct goal directed rounds. Both formal and informal interactions are key to promoting culture change to supporting safe and respectful management practices. Setting a specific goal to address during rounds creates powerful opportunities to intentionally communicate or reinforce expectations, seek feedback, or provide clarification. Evaluating the effectiveness of a change to practice or policy, answering questions about why the change occurred, and coming to understand the impact of change on staff facilitates buy-in and decreases the potential for a code of silence
  - g. Capitalize on rounds and forums such as shift briefings as opportunities for communication regarding safe and respectful management of TGNBI individuals. Methods may include the following:
    - i. Leading discussion and observation practice or interaction during rounds
    - ii. Providing information or brief skill-based scenario trainings
4. Consider providing interactive training to staff in the following areas to support ongoing culture change and professionalism for staff. Modified sessions may be appropriate to prepare incarcerated individuals at receiving institutions.
    - a. The impact of implicit and confirmation bias on leading and acting with awareness and professionalism.
    - b. Strategies for addressing and interrupting bullying and harassment.
  5. As policies and procedures specific to SB 132 and the safe and respectful management of TGNBI individuals formalize and evolve, ensure that the culture supports true accountability rather than attempts to “cover oneself” with proof of practice. When a culture fully embraces accountability, you see a shift from staff being hesitant, complacent, or defensive. Rather you see people identifying a need or challenge, owning it, working to solve it alone or with others, and adopting new practices.<sup>8</sup>
    - a. Key components to ensure accountability include clear expectations, performance planning, and ongoing coaching.
  6. Identify and implement additional training for staff, and programming for incarcerated individuals, on domestic violence and healthy relationships. Ensure the training is inclusive of diverse relationship structures.
  7. Identify ways to make policy, practice, and procedure designed to support safety for TGNBI individuals a routine component of good correctional practice.
  8. Consider assessing at minimum a hub institution and male designated institution to clearly understand how SB 132 is being implemented across missions to develop and implement strategies for sustainability.

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<sup>8</sup> Connors, R., Smith, T., & Hickman, C. R. (2004). *The Oz principle: Getting results through individual and organizational accountability*. New York, N.Y: Portfolio.

## Research and Data

Throughout the report effective gathering and sharing of information, and ongoing monitoring of practice through examination of data, have been highlighted as key components of successful implementation and sustained change. Analysis of this kind supports effective practice by identifying successes and opportunities for course correction which is especially important when an agency is innovating in an emerging area of practice.

As a component of the document review TMG collaborated with the data and information experts at CDCR who worked diligently to provide clear and accurate data to facilitate assessment activities. It became clear during this collaboration that pulling data from the system specific to TGNBI individuals was complex and at times cumbersome. In addition, throughout the assessment, a variety of CDCR professionals with voiced concerns about the accuracy of the data. This was due in part to changes in the practice of gathering data or information in close proximity to the assessment, such as changes in grievance tracking and GIQ implementation, and in part to concerns about the accuracy of manual entered data, and the variety of different—and often unconnected—systems that data must be extracted from. In spite of a significant amount of work done to provide TMG with data, it was extremely difficult to create a cohesive picture of the TGNBI population across disciplines. See Figure 9 for a listing of current relevant data systems.

SB 132 Tracking Data	<ul style="list-style-type: none"> <li>•Owner: Custody</li> <li>•Source: SOMS/ERMS</li> <li>•Reporting: Manual creation of a weekly activity log.</li> </ul>
Transgender Registry	<ul style="list-style-type: none"> <li>•Owner: Medical Services</li> <li>•Source: EHRS</li> <li>•Reporting: Power BI for GAHT</li> </ul>
GAHT Power Bi	<ul style="list-style-type: none"> <li>•Owner: Medical Services</li> <li>•Source: Transgender Registry and EHRS</li> <li>•Power Bi Dashboard</li> </ul>
Gender Affirming Surgery Review Committee Share Point	<ul style="list-style-type: none"> <li>•Owner: Medical Services</li> <li>•Source: Manual entry by AGPA and staff working within GASRC</li> <li>•Reporting: Exported into excel and manually updated to inform stakeholders of current data.</li> </ul>
Mental Health Services Quality Management	<ul style="list-style-type: none"> <li>•Owner: Mental Health QM</li> <li>•Source: Many</li> <li>•Reports: Variety</li> </ul>

SOMS: Strategic Offender Management System; ERMS: Electronic Records Management System; EHRS: Electronic Health Record System; GAHT: Gender Affirming Hormone Therapy; AGPA: Associate Governmental Program Analyst; GASRC: Gender Affirming Surgery Review Committee; QM: Quality Management

*Figure 9: Research & Data Systems*

The lack of a central repository for custody management, housing placement, medical, and mental health information in the institution can hinder coordination of services. In addition, a comprehensive system for tracking data and information on TGNBI individuals could 1) help identify potential safety concerns or needs for individuals, as well as the population as a whole, so that they can be addressed proactively, and 2) allow for reviewing the effectiveness of programs, services, and interventions. Taken together, this information can provide a comprehensive and up to date summary of risks and needs of the population ultimately combatting anticipatory anxiety, implicit, and confirmation bias.

**Gender Field.** It is reported that there are challenges with consistent updates to the SOMS/ERMS gender field. While the GIQ triggers a change in the system, the change is manual, and it is reported that updates do not always occur in a timely way. This is particularly challenging because the electronic health record pulls from SOMS/ERMS; therefore, when the field is not updated, patient official medical records will be inaccurate, which reportedly make transferring to an institution even more challenging.

**External Research.** CDCR has an important opportunity to partner with external research experts to study the impact of evolving practice with TGNBI individuals. Because the agency is large and innovating in an emerging area of practice, the opportunity exists to contribute meaningfully to the literature on the safe and respectful management of TGNBI individuals. This will allow refinement of the practices implemented under SB 132 as well as provide a foundation for progress around the country. Streamlining data systems will support work of this nature, however, acting quickly to engage objective research is vital and challenges can be collaboratively overcome.

**CDCR Numbers.** The assignment of “WB” CDCR numbers was raised as a challenge agency wide. By way of summary, transgender women have been assigned “WB” numbers as a component of the transition to a women’s institution due to data system issues. The reason for this is that SOMS is unable to automatically assign or generate a new CDCR number to an incarcerated individual if they currently have an active CDCR number. Headquarters Case Records maintains a block of reserved numbers for both male and female incarcerated individuals for different scenarios. The reserved block of numbers for female incarcerated individuals is WB1100-WB9999, and the reserved block of numbers for male incarcerated individual is AJ1000-AJ9999. When an individual has an active CDCR number in SOMS and requires a new CDCR number the next available number from the reserved block is manually entered into SOMS. When an incarcerated individual transfers between a male and a female institution, a new CDCR number from the reserved block is assigned to the individual to coincide with the gender designation of the institution to which the individual is transferring.

This method of assignment had the unintended consequence of compromising confidentiality and outing transgender women who transfer from an institution designated for men to an institution designated for women. Further, a small number of cisgender women have WB numbers. This causes conflict because they fear being mistakenly identified as a transgender woman. The concern expressed by cisgender women about these numbers illustrate the stigma attached to this WB designation.

CDCR has conducted extensive study around solutions to this challenge. The preferred solution identified was devising business rules for SOMS to have the capability to assign the next available (subsequent) number to an incarcerated individual upon arrival at the receiving institution. The clear strengths of this solution are that it would safeguard confidentiality and eliminate the need for manual entry. However, several challenges exist including potential system errors, such as movement, disciplinary, and gang validation, and key documents not being updated with new CDCR numbers adversely impacting holds, detainers, and CLETS/FBI rap sheets.

### ***Research and Data Recommendations***

1. Identify and implement an information technology solution to consolidate various sources of data into one system with the purpose of providing a comprehensive view of TGNBI individual, and population, characteristics and needs across disciplines.
  - a. Include a process to ensure consistent updates of the gender field to support an individual’s transition and ensure that their records are up to date and accurate.
2. Engage with external researchers at all stages of implementation to support refinement of the practices implemented under SB 132 contribute to providing a foundation for progress in safe and respectful management of TGNBI individuals around the country.
3. Identify solutions to address concerns with preferred method for assigning CDCR numbers for individuals who are transferring between male and female institutions.



# Attachment A: Summary of Recommendations

## ***Gender Identity Questionnaire Recommendations***

1. Consider entering pronouns for all incarcerated individuals to normalize sharing and using and using preferred pronouns. At the time of assessment, information on preferred pronouns was collected for all incarcerated individuals but only entered for those who identify as transgender, intersex, or non-binary.
2. Map the automatic population of information from the GIQ to determine additional opportunities to provide staff with ease of access to preferred pronouns to support respectful interaction. For example, at the time of assessment, pronouns were populated into a banner at the top of an incarcerated individual's electronic file in one system, however, in other systems the information was reported to be more difficult to find.
3. Consider revising the GIQ to ensure that individuals are asked search and housing preference questions even if they have transitioned to the point where they no longer identify as transgender, but as their gender identity
4. Implement a process by which institution senior management regularly spot check the reception areas during intake processing to ensure the GIQ is being completed in a private setting as required by SB 132 to support collaborative problem solving in unusual circumstances where space or process challenges arise.

## ***Search Preference Process Recommendations***

1. Review policies listed above to identify strategies to reduce repetition, enhance clarity, and identify modifications that need to be made post-implementation based on experience with the processes outlined.
2. Identify factors that should be considered when reviewing search preference requests.
3. Update staff job descriptions and performance evaluations to address consistent implementation of search preference policies to allow for staff performance and comfort to be monitored and coaching provided to support proficiency.
4. Submit a request to revise SB 132, Section 2606 (d) by substituting "the right to grieve and appeal" for "a meaningful opportunity to verbally raise any objections to that denial, and have those objections documented." The existing grievance process includes documentation of concerns and responses.

## ***Transgender Access Card and Property Recommendations***

1. Consider discontinuing the TAC and including preferred pronouns and search preference on state issued identification. This streamlines the process, removes the need for an additional card, and normalizes sharing and utilizing an individual's preferred pronouns.
2. Consider allowing individuals to select a male or female uniform at reception or when it is time for new uniform issuance.

## ***Reception Center Processing and Orientation Cohort Recommendations***

1. Convene multidisciplinary transfer case conferences between sending and receiving institutions once an individual is endorsed.
2. Create a post (brief) reception transition unit housing both TGNBI individuals as well as cisgender women who apply and are selected to live in the unit and serve as peer mentors. Ensure that unit design includes the following:
  - a. Clear and structured plan to include phase and overall program timelines. Opportunities progress from on-unit interactions to movement into the larger institution allowing experiences with programming and education while remaining in the transition unit. For example, first 30 days orientation and specialized programming, and the next 30 days ongoing support groups and education class attendance, and so on.

- b. Specially trained clinical, custody, and case management staff to support transition, ongoing case review, and eventual unit, bed, and program placement decisions.
- c. Routine multidisciplinary case reviews that include the individual transferring, to monitor the process of adjustment to the institution.
- d. Specialized programming, such as orientation, *Healing Trauma Plus*, and support groups.
- e. Structured quality assurance to ensure fidelity to the model, program curriculum, etc., planned engagement of feedback from staff and incarcerated individuals, and opportunities to adjust.
- f. Structured quality assurance to ensure fidelity to the model, program curriculum, etc. and planned engagement of feedback from staff and incarcerated individuals, and opportunities to adjust.

#### ***Institutional Classification Committee Review and Classification Criteria Recommendations***

- 1. Develop an interactive, practice based, training for CCII and IIIs to ensure consistency in case work ups, and for ICCs to support criteria-based decision making.
- 2. Develop, include in policy, and implement timelines for each step of the process from request for placement through arrival at receiving facility.
- 3. Ensure that case conferences convened to review potential alternate female designated housing placement or return to a male designated housing placement (or vice versa) includes representatives of medical and mental health.
- 4. Define clear criteria for consideration in case work up and ICC review to support consistency in decision making specific to institution placement. In addition to factors specific to identity, ability to manage risk through unit structure and staffing levels must be considered. After classification processes have been fully designed and implemented to ensure that placement decisions are made based on the individual's needs, and on the ability of an institution to safely house that individual, involuntary returns should be infrequent.

#### ***Housing and Access to Gender Affirming Surgery Recommendations***

- 1. Ensure that proximity to gender affirming medical care and privacy needs are considered in institution placement.
- 2. Conduct an analysis of the travel and staffing costs of travel for gender-affirming medical care compared to defining a housing option closer to these resources. Include medical opinions on the impact of post – surgical travel for follow-up appointments.

#### ***Unit and Bed Placement Recommendations***

- 1. Submit a request to revise SB 132 by removing the following language from Section 2606 (a)(4) "bed assignments" and "pursuant to paragraph (3) of subdivision (a) or subdivision (b) including, but not limited to, granting single cell status housing the individual with another incarcerated person of their choice, or removing the individual or individuals who pose a threat from any location where they may have access to the individual who has expressed safety concerns." Include language that indicates that an incarcerated individual's preferences for who they are housed with be taken into consideration as a part the overall placement process.
- 2. Develop a structured process for institution-based unit and bed placement that includes clear guidelines for placement based on at minimum PREA screening, safety, and privacy considerations for housing transgender, non-binary, intersex, and cisgender women together.
- 3. Consider housing by custody level and behavior; separation of level III and IV would allow CCWF to determine staffing and resources according to population risk and need.
- 4. Construct or establish additional celled living capacity to support safe and effective management of individuals who are not appropriate for dorm-style living and where single cells are limited.

### ***Staffing and Capacity Recommendation***

1. Conduct an analysis to identify staffing levels that consider custody, non-custody, and clinical needs based on the mission of the institution, safety, performance expectations, nuances of supervising women and TGNBI populations, and the workload created by operational changes.
  - a. Consider a specialized case management structure for TGNBI care coordination.
  - b. Consider maintaining the psychology and psychiatry positions created to support SB 132 implementation.

### ***Preparation and Training Recommendations***

1. Incorporate data to demonstrate trends, successes, and challenges into messaging and training.
2. Continue to engage, or re-engage, community stakeholders as advisors and providers as the implementation process continues.
3. Expand education and preparation for incarcerated individuals at receiving institutions and engagement of cisgender women in creating a safe institution culture for both cis and transgender women.
4. Expand staff in person training to build on initial offerings with a focus on scenario practice.
5. Evaluate the effectiveness of the on-the-job training program to ensure that it provides practical, supported learning. There were indications that the current process is less focused on learning and more focused on proof of practice (i.e., signing policy, etc.).
6. Expand training for trainers to ensure trainer confidence in correcting, and not reinforcing, misconceptions about the population transferring into receiving institutions.
7. Create a quality assurance structure to support consistency in training and program delivery by qualified and trained facilitators.
8. Review processes for agency wide dissemination of information regarding the option to request placement by gender identity.
9. Provide incarcerated cisgender women additional education, opportunities to ask questions and get to know TGNBI individuals, and conversation with staff about strategies for safety.
10. Engage cisgender women in transitional housing planning and support for TGNBI individuals.
11. Assess the effectiveness of current training for current, new, and transferring employees as a baseline and foundation for development of focused, interactive, scenario-based training. Ensure any additional training is operationally driven and connected to policy.
  - a. Clearly and concisely reinforce key components of initial training such as the distinction between gender identity and sexual orientation.
  - b. Provide staff with training to support understanding of the various components of transition—social, emotional, and physical factors—and engage in discussions regarding the meaning of situations when behavior or characteristics may appear to contradict stated identity, such as medication and trauma.
12. Update the job shadowing checklist to include the adaptive skills that are required at a female institution in addition to considerations for TGNBI individuals and technical processes and procedures that are evaluated by the Field Training Officer.
13. Ensure that both policy and training definitions are consistent with those outlined in SB 132.
14. Develop a “quick guide” for staff that summarizes and provides reference to all policy and formal guidance to support staff in respectfully supervising TGNBI individuals.
15. Ensure that trainers and facilitators of programs are trained both in content delivery and facilitation of sensitive conversations regarding safety and individuals concerns. While education and programing is not designed to change an individual’s personal beliefs, trainers, facilitators, and leaders must be able to communicate what professionalism entails in the institution setting regardless of personal beliefs.
16. Consider revisions to the current content and design of *Right Person Right Prison* class.
  - a. Include input from those who have previously attended the course’
  - b. Develop a structure that ensures that the *Right Person Right Prison* is consistently delivered at all institutions.

- c. Consider engaging facilitators with clinical expertise to facilitate the class. While the institutions themselves often impact decision making— based on housing and program options—so too can an individual’s transition process, which may make the decision emotionally complex for some.
  - d. Revise and update information on the transfer request process, housing layouts, and preparation for transfer.
- 17. Provide ongoing training specific to medical and mental health care for clinical professionals at CDCR and maintain resources for consultation and coaching that are currently in place.
- 18. Consider including a TGNBI representative to the Inmate Advisory Council (IAC).

***Leadership and Culture Recommendations:***

- 1. Develop a dynamic agency level “working” strategic plan as a tool to organize all the recommendations accepted in this report and additional priorities related to the management of TGNBI individuals in CDCR. We recommend a model of strategic planning that is action oriented with a mechanism to document progress and that builds on current goals.
  - a. Engage institutions to develop an implementation plan consistent with the agency plan that supports the ongoing improvement of practice and safety. This will ensure that both staff and incarcerated individuals are clear on institution priorities and direction.
  - b. Share successes and their impact routinely. For example, reinforce staff for honoring pronouns and search preferences and provide specific information on how those practices support safety for everyone. Recognizing what is going well increases the likelihood that staff will feel confident (increased self-efficacy) in implementing other changes to enhance safety or safely manage TGNBI individuals.
- 2. Continue to track trends in discipline, assault, PREA incidents, and contraband in order to identify strategies to guide decision making, increase safety, and address myths and misperceptions about individuals transferring into the institution under SB 132.
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  - c. Communicate expectations about accurate and respectful communication. For example, rather than “bringing men into women’s facilities” reinforce accurate messages such as: “Women are transferring into our institution from male designed institutions because female designated institutions are appropriate based on their gender identity.”
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  - g. Capitalize on rounds and forums such as shift briefings as opportunities for communication regarding safe and respectful management of TGNBI individuals. Methods may include the following:

- i. Leading discussion and observation practice or interaction during rounds
  - ii. Providing information or brief skill-based scenario trainings
- 4. Consider providing interactive training to staff in the following areas to support ongoing culture change and professionalism for staff. Modified sessions may be appropriate to prepare incarcerated individuals at receiving institutions.
  - a. The impact of implicit and confirmation bias on leading and acting with awareness and professionalism.
  - b. Strategies for addressing and interrupting bullying and harassment.
- 5. As policies and procedures specific to SB 132 and the safe and respectful management of TGNBI individuals formalize and evolve, ensure that the culture supports true accountability rather than attempts to “cover oneself” with proof of practice. When a culture fully embraces accountability, you see a shift from staff being hesitant, complacent, or defensive. Rather you see people identifying a need or challenge, owning it, working to solve it alone or with others, and adopting new practices.
  - a. Key components to ensure accountability include clear expectations, performance planning, and ongoing coaching.
- 6. Identify and implement additional training for staff, and programming for incarcerated individuals, on domestic violence and healthy relationships. Ensure the training is inclusive of diverse relationship structures.
- 7. Identify ways to make policy, practice, and procedure designed to support safety for TGNBI individuals a routine component of good correctional practice.
- 8. Consider assessing at minimum a hub institution and male designated institution to clearly understand how SB 132 is being implemented across missions to develop and implement strategies for sustainability.

#### ***Research and Data Recommendations***

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  - a. Include a process to ensure consistent updates of the gender field to support an individual’s transition and ensure that their records are up to date and accurate.
- 2. Engage with external researchers at all stages of implementation to support refinement of the practices implemented under SB 132 contribute to providing a foundation for progress in safe and respectful management of TGNBI individuals around the country.
- 3. Identify solutions to address concerns with preferred method for assigning CDCR numbers for individuals who are transferring between male and female institutions.

# Attachment B: Document & Data Request List

## LEADERSHIP, MANAGEMENT, AND CULTURAL INDICATORS

- Department vision, mission, and values statements
- Department strategic or action plans specific to working with transgender, non-binary, and intersex inmates or detainees
- Staff demographics, including gender, age, tenure, education, position, etc. per institution
- Population demographics, including population numbers per institution, custody level, and projected length of stay
- List of management and security concerns referenced in early calls by Rosemary Ndoh
- Documentation and materials that describe the transgender hub model
- Provisions of union contracts that directly impact implementation of SB 132

## HUMAN RESOURCES

- Code of conduct
- Staff discipline policy or procedures relevant to SB 132

## STAFF TRAINING

- Orientation materials related to SB 132
- Training policy relevant to SB 132
- Relevant training curriculum and videos addressing key topics including PREA, LGBTI, gender responsiveness, and trauma informed approaches.

## SEARCHES

- Policy on searches, including clothed, unclothed, cross-gender, and room searches
- Staff training material for conducting searches

## CROSS-GENDER SUPERVISION

- Policy on cross-gender supervision
- Policy on opposite gender staff in living areas
- Staff training related to cross-gender supervision

## INMATE OR DETAINEE INTAKE AND ORIENTATION

- Intake policy revisions relevant to SB 132
- Revised intake forms relevant to SB 132
- Orientation policy and materials relevant to SB 132
- Inmate or detainee handbook

## HEALTHCARE INTAKE SERVICES

- Policy on intake with accompanying forms
- Policy on intake exams and screenings
- Policy specific to care and treatment of transgender or intersex inmates

## CLASSIFICATION AND PLACEMENT

- Policy and documentation related to housing unit and/or bed placement
- Documentation or guidance related to bed move requests
- Policy on classification and accompanying tools
- Policy on risk need assessment and accompanying instruments
- Designation results from risk screening instruments relevant to SB 132 (See Data)
- Policy on PREA screening and accompanying instruments

- Policy on case management
- Training materials developed by the classification committee specific to transgender inmates
- Documentation of denial or placement of transgender, intersex, or non-binary inmates in a institution that aligns with gender-identity
- Transgender identity questionnaire

#### GRIEVANCES AND REPORTING

- Policy on inmate grievances
- Policy on reporting PREA incidents
- \*Grievances from the last 24 months related to transgender, intersex or non-binary inmates

#### INVESTIGATIONS AND AFTER-ACTION REVIEWS

- Summary data from the last 24 months of investigations and outcomes for individuals who identify as transgender, non-binary or intersex and cisgender inmates
- \*Investigation reports of sexual assault, harassment, and grievances reported by transgender, non-binary, and intersex offenders. (See Data)

#### DISCIPLINE AND SANCTIONS

- Policy on the disciplinary process, including sanction grids (as applicable)
- Summary data for the last 24 months of disciplinary reports and outcomes for individuals who identify as transgender, non-binary, or intersex and cisgender inmates
- \*Disciplinary reports of transgender, non-binary and intersex allegations (See Data)

#### DATA\*

- Information from investigative reports and databases relevant to transgender, non-binary, and intersex inmates, including institution, location, gender identity, risk assessment designation, incident date and time, and investigative finding.
- Information from the classification system database relevant to screening for risk of sexual victimization or abusiveness, including ID number, gender identity, DOB, race/ethnicity, initial intake date, institution assignment at intake, risk assessment designation at intake, override status and rationale if conducted, security level at intake, and subsequent reviews and results.
- Information from grievances filed relating to cisgender inmate grievances and/or other complaints or concerns about safety, reports about altercations between transgender and cisgender individuals, as well as PREA reports of sexual abuse or harassment.

#### LEADERSHIP, MANAGEMENT, AND CULTURAL INDICATORS

The following information is requested to support understanding of the demographics of each institution and any differences that exist between or among institutions that may support cultures of safety. If differences are identified, training and resources will be recommended to build on identified strengths and mitigate challenges.

- Summary data:
  - Staff demographics, including gender, age, tenure, education, position, per institution.
  - Population demographics, including population numbers per institution, custody level, and projected length of stay

#### CLASSIFICATION AND PLACEMENT

The following information is requested to support understanding of how the committee is using the process outlined in policy. For instance, what factors or considerations lead to approval or denial and how do the outcomes align with policy requirements.

- Documentation of denial or placement of transgender, intersex, or non-binary inmates in a institution that aligns with gender-identity



The following information is requested to support understanding of the population characteristics of transgender, non-binary, or intersex inmates.

- Summary data for individuals who identify as transgender, non-binary, or intersex.
  - Gender identity
  - Transgender identity questionnaire results for the last 24 months or since implementation
  - PREA screening for risk of sexual victimization or abusiveness.
  - Custody classification score or security level designation as well as any override status with rationale
  - Risk/need assessment score or designation as well as any override status with rationale
  - Any additional assessments or evaluation data the committee considers when determining housing placement

#### GRIEVANCES AND REPORTING

The following information is requested to support understanding of the type of grievances filed and ultimate resolution to allow for analysis of common concerns or challenges.

- Summary data from the last 24 months of grievances and resolution for individuals who identify as transgender, non-binary, or intersex and cisgender inmates.
  - Note: Focus on grievances filed relating complaints or concerns about safety, reports about altercations between transgender and cisgender individuals, as well as PREA reports of sexual abuse or harassment.
- Grievances from the last 24 months filed by transgender, intersex, or non-binary inmates and resolution.
- Grievances from the last 24 months filed by cisgender inmates that are related to placement of transgender, intersex, or non-binary inmates and resolution.

#### INVESTIGATIONS AND AFTER-ACTION REVIEWS

The following information is requested to support understanding of the type of investigations conducted in response to reports filed by or against transgender, non-binary, or intersex and ultimate resolution to allow for analysis of common concerns or challenges.

- Summary data from the last 24 months of investigations and outcomes for individuals who identify as transgender, non-binary, or intersex and cisgender inmates
  - Note: Include institution, location, risk assessment designation, incident date and time, and investigative finding.
- Investigation reports of sexual assault, harassment, and grievances reported by transgender, non-binary, and intersex offenders.
- Investigation reports of sexual assault, harassment, and grievances reported by cisgender offenders against transgender, non-binary, and intersex offenders.

#### DISCIPLINE AND SANCTIONS

The following information is requested to support understanding of the type of disciplinary infractions filed by or against transgender, non-binary, or intersex and ultimate resolution to allow for analysis of common concerns or challenges, and how that differs for cisgender inmates.

- Summary data from the last 24 months of disciplinary reports and outcomes for individuals who identify as transgender, non-binary, or intersex and cisgender inmates
- Disciplinary reports from the last 24 months for transgender, intersex, or non-binary inmates and resolution.
- Disciplinary reports from the last 24 months for cisgender inmates and resolution.