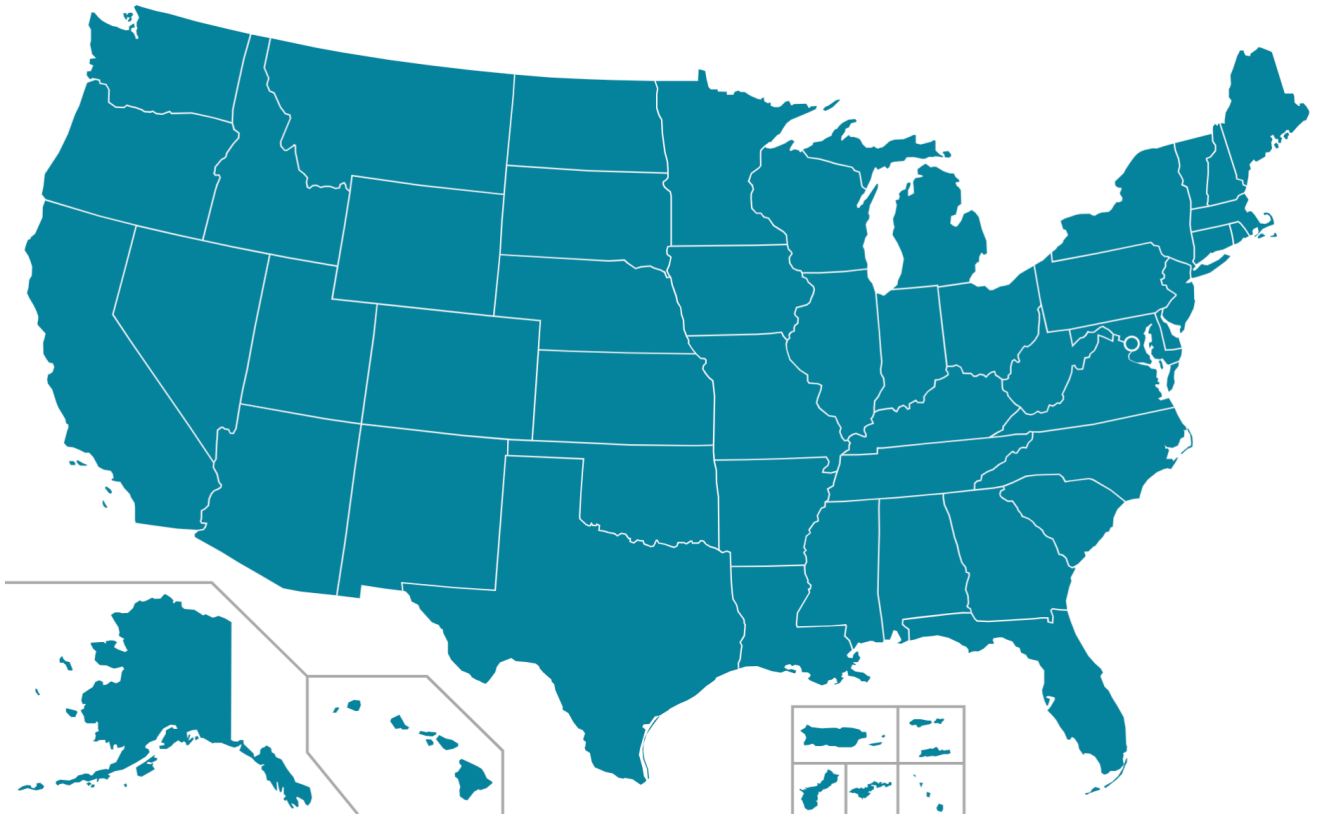


# Resource Guide to Improve Safety in Carceral Housing for Transgender People

A project of the National LGBTQ+ Bar Association

THE  
LGBTQ+  
BAR



The National LGBTQ+ Bar, in partnership with Black and Pink and TGI Justice Project, is proud to share our Resource Guide to Improve Safety in Carceral Housing for Transgender People. The purpose of this guide is to support the critical work of advocates fighting for the safety and autonomy of transgender people in the carceral system.

Throughout the United States, transgender individuals in the carceral system are routinely misgendered and housed in a population that does not align with their gender. Not only does this practice place them at enormous physical risk, but the psychological and emotional damage of improper carceral housing cannot be overstated. Thankfully, in many jurisdictions, there are remedies to transfer transgender individuals to their preferred population. If you have additional questions please contact the National LGBTQ+ Bar Association at [transjustice@lgbtqbar.org](mailto:transjustice@lgbtqbar.org). We also encourage you to take a look at the Transgender Resource Guide, An Aid for People in the Custody of The Federal Bureau of Prisons, for additional information.

We are grateful to our partners at Gibson Dunn for their assistance with the project.

Links to full relevant policies for each state are available on the LGBTQ+ Bar's website at the following link: <https://lgbtqbar.org/programs/ti-project/>.

**\*Disclaimer: These materials are not intended as legal advice. The materials were prepared only for general informational purposes in October 2022 and are subject to change. Please also note, language has been excerpted from relevant policies for each state.**

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## Alabama

**State Policy:** State of Alabama Department of Corrections Administrative Regulation No. 454, Inmate Sexual Abuse And Harassment (Prison Rape Elimination Act [PREA]), effective Jan. 4, 2016.

H. The Warden/Director is responsible for: ... **5.** Ensuring any LGBTI inmate's health and safety are considered, on a case-by-case basis, in making housing and program assignments in regards to management and security.

...

F. Intake Procedures. All ADOC facilities shall adhere to the following intake procedures when processing all inmates into all ADOC facilities:

1. All inmates, at initial intake, shall be screened within 72 hours utilizing ADOC Form 454-C, PREA Risk Factors Checklist, for potential risk of sexual vulnerability and potential risk of sexual aggression.
2. Upon transfer to another facility, all inmates shall be screened within 72 hours utilizing ADOC Form 454-C, PREA Risk Factors Checklist, for potential risk of sexual vulnerability and potential risk of sexual aggression.

...

**9.** Use of Screening Information

- a. All information obtained during the screening process and PREA Mental Health Assessment shall be used to assist in the initial classification and institutional assignment of the inmate as well as determine work, education, and programs, in accordance with the ADOC Classification Manual, AR 433, Administrative Segregation and Housing for Close or Maximum Custody, and AR 435, Protective Custody, with the goal of keeping separate those inmates at high-risk of being sexually victimized from those at high-risk of being sexually abusive. . . .
- c. ADOC shall not place LGBTI inmates in a dedicated facility, unit, or dorm solely on the basis of such identification or status.
- d. Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year by the IPCM to review any threats to safety experienced by the inmate.
- e. A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration.
- f. In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, ADOC shall consider on a case-by-case basis whether the placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.
- g. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.

**State Policy:** State of Alabama Department of Corrections Administrative Regulation No. 637, Gender Dysphoria, effective May 9, 2018.

It is the policy of the ADOC to appropriately diagnose, treat, and manage inmates with Gender Dysphoria in a humane, safe, correctional environment, sensitive to their unique adjustment needs.

## Alaska

We were unable to locate state-specific policies related to carceral housing for transgender people. Please note, however, that on October 26, 2022, the Alaska Department of Corrections Public Information Officer provided us with the following information:

“We currently house prisoners according to their biological sex. Each new remand and transfer is screened and housed according to a scored potential for being victimized or for preying on others. Medical staff and Institution Probation Officers use the Prison Rape Elimination Act (PREA) Assessment Form which is reviewed after 30-days. If a transgender individual requests alternative housing, the facility reviews the request and makes a recommendation to a committee composed of staff from the Divisions of Institutions, Health and Rehabilitation Services and PREA to make a determination.”

## Arizona

**State Policy:** Arizona Department of Corrections Rehabilitation and Reentry Department Order 810, Management of LGBTI Inmates, effective April 1, 2022.

**2.2** Reception Centers shall process all inmates in the usual manner.

**2.2.1** During the course of the intake process, all inmates shall be asked to voluntarily state gender identity, and the inmate’s response shall be documented on the appropriate Arizona Correctional Information System (ACIS) screen. No discipline shall result from failure to respond or disclose. The name and Arizona Department of Corrections, Rehabilitation and Reentry (ADCRR) number of any transgender or intersex inmate shall be submitted by the Intake staff to the Transgender/Intersex Committee.

**2.2.1.1** No transgender or intersex inmates shall be moved until the Committee has completed its review and made its housing determination as set forth in this Department Order.

**2.2.2** All inmates shall be screened for the risk of being sexually abused by other inmates or sexually abusive toward other inmates in accordance with Department Order #811, Individual Inmate Assessments and Reviews.

**2.2.3** Inmates identified as transgender or intersex shall be asked and afforded the opportunity to voluntarily provide the following information:

**2.2.3.1** The appropriate personal pronouns for their gender identity.

**2.2.3.2** Their own view of how they would be most safely housed, including female versus male housing.

**2.2.4** Inmates identified as transgender or intersex shall be housed in accordance with Department Order #801, Inmate Classification.

**2.2.4.1** At no time will identification as transgender or intersex be the sole factor in determining placement, including placement in administrative segregation or protective housing.

**2.2.5** Staff shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate’s genital status. If the inmate’s genital status is unknown, it may be determined during conversations with the inmate, by reviewing Medical Records, or, if necessary, learning that information as part of a broader medical examination conducted in private by a medical practitioner. This provision does not prohibit or otherwise affect searches of inmates to ensure the safe, secure and orderly operation of the institution.

...

**2.5** Transgender/Intersex Committee

**2.5.2** The Committee Chair or designee shall interview any inmate who identifies as transgender or intersex, and convene a meeting within seven calendar days of the inmate’s arrival.

**2.5.3** The Committee shall:

**2.5.3.1** Determine for those inmates who are identified as transgender or intersex housing conducive to their needs.

**2.5.3.2** Consider the inmate’s own views with respect to his or her safety when determining placement and programming assignments for inmates identified as transgender or intersex.

**2.5.4** When an inmate initiates a formal written request to the Committee Chair or designee regarding his/her housing assignment, this request will be addressed on a case-by-case basis by the Committee, which will determine the appropriate housing assignment.

**2.5.5** Each inmate will be reviewed at least twice each year to assess their individual institutional adjustment, or sooner if requested by the inmate or in the event of any alleged incident of victimization. This reassessment will include asking the inmate whether the inmate feels safe in his/her current housing assignment review any threats to safety experienced by the inmate and equal consideration will be afforded to any concerns expressed by the inmate population with consideration of PREA and pre-incarceration trauma experienced by vulnerable populations or any concerns with the inmate population.

**State Policy:** Arizona Department of Corrections Rehabilitation and Reentry Department Order 811, Individual Inmate Assessments and Reviews, effective Sept. 17, 2020, amended April 1, 2022.

**2.10.5.2.1** In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments the Department shall consider on a case by case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.

**2.10.5.2.2** Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate.

**2.10.5.2.3** A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration.

**2.10.5.2.4** Lesbian, gay, bisexual, transgender, or intersex inmates shall not be placed in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

**2.10.5.2.5** Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates. Accommodations made shall not interfere with access to programs, privileges, education, and work opportunities to the extent possible. [Revision – April 1, 2022]

**State Policy:** Arizona Department of Corrections Mental Health Technical Manual, Ch. 3, Sec. 10.0, Mental Health Service Delivery for Transgender, Intersex, and Gender Non-Confirming, effective Dec. 24, 2019.

## **2.0** Procedure

**2.1** Assessments, reviews, and management of patients who identify as transgender, intersex, or gender non-conforming shall be done on a case-by-case basis, in a respectful manner, and in consideration of individual circumstances, including but not limited to current physical sexual characteristics, gender identification, physical presentation, behavior, and programming needs.

**2.2** Identification – the identification can occur at the Reception Center or at any time during their incarceration. Information may be provided by the patient, a county jail, or other relevant collateral sources.

...

**2.3** Assessment – the mental health clinician shall conduct a clinical interview in order to assess and determine identification of transgender, intersex, and gender dysphoria that are present and may require intervention.

**2.3.1** Any identified housing concerns shall be relayed to the Transgender Committee as identified in DO 801.

2.4 Housing – facility and housing assignments shall be made on a case-by case basis, considering the patient’s health and safety as well as potential programming, management and security concerns. A patient’s own views regarding safety shall be given careful consideration.

**State Policy:** Arizona Department of Corrections Rehabilitation and Reentry Medical Services Division Medical Services Technical Manual (MSTM), P-F-01.03, Management of Transgender, Intersex, and Gender Nonconforming Inmates, effective Oct. 1, 2022.

## PROCEDURES

The Transgender Committee is a multi-disciplinary team composed of all persons listed in Department Order #810, Management of LGBTI Inmates.

1.1. The Transgender Committee shall convene and perform services in accordance with the procedures outlines in Department Order #810, Management of LGBTI Inmates.

**Maricopa County Sheriff’s Office Policy:** Maricopa County Sheriff’s Office Policy and Procedures No. DI-2, Administrative Restrictive Housing, effective Aug. 2, 2022.

F. Inmates who are transgender or those at high risk for sexual victimization shall not be placed in involuntary administrative restrictive or security restrictive housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers as specified in Office Policy GJ-28, Prison Rape Elimination Act (PREA).

**Maricopa County Sheriff’s Office Policy:** Maricopa County Sheriff’s Office Policy and Procedures No. GJ-37, Transgender and Intersex Interactions, effective Jan. 19, 2022.

4. Inmate Housing: Individuals identified as transgender, intersex, or gender-nonconforming shall be housed in accordance with Office Policies, DF-1, Inmate Classification and DI-1, Inmate Housing Categories.

A. Individuals that identify as transgender, intersex, or gender-nonconforming shall be interviewed by the PREA Housing Committee (PHC), within three working days, and a Detention Housing Plan shall be developed.

B. All decisions determining where transgender, intersex, or gender- nonconforming individuals will be housed, must be made on a case-by-case basis by the PHC. Transgender, intersex, or gender nonconforming individuals must be assessed individually to determine whether they should be housed with women or men. Classification and placement of transgender, intersex, or gender nonconforming individuals shall not be determined solely based on the individual’s sex at birth, identity documents, or physical anatomy. A transgender, intersex, or gender nonconforming individual’s gender identity and personal safety should also be considered when determining their housing location.

**Maricopa County Sheriff’s Office Policy:** Maricopa County Sheriff’s Office Policy and Procedures No. GJ-28, Prison Rape Elimination Act (PREA), effective Feb. 20, 2019.



**B.** Transgender and intersex inmates shall be housed, as specified in Office Policies DI-1, Inmate Housing Categories and DI-2, Administrative Restrictive Housing. A transgender or intersex inmate’s own views with respect to his or her own safety shall be given serious consideration. Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats against the inmate, and to review the inmate’s overall safety.

- 1. Inmates who identify as transgender or intersex shall be reviewed by the PHC, and a detention housing plan shall be developed.
- 2. All decisions determining where transgender and intersex inmates will be housed must be made on a case-by-case basis by the PHC. Transgender and intersex inmates must be assessed individually to determine whether they should be housed with males or females. Inmate classification and placement of transgender and intersex inmates shall not be determined solely based on the inmate’s sex at birth, identity documents, or physical anatomy. A transgender and intersex inmate’s gender identity and personal safety should be considered when deciding their housing location.

. . .

**C.** The Office shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated jail facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

## Arkansas

We were unable to obtain state-specific policies related to carceral housing for transgender people. However, on October 27, 2022, in response to a public records request for such policies, the Arkansas Department of Correction directed us to the **Arkansas Department of Corrections Secretarial Directive No. 2021-05, Prison Rape Elimination Act (PREA)**, effective date April 20, 2021. The Department also provided a copy of the **Arkansas Department of Corrections Administrative Directive No. 14-19, Gender Dysphoria and Intersex Inmates**, effective April 11, 2014. Neither directive explicitly discusses housing transgender inmates who do not have a Gender Dysphoria diagnosis.

**State Policy:** Arkansas Department of Corrections Secretarial Directive No. 2021-05, Prison Rape Elimination Act (PREA), effective date April 20, 2021.

### G. Screening for Risk of Victimization and/or Abusiveness

In order to reduce the likelihood of Sexual Abuse while an Offender is in DOC custody, the DOC will take the following into account when assigning housing and jobs for every Offender, upon Intake, during Classification, or in any special circumstances:

1. All Offenders will be assessed at intake to determine whether they meet specific criteria indicating either likelihood of Victimization or predatory behavior. This requires the use of the appropriate screening tool by trained personnel.
2. This screening will be conducted within seventy-two (72) hours of the Offender's arrival at the DOC.

...

5. Offenders at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the Offender in involuntary segregated housing for no more than 24 hours while completing the assessment.

**Note:** The appropriate Deputy or Duty Director will be immediately notified whenever an Offender is placed in involuntary segregated housing under these circumstances.

6. Offenders placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible.

...

**F.** The DOC shall not search or physically examine a transgender or intersex Offender for the sole purpose of determining the Offender's gender status. If the Offender's gender status is unknown, it may be determined during conversations with the Offender, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted by a medical practitioner in a setting designated for medical examinations.

**State Policy:** Arkansas Department of Corrections Administrative Directive No. 14-19, Gender Dysphoria and Intersex Inmates, effective April 11, 2014.

**I. POLICY:** It is the policy of the Department to provide the appropriate treatment to inmates meeting the criteria for the current Diagnostic Statistical Manual (DSM) diagnosis of Gender Dysphoria. . . . The

Gender Dysphoria Management and Treatment (GDMT) Committee is responsible for determining the appropriate treatment referrals for identified GD and Intersex inmates.

**V. HOUSING:**

**A.** Housing placement of diagnosed GD or Intersex inmates will be made on a case-by-case basis taking into consideration the inmate's health and safety and whether the placement would present management or security problems, giving serious consideration to the inmate's own views regarding his or her own safety. Both GD and Intersex inmates shall be given the opportunity to shower separately from other inmates.

**B.** GD and Intersex inmates shall not be housed in dedicated facilities, units or wings of any Unit within ADC on the basis of such identification or status. The Department shall insure that these inmates have the same access to programming, recreation, and other activities as other inmates.

## California

**State Policy:** SB 132, The Transgender Respect, Agency and Dignity Act, effective on January 1, 2021. 2606.

**(a)** An individual incarcerated by the Department of Corrections and Rehabilitation who is transgender, nonbinary, or intersex, regardless of anatomy, shall:

- (1)** Be addressed in a manner consistent with the incarcerated individual's gender identity.
- (2)** If lawfully searched, be searched according to the search policy for their gender identity or according to the gender designation of the facility where they are housed, based on the individual's search preference. If the incarcerated individual's preference or gender identity cannot be determined, the search shall be conducted according to the gender designation of the facility where they are housed.
- (3)** Be housed at a correctional facility designated for men or women based on the individual's preference, including, if eligible, at a residential program for individuals under the jurisdiction of the department. These programs include, but are not limited to, the Alternative Custody Program, Custody to Community Transitional Reentry Program, Male Community Reentry Program, or Community Prisoner Mother Program.
- (4)** Have their perception of health and safety given serious consideration in any bed assignment, placement, or programming decision within the facility in which they are housed 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 a safety concern. If, pursuant to this paragraph, the individual is not granted an alternative based on their perception of health and safety, the department shall document the reasons for that denial and share them with the individual.

**(b)** If the Department of Corrections and Rehabilitation has management or security concerns with an incarcerated individual's search preference pursuant to paragraph (2) of subdivision (a) or preferred housing placement pursuant to paragraph (3) of subdivision (a), the Secretary of the Department of Corrections and Rehabilitation, or the secretary's designee, shall, before denying a search preference or housing the incarcerated individual in a manner contrary to the person's preferred housing placement, certify in writing a specific and articulable basis why the department is unable to accommodate that search or housing preference.

**(c)** The Department of Corrections and Rehabilitation shall not deny a search preference pursuant to paragraph (2) of subdivision (a) or a housing placement pursuant to paragraph (3) of subdivision (a) based on any discriminatory reason, including, but not limited to, any of the following: (1) The anatomy, including, but not limited to, the genitalia or other physical characteristics, of the incarcerated person. (2) The sexual orientation of the incarcerated person. (3) For a denial of a housing preference pursuant to paragraph (3) of subdivision (a), a factor present among other people incarcerated at the preferred type of facility.

**(d)** The incarcerated individual shall receive a copy of the written statement described in subdivision (b) and, within a reasonable time following the individual's receipt of the statement, the Department of Corrections and Rehabilitation shall provide the individual

with a meaningful opportunity to verbally raise any objections to that denial, and have those objections documented.

(e) If an incarcerated individual raises concerns for their health or safety at any time, their housing and placement shall be reassessed.

**State Policy:** State of California Department of Corrections and Rehabilitation, Senate Bill 132 FAQs, Housing and Searching Incarcerated People Consistent with their Gender Identity, accessed Dec. 2, 2022.

**Senate Bill 132**, The Transgender Respect, Agency and Dignity Act, became effective on January 1, 2021. It allows incarcerated transgender, non-binary and intersex people to request to be housed and searched in a manner consistent with their gender identity. . . . **Senate Bill 132**, a new law which took effect Jan. 1, 2021, allows incarcerated transgender, non-binary and intersex people to request to be housed and searched in a manner consistent with their gender identity. **The federal Prison Rape Elimination Act (PREA)** expressly prohibits housing decisions based solely on an incarcerated person's external genitalia. PREA standards require correctional agencies to consider on a case-by-case basis incarcerated people's requests to be placed in an institution consistent with their gender identity when different from their sex assigned at birth. . . . Since transgender, non-binary and intersex people may be singled out for violent attacks by other incarcerated people and are at a higher risk for victimization, CDCR must make every effort to protect this vulnerable population. Housing transgender people according to their gender identity, when safe to do so, increases safety in prisons, upholds CDCR's duty to protect all incarcerated people and promotes successful rehabilitation.

**Policy:** State of California Department of Corrections and Rehabilitation Operations Manual Policy 62080.14, Transgender or Intersex Inmates, revised May 15, 2018, manual updated though Jan. 1, 2022.

Inmates who have been diagnosed as transgender or intersex, as documented on the Medical Classification Chrono, shall be referred to a classification committee for review of all case factors and determination of appropriate institutional placement and housing assignment. In order to ensure inmate-patients receive the necessary medical care/mental health treatment, transgender or intersex inmate-patients, to the maximum extent practical, shall be housed at the following institutions:

1. California Medical Facility (CMF)
2. Richard J. Donovan (RJD)
3. San Quentin State Prison (SQ)
4. Mule Creek State Prison (MCSP)
5. California Substance Abuse Treatment Facility (SATF)
6. California State Prison – Sacramento (SAC)
7. Salinas Valley State Prison (SVSP)
8. Correctional Institution for Men (CIM)
9. Kern Valley State Prison (KVSP)
10. California Men's Colony
11. California Health Care Facility
12. Central California Women's Facility (CCWF)
13. California Institution for Women (CIW)
14. Folsom Women's Facility

In cases where an inmate-patient has multiple case factors which make it difficult to house them in one of the above listed institutions, a case conference consisting of Health Care Placement Oversight Program, Classification Services Unit, California Correctional Health Care Services, and Population Management Unit staff, shall be conducted to determine the most appropriate level of care/institution suitable for housing consistent with the inmate-patient's case factors.

**State Policy:** State of California Department of Corrections and Rehabilitation Operations Manual Policy 54040.14.2, Transgender Biannual Reassessment for Safety in Placement and Programming, manual updated though Jan. 1, 2022.

On a bi-annual basis, Division of Adult Institutions (DAI) staff will send each PREA Compliance Manager (PCM) a list of identified transgender and intersex inmates, as known to the Department.

...

If an inmate is due to be seen for his/her annual classification review during the identified review period (August through January or February through July), the assigned caseworker will ask the inmate about any threats they have received during the pre-committee interview. In addition to interviewing the inmate, the assigned caseworker shall review the inmate's case factors in SOMS and ERMS for any additional information, which may indicate the inmate, has any placement or programming concerns. After the annual review is completed, the assigned caseworker will document his/her actions, as they relate to the PREA Biannual Assessment, in the Classification Committee Chrono. If the inmate is not scheduled to be seen for his/her annual classification review during the identified review period (August through January or February through July), the assigned caseworker shall conduct a Transgender Biannual Assessment-PREA and complete a pre-formatted CDC Form 128-B, General Chrono. This form includes information to be asked of the inmate during a face-to-face interview to assess any threats to their safety. In addition to interviewing the inmate, the assigned caseworker shall review the inmate's case factors in SOMS and ERMS for any additional information, which may indicate the inmate, has any placement or programming concerns. If, during the interview for either the annual review or the Transgender Biannual Assessment-PREA, the inmate discloses threats to safety, the assigned caseworker shall immediately notify a Custody Supervisor. Any information related to a PREA allegation shall be documented and forwarded to the institution's Locally Designated Investigator according to the DOM, Article 44, Prison Rape Elimination Policy.

## Colorado

**State Policy:** Colorado Department of Corrections Administrative Regulation No. 100-40, Prison Rape Elimination Procedure, effective date October 1, 2021.

f. In making facility, cell/unit housing and programmatic assignments for transgender or intersex offenders the DOC will consider on a case-by-case basis whether the assignment would ensure the offender's health and safety, and whether the assignment would present management or security problems (115.42(c), 115.242(c)).

...

3) DOC will not place lesbian, gay, bisexual, transgender, or intersex offenders in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such offenders. (115.42(g), 115.242(f))

...

6) Offenders will be placed in facilities based upon collaboration between the Gender Dysphoria Management and Treatment Committee, the health services administrator, and the office of Offender Services on a case-by-case basis.

**State Policy:** Colorado Department of Corrections Administrative Regulation No. 700-14, Practices Concerning Transgender Offenders, effective date April 1, 2022.

### III. Definitions

**A. Gender Dysphoria Treatment Committee:** This committee will be established and maintained by Clinical Services. The purpose of the Gender Dysphoria Treatment Committee is to make individualized recommendations about Transgender Offenders' clinical treatment, privacy, housing and programming assignments in collaboration with mental health, medical and operations staff. Those recommendations will consider whether placement or accommodation in a facility designated for the offender's identified gender or for the offender's gender assigned at birth could potentially present management or security problems in order to ensure the transgender offender's safety.

...

**B. Multidisciplinary Staffing Review:** A case-by-case review process used to determine whether a transgender offender will be assigned to a facility consistent with their self-identified gender or gender assigned at birth. The review will occur when the offender enters the Department as an intake or when the Gender Dysphoria Committee refers the Transgender Offender for review. The review will involve a collaboration between the health services administrator(s) (HSA), the office of Offender Services, PREA coordinator(s), facility warden(s) and the Gender Dysphoria Committee

...

### IV. General Information

**A.** The DOC will ensure that staff effectively interact professionally and respectfully toward transgender and intersex offenders. This population may require a more non-traditional approach to best satisfy their housing, security, programming and other needs.

...

C. When a new arrival offender self-identifies with a gender other than the one that was assigned at birth or the offender's genital status is unknown, a health care provider will determine at intake whether the offender shall be categorized as a transgender offender for purposes of this policy. The determination will be made by reviewing available medical records or, if necessary, as part of a broader medical examination conducted in private by a health care provider (115.15(e), 115.215(e)). DOC employees will not search or physically examine a transgender offender for the sole purpose of determining the offender's genital status (115.15(e), (15.215(e)).

...

## V. Procedures

### A. Facility / Housing Assignment

1. In making facility, cell/unit housing and programmatic assignments for transgender offenders, the DOC will consider, on a case-by-case basis, by and through a multidisciplinary staffing review, whether the assignment would ensure the offender's health and safety, and whether the assignment would present management or security problems (115.42(c), 115.242(c)).
2. Transgender offenders may be placed into general population of their assigned gender, general population of their identified gender, or placed in a support community.
3. Transgender offenders will be screened for facility placement during the initial intake process at DRDC. Post intake placement reassessments will occur at the currently assigned facility.

...

#### 4. Placement Review Processes:

- 3) All offenders will be screened within 72 hours of their arrival into the reception and diagnostic facility and again upon transfer between facilities, for potential risk of sexual vulnerability or potential risk of sexually aggressive behavior utilizing the SAB and SVR Assessment in PCDCIS (28 C.F.R. §115.41(a) and 115.241(a)).

...

- 4) Without regard to whether an offender has been categorized as a transgender offender, pursuant to IV. C., an offender who self-identifies as transgender during the intake process will be seen by a mental health clinician, intake psychiatric provider, health care provider and a diagnostic programmer (CO III or equivalent) within three business days of the intake screening process. Initial assessments will be documented on AR Form 700-14A, Gender Review Intake Evaluation and any additional mental health information will be documented on the Mental Health Appraisal Form, in the electronic health record.

...

- a) The Gender Review Intake Evaluation Form will include an assessment of the offender's treatment and life experiences prior to incarceration (including hormone therapy, completed or in-progress surgical interventions, real life experiences consistent with an offender's gender identity, and/or private expressions that conform to the preferred gender and counseling). If the diagnosis of Gender Dysphoria is considered, the offender will be referred for a comprehensive evaluation by a psychiatric provider. For purposes of this determination, the Diagnostic and Statistical Manual (DSM) diagnosis of Gender Dysphoria will not solely be used in



the recommendation as this determination requires a more comprehensive evaluation, unless the diagnosis has been made previously by an outside consultant.

...

**5)** Once the Gender Dysphoria Treatment Committee has completed its review, a multidisciplinary staffing will be conducted within 3 business days of the offender's arrival to determine whether a transgender offender will be assigned to a facility consistent with their self-identified gender or gender assigned at birth for final placement.

...

**1)** Transgender offenders who have been assigned to a facility pursuant to the Intake Screening or Post Intake Screening process, will be re-assessed by the mental health clinician, primary health care provider and the living unit supervisor (CO III or equivalent) every six months using AR Form 700-14C, Gender Review Reassessment Form to review housing arrangements, program and work assignments and any threats to safety experienced by the offender. AR Form 700-14C, Gender Review Reassessment Form will be sent to the Gender Dysphoria Treatment Committee for review. The Gender Dysphoria Treatment Committee will then determine what cases are forwarded to the multidisciplinary staffing team for review. The multidisciplinary team will complete AR Form 700-14D, Gender Review Checklist for every offender reviewed.

...

**5.** Offenders being screened for facility placement will be reviewed by a multi-disciplinary team. This team will review the completed AR Form 700-14A, Gender Review Intake Evaluation Form or AR Form 700-14B, Post Intake Gender Evaluation Form or AR Form 700-14C, Gender Review Reassessment, the mental health appraisal, psychiatric evaluation and the medical exam. The Multidisciplinary Staffing Review will consider various factors, including but not limited to:

- Health and safety of the transgender offender to assist with mitigating risk to the transgender offender, to include but not limited to; cell and/or unit assignments, application of management variables and programming requirements.
- Whether placement would threaten the management and security of the institution and/or pose a risk to other offenders in the facility (violent conviction, violent assault, sexual conviction).
- Behavioral history and overall demeanor.
- Physical attributes of the transgender offender transferring (feminizing or masculinizing with noticeable
- results).
- Prior surgical procedures (initiated or completed).
- Adjustment to incarceration including the gender they adopted while incarcerated.
- Preference for assignment of gender facility.

...

**7.** . . . Upon consideration of all relevant factors the DOC will make a recommendation with respect to whether a transgender offender will be assigned to a facility consistent with their self-identified gender or gender assigned at birth and will document that recommendation in AR Form 700-14D, Gender Review Checklist.

...

9. Transgender offenders will be housed in the least restrictive environment; while providing safety, security, and meeting the individual's medical or mental health needs.

10. A transgender offender's own views with respect to their own safety will be given serious consideration (115.42(e), 115.242(d)). A transgender offender can notify living unit staff of any safety issues verbally or in writing. Living unit staff will notify the facility PREA coordinator so that the offender's safety issues can be addressed.

11. DOC will not place lesbian, gay, bisexual, transgender, or intersex offenders in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such offenders (115.42(g), 115.242(f)).

...

13. Transgender offenders may request to be housed in a facility of their self-identified gender or an offender support community.

14. Transgender offenders who have been recommended for placement into a facility of their self-identified gender will be required to review and sign AR Form 700-14E, Preferred Gender Facility Assignment Agreement.

**Local Denver Policy:** Denver Sheriff Department Order No. 1.00.1024. Transgender And Gender Non-Conforming Persons in Custody, effective May 27, 2022.

### **G. Gender Identity Review Board**

...

6. Decisions about where a transgender or gender non-conforming person is housed must be made on a case-by-case basis. Housing decisions will not be made solely based upon the person's anatomy or gender assigned at birth.

...

8. If needed, the Review Board may consult with an identified member of the gay, lesbian, bisexual and transgender (GLBT) or allied community who is knowledgeable with the issues surrounding transgender and gender non-conforming people to assist in forming and making a recommendation for housing to the Classification Unit and/or programs and services needed by the individual.

### **H. Long-term Housing and Classification:**

3. Classification and placement of transgender or gender non-conforming persons shall not be determined solely based on their birth sex, identity documents, or physical anatomy. Classification and placement of transgender or gender non-conforming individuals should be made to maximize the health and safety of the individual and be based upon a determination of whether the placement would present management or security problems.

4. Transgender or gender non-conforming persons must be housed safely and in the least restrictive setting possible. Consideration shall be given on a case-by-case basis whether a placement would ensure their health and safety and whether the placement would present management or security problems.

a. Additional safety precautions may include (but are not limited to) access to private showers, single cells, etc., and will be offered if and when available.

b. Requests from a transgender or gender non-conforming individual to be placed in the same cell with another transgender or gender non-conforming person should be honored when possible.

c. The transgender or gender non-conforming person's own views with respect to safety shall be given serious consideration in placement and programming assignments.

...

5. Classification staff shall document in the jail management system (JMS) the choices and reasons regarding housing and additional safety precautions for all transgender/gender non-conforming persons.

...

8. Transgender/gender non-conforming persons who are placed in administrative segregation or other special management housing for their safety shall have the same access to the provisions of services and programs as any other person housed in a DSD facility. Additionally, as noted above, the reason for placing the individual into administrative segregation must be clearly documented and reviewed at least every thirty (30) days to determine whether a continuing need exists for separation from the general population. Medical staff shall be informed any time a transgender or gender non-conforming individual is placed in administrative segregation or other special management housing.

9. Transgender or gender non-conforming persons shall have the right to request that their housing assignment be re-evaluated.

10. Placement and programming assignments for each transgender or gender non-conforming individual shall be reassessed every six months from initial intake, or at least two (2) times per year, to consider changed circumstances, including a review of any threats to safety they have experienced.

## Connecticut

**State Policy:** State Law CGS § 46a-71

**Sec. 46a-71. (Formerly Sec. 4-61d).** Discriminatory practices by state agencies prohibited.

(a) All services of every state agency shall be performed without discrimination based upon race, color, religious creed, sex, gender identity or expression, marital status, age, national origin, ancestry, intellectual disability, mental disability, learning disability, physical disability, including, but not limited to, blindness, or status as a veteran.

(b) No state facility may be used in the furtherance of any discrimination, nor may any state agency become a party to any agreement, arrangement or plan which has the effect of sanctioning discrimination.

(c) Each state agency shall analyze all of its operations to ascertain possible instances of noncompliance with the policy of sections 46a-70 to 46a-78, inclusive, and shall initiate comprehensive programs to remedy any defect found to exist.

(d) Every state contract or subcontract for construction on public buildings or for other public work or for goods and services shall conform to the intent of section 4a-60.

**State Policy:** State Law CGS § 46a-51

(21) "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.

**State Policy:** State of Connecticut Substitute Senate Bill No. 13, Public Act No. 18-4, An Act Concerning The Fair Treatment of Incarcerated Persons, approved May 14, 2018.

**Sec. 8.** Any inmate of a correctional institution, as described in section 18-78 of the general statutes, who has a gender identity that differs from the inmate's assigned sex at birth and has a diagnosis of gender dysphoria, as set forth in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", shall:

(1) Be addressed by correctional staff in a manner that is consistent with the inmate's gender identity,

(2) have access to commissary items, clothing, personal property, programming and educational materials that are consistent with the inmate's gender identity, and

(3) have the right to be searched by a correctional staff member of the same gender identity, unless the inmate requests otherwise or under exigent circumstances. An inmate who has a birth certificate, passport or driver's license that reflects his or her gender identity or who can meet established standards for obtaining such a document to confirm the inmate's gender identity shall presumptively be placed in a correctional institution with inmates of the gender consistent with the inmate's gender identity. Such presumptive placement may be overcome by a demonstration by the Commissioner of Correction, or the commissioner's designee, that the

placement would present significant safety, management or security problems. In making determinations pursuant to this section, the inmate’s views with respect to his or her safety shall be given serious consideration by the Commissioner of Correction, or the commissioner’s designee.

**State Policy:** Connecticut State Department of Correction Administrative Directive No. 8.17, Gender Non-Confirming, effective Feb. 13, 2018.

**4. Intake Screening.** Upon intake to the CTDOC, an inmate who identifies as or is known to identify as gender non-conforming, or having an intersex condition will be assessed for placement. This initial assessment, by custody, will be based on the safety and security of the inmate, inmate population and staff at the respective facility. If this assessment can be completed prior to entry into the DOC as a new intake, the sending agency can transport the inmate to the appropriate facility. In [SIC] the intake facility receives an inmate believed to be intersex or gender non-conforming without forewarning from the Judicial Marshalls, other Law Enforcement Agency, or other sources, the receiving facility shall accept the inmate and the Unit Administrator will notify the appropriate District Administrator and a CN 81701, Referral for Gender Assessment will be initiated by the custody staff completing the PREA screen or the staff person to whom the inmate discloses as being gender non-conforming or as having an intersex condition and submitted to the unit supervisor for completion. The unit supervisor shall complete the referral form and submit to the Unit Administrator. The Unit Administrator shall forward within seventy-two hours of receipt to the CTDOC Chief Mental Health Officer or designee.

**a.** Upon receipt of the inmate at the designated DOC facility, the inmate will be secured in a cell with no other inmates until processed by custody and assessed by medical in accordance with Administrative Directive 9.3, Admission, Transfers and Discharges, and Administrative Directive 8.1, Scope of Health Services. The inmate shall not be medically or physically examined for the sole purpose of identifying the inmate’s gender. In the event the inmate’s status this has not been previously determined by the sending agency for appropriate housing/facility, the inmate will be housed separately based on classification needs, safety and security, and other risk needs until the Gender Non-Conforming Review Committee (GNCRC) is consulted.

...  
**i.** During orientation phase, or until the appropriate facility has been determined, the current facility housing the inmate shall:

...  
**3. Determine the preferred gender of the officer who will conduct pat and/or strip searches.**

**a.** In making this determination, the facility shall take into account the inmate’s gender preference, facility needs, and safety and security.

...  
**4. Determine programming and housing assignments based on the facility’s PREA Compliance Manager’s recommendations.**

**a.** Upon completion of the Gender Dysphoria Assessment or for other custodial reasons, programming and housing assignments may change.

...  
**5. Identification and Diagnosis of Inmates with Gender Dysphoria and/or Intersex related conditions.** Upon admission to the CTDOC, or at any other time during an inmate’s incarceration, if the inmate either self-identifies as being gender non-conforming or is referred as possibly having Gender Dysphoria, a CN 81701, Gender Non-Conforming Referral Form shall be initiated by the staff person

whom the inmate discloses such information or by any staff member that wants an inmate evaluated for Gender Dysphoria.

...

**b.** Upon receipt of the CN 81701, Gender Non-Conforming Referral Form, the CTDOC Chief Mental Health Officer or designee shall schedule a face to face interview with the inmate. The interview shall occur within ten (10) business days from the receipt of the CN 81701, Gender Non-conforming Referral Form. The purpose of the interview is to assess and determine if the inmate meets the criteria outlined in the DSM-V for a diagnosis of Gender Dysphoria. All inmates who meet the DSM V criteria for Gender Dysphoria will be referred to a licensed physician or APRN and facility psychologist for an evaluation to discuss possible medical and psychological interventions.

...

**d.** If the identified inmate does not meet DSM-V criteria for a diagnosis for Gender Dysphoria following the initial interview, a qualified mental health clinician within the CTDOC Health and Addiction Services Unit who was not involved in the initial interview of the inmate, will conduct a secondary interview within five (5) business days of the initial interview.

...

**6.** Gender Non-Conforming Review Committee (GNCRC) The Gender Non-Conforming Review Committee (GNCRC) is a multi-disciplinary group that shall provide recommendations regarding custodial management as it relates to inmates identifying as gender non-conforming and/or who have an intersex condition.

**State Policy:** State of Connecticut Department of Correction Administrative Directive No. 6.12, Inmate Sexual Abuse/Sexual Harassment Prevention and Intervention, effective July 20, 2015.

**D. Transgender and Intersex Inmates.** In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the Department shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems. Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year by the unit counselor to review any threats to safety experienced by the inmate. The results of the review shall be documented on the inmate classification history form in section 5 of the inmate master file. A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates. The Department shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

## Delaware

**State Policy:** Delaware Department of Correction Policy No. E-14, Treatment of Transgender Persons, effective Oct. 20, 2021.

**A.** It is the policy of the DDOC to respect the gender identity of a transgender person housed in any DDOC facility and under correctional supervision in the community. It is also the policy of DDOC to maximize the protection offered to offenders under the PREA statutes.

**B.** The DDOC shall provide each offender with an individualized assessment of their physical and emotional characteristics, their medical care needs and behavioral health needs. The individualized assessment may assist with housing assignments to provide the safest environment for the offender, the DDOC offender population and the security staff.

**C.** When an offender self-identifies a gender other than one that was assigned at birth, and the offender's genital status is unknown, the status shall be determined during the Intake Screening process by reviewing available medical records or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner during the initial medical examination or sick call appointment.

...

**E.** This policy does not include those offenders with a medical diagnosis of ambiguous gender (a rare genetic abnormality at birth in which the genitalia cannot be readily differentiated). These offenders shall be designated according to how they have identified during their lifetime or how they self-identify.

...

### **B. Urgent Behavioral Health evaluation**

**1.** The purpose of the Urgent Behavioral Health evaluation is to assess the offender's suicide risk, the risk of becoming a victim of rape or "bullying", the offenders presenting emotional status, and the identification of the offender's statements about his/her gender as different from that assigned at birth. The Qualified Mental Health Professional (QMHP) shall document all statements and information, including the offender's actual statements that they identify their gender as different from that assigned at birth.

...

**2.** This evaluation will include an assessment of the offender's treatment and life experiences prior to incarceration as well as experiences during previous incarceration (including hormone therapy, completed or in-progress surgical interventions, real life experiences consistent with an offender's gender identity, private expressions that conform to the preferred gender and counseling). If the diagnosis of Gender Dysphoria is considered, the offender will be referred for a Comprehensive Behavioral Health Evaluation (CMHE) by an independently licensed behavioral health professional with experience in the evaluation and treatment of Gender Dysphoria.

...

### **C. Urgent Medical evaluation**

**1.** The purpose of the urgent medical evaluation is to determine the presence or absence of characteristics that would increase risk of victimization of the transgender person in either the women's or men's facility.

**2.** In the case that the individual was receiving hormones prior to incarceration, enrollment in the Chronic Care Clinic and prescribing continuing hormone treatments should occur at this time to avoid the potential of any adverse effects of abruptly discontinuing the hormone treatments.

D. Upon completion of Attachment A, Transgender Evaluation Recommendation Form, the recommendations of the Behavioral Health and Medical providers shall be forwarded to the Shift Commander, Warden, BOP Chief, BCC Chief, and BHSAMH Chief and the facility PREA manager to determine whether the offender could be safely housed in the current male or female facility, or whether discussion with a Warden of another facility is indicated.

**State Policy:** State of Delaware Department of Correction Policy No. 8.60A, Transgender Offenders, effective Oct. 19, 2016.

V. POLICY: It is the policy of the DOC to receive, evaluate, house and provide secure and humane custody of all persons who are lawfully committed or held for confinement by the Department. An offender’s biological sex, and gender identity are recognized as factors in determining whether the inmate is likely to become a victim of abuse in the facility and shall be considered in applicable decision processes related to the offender. The DOC will screen offenders to help identify potential aggressors and victims.

**A. Intake screening**

- 1. A person’s biological sex and their gender identity are two factors among many in determining the appropriate placement for every offender.
- 2. All offenders will be asked by DOC staff if they identify as transgender, using the PREA victimization/aggression screen. Medical will also ask this question during the medical intake questionnaire.
- 3. Prior to accepting an offender for the purpose of commitment from an external agency, the accepting receiving room staff shall review the following questions with the committing agency and offender:
  - a. Is the offender biologically male, female, or intersex?
  - b. Does the offender self-report as transgender?
  - ...
- 5. When an offender self-identifies as transgender, the offender will be referred to medical for further evaluation prior to housing placement.
- ...

**C. Housing and programs**

- 1. Transgender offenders may not be assigned to gender-specific facilities based solely on their external genital anatomy.
- 2. In determining housing placement, the reviewing authority will consider physical layout and offender privacy issues when determining the location for a transgender offender.
- 3. In making housing and programming assignments, the reviewing authority shall consider, on a case-by-case basis, the least restrictive levels of security and custody needed to promote the health and safety of the offender, and whether such placement would present management or security concerns.
- 4. A transgender offender’s own views with respect to their safety shall be given serious consideration, including whether they believe they would be more safely housed in a male or female facility.
- 5. Housing considerations will include all available housing options throughout the DOC.
- 6. Each facility will develop procedures to promote the safety and privacy of transgender offenders from other offenders in regard to showering and disrobing.
- 7. Facilities will not place transgender offenders in dedicated buildings, units, or tiers solely on the basis of such identified status.

These materials are not intended as legal advice. The materials were prepared only for general informational purposes in October 2022 and are subject to change. Please also note, language has been excerpted from relevant policies for each state.



8. The Bureaus of Prisons and Community Corrections will ensure transgender offenders are housed consistent with their sentence level (Level V or Level IV) absent exigent circumstances.

## **District of Columbia**

**Policy:** District of Columbia Department of Corrections Policy and Procedure No. 4020.31, Gender Classification and Housing, effective April 20, 2022.

### **2. POLICY**

**a.** It is DOC policy to provide services in a humane and respectful manner to Transgender, Intersex, and Gender Nonconforming inmates while processing and housing them safely and efficiently to the greatest extent possible. For the safety, security, and order of the facility, the DOC houses male and female offenders in separate housing units. DOC shall house Transgender, Intersex, or Gender Nonconforming inmates in male or female units based on their preference, unless otherwise recommended by the Transgender Housing Committee and approved in accordance with this policy.

**b.** In order to address the specific needs of Transgender, Intersex, and Gender Nonconforming individuals, upon initial intake at the Inmate Reception Center (IRC), staff shall follow the guidelines in this policy in order to determine the inmate's housing in a male or female housing unit based on the inmate's preferred placement, safety/security needs, housing availability, gender identity, identity documents, and assigned sex at birth, if:

- 1) An inmate indicates that he or she is Transgender, Intersex, or Gender Nonconforming at any time during their custody.
- 2) An inmate's gender identity or gender expression differs from their assigned sex at birth.
- 3) A gender designation made by the medical service provider, government agency, or law enforcement agency indicates that the inmate is transgender.

...

### **10. INTAKE HOUSING UNIT**

**a.** Inmates identified as Transgender, Intersex, or Gender Nonconforming shall initially be housed in protective custody (voluntary or involuntary protective custody) in a single cell in the intake housing unit consistent with the inmate's gender housing preference identified at intake. Within twenty-four (24) hours, excluding weekends, holidays, and emergencies, the inmate must receive a preliminary assessment by the PREA Victim Services Coordinator, consisting of an individualized initial safety and security assessment related to the gender housing preference of the Transgender, Intersex, or Gender Nonconforming inmate. Unless the inmate requests to remain in protective custody, or the PREA assessment concludes that the inmate cannot be housed in the intake unit of their preference consistent with the inmate's safety or the safety of others, the inmate shall be placed on that unit, and not in protective custody, upon the completion of the PREA assessment. Within seventy-two (72) hours, excluding weekends, holidays, and emergencies, after the preliminary assessment by the PREA Victim Services Coordinator, the Transgender Housing Committee shall conduct a formal classification and housing needs assessment for the Transgender, Intersex, or Gender Nonconforming inmate.

**b.** Inmates who Self-Report as Transgender, Intersex or Gender Nonconforming. Once an inmate makes known to DOC staff their Transgender, Intersex, or Gender Nonconforming status, staff shall:

- 1) Refer the Inmate to their assigned case manager or, on weekends, the captain or above.

2) The case manager or the captain shall refer the inmate to the Transgender Housing Committee to determine the inmate's housing based on their gender housing preference, safety/security needs, gender identity and assigned sex at birth.

c. A case manager will be designated as "on call via remote assessment" on weekends, after hours, and on holidays, and that case manager will, as soon as practicable, contact Transgender, Intersex, or Gender Nonconforming inmates who enter intake at those times to make sure inmates are housed according to their preference at intake, pursuant to this Policy.

a. In accordance with PP 4090.3, Classification (Program Review), all Transgender, Intersex, or Gender Nonconforming inmates will be classified and assigned housing based on safety/security needs, housing availability, gender identity and sex assigned at birth. No inmate will be discriminated against based on their gender identity.

#### **11. TRANSGENDER HOUSING COMMITTEE ROLE**

a. As part of the housing assessment for vulnerability, the Transgender Housing Committee shall make a recommendation as to the Transgender, Intersex or Gender Nonconforming inmate's housing assignment after reviewing the inmate's records including the assessments (PREA and Risk Assessment) and interviewing the inmate.

b. The Committee shall ask the inmate to offer their opinion regarding whether they prefer to be housed in the male or female unit and any vulnerability they anticipate in the general jail population of the male or female unit. The Committee shall agree to house the inmate in the gender housing unit the inmate prefers— whether it corresponds to the inmate's gender identity or sex assigned at birth— unless the Committee has identified safety and security concerns with the inmate's preferred housing placement. The Committee shall attempt to reach a consensus, ultimately relying on majority vote when needed.

...

d. The Transgender Housing Committee's housing assessment shall address whether the inmate shall be housed in the general population or in a protective custody unit of the gender consistent with their gender identity or sex assigned at birth. If the Warden's opinion regarding safety and security concerns differs from the recommendation of the Transgender Housing Committee, the Warden shall justify the assignment in writing to the Director for the Director to make a final determination. Transgender, Intersex, and Gender Nonconforming inmates have the same right to appeal housing assignments as all inmates consistent with PP 4090.3, Classification (Program Review).

e. An inmate may request to come before the Transgender Housing Committee at any time by submitting an inmate request slip or an Inmate Grievance form.

f. If it is decided that the inmate can be housed in the general population, the inmate shall be transferred to the general population as determined by the Transgender Housing Committee after completion of initial classification and upon housing availability. Transgender, Intersex, or Gender Nonconforming inmates shall be housed in a single cell or with another Transgender, Intersex, or Gender Nonconforming inmate in their assigned housing unit.

g. A Transgender, Intersex, or Gender Nonconforming inmate shall be housed in protective custody when there is reason to believe the inmate presents a heightened risk to themselves or to others or where the inmate fears they will be vulnerable to victimization in any other housing setting. This assignment shall be only for the period during which the heightened risk and/or fear exists. Inmates in restrictive housing and protective custody shall have access to programs and services consistent with that status.

**h.** If it is determined that the inmate requires protective custody, they shall be placed in such a unit and their custody shall be reviewed by the Transgender Housing Committee consistent with standard DOC policy.

**i.** Consistent with standard DOC policy, Transgender, Intersex, and Gender Nonconforming inmates may be placed in communal protective custody pursuant to the determination of the Transgender Housing Committee and subsequent reviews of the inmate’s status from the Housing Board.

...

**2)** Inmate Detail Housing Assignment. Transgender, Intersex, or Gender Nonconforming inmates assigned to the detail or program unit shall be housed in a single cell or with another Transgender, Intersex, or Gender Nonconforming inmate. If accommodations cannot be made at the time of assignment, the Shift Supervisor shall be contacted immediately for appropriate housing.

...

**CONTRACT HALFWAY HOUSE HOUSING PROCEDURES**

**a. Halfway House Referral**

**1)** As part of the Halfway Housing assessment for vulnerability, the Transgender Housing Committee shall recommend a Transgender, Intersex, or Gender Nonconforming resident’s housing assignment after review of all of the resident’s records and assessments and an interview with the resident. The Transgender Housing Committee shall ask the resident to provide their her opinion of their vulnerability in the male and female halfway houses and determine the resident’s housing assignment based on the resident’s preference, unless the committee has safety or security concerns about the resident’s preferred placement. The Transgender Housing Committee shall attempt to reach a consensus, ultimately relying on majority vote when needed. A written recommendation (Attachment C) by the Transgender Housing Committee shall be forwarded to the DOC Office of Community Corrections Program Administrator for approval and shall be maintained in the resident’s institutional record.

**2)** The Transgender Housing Committee shall make a recommendation to the DOC Office of Community Corrections Program Administrator as to whether the resident should be housed in the male or female halfway house.

## Florida

**Policy:** Florida Department of Corrections Procedure No. 403.012, Identification and Management of Inmates Diagnosed with Gender Dysphoria, effective Nov. 13, 2019.

**(1) GENDER DYSPHORIA REVIEW TEAM ROLE AND RESPONSIBILITY:**

(a) The GDRT has the authority and responsibility to review recommendations for the treatment and management of inmates diagnosed with Gender Dysphoria to ensure individualization in the decision-making process.

...

(d) For those inmates receiving a formal diagnosis of Gender Dysphoria, further facility and housing assignments shall be made on a case by case basis with inmates being placed at one of the designated treatment facilities for Gender Dysphoria. The health and safety of the inmate, as well as all treatment, management, and security concerns will be examined. The inmate’s own views regarding safety shall be given careful consideration.

**Policy:** Florida Department of Corrections Procedure No. 602.053, Prison Rape: Prevention, Detection, and Response, effective Sept. 7, 2021.

**(2) PREVENTION/DETECTION**

**(a) Identification: . . .**

6. Housing for transgender and/or intersex inmates will be determined on a case by case basis. The inmate’s safety as well as the safety and security of the institutional compound will be taken into consideration when making the housing determination. Housing will be determined as outlined in this section below.

...

8. Transgender inmates, intersex inmates will be assessed biannually by classification. An interview will be conducted as well as a review of their housing, program and work assignments to determine if there are any necessary changes or threats to the inmate’s safety.

9. A transgender and/or intersex inmate’s own view, with respect to their own safety, shall be given serious consideration. A risk assessment may additionally be required, depending on the inmate’s answers during the interview. Once identified the inmate will maintain the designation until classification completes the next biannual review.

10. Classification will screen all inmates within 72 hours of intake. Characteristics such as the inmate’s age, criminal record, and prior identified history of sexual victimization or predation will be utilized to help determine s/he is at risk of future victimization of sexual abuse, sexual battery, or is at risk of committing sexual abuse or sexual battery. If s/he is identified as a potential victim or abuser (perpetrator); housing, bed, and work assignments will be appropriately assigned based on known information and established protocol.

...

v. Facility and housing assignments shall be made on a case by case basis, considering the inmate’s health and safety as well as potential programming, management and security concerns. An inmate’s own views regarding safety shall be given careful consideration.

### **C. Intake and Risk Assessment:**

#### **1. Booking and Admission:**

b. If an incoming inmate identifies as an LGBTI or other gender identifying community member, they shall be given a Search Preference form. The booking sergeant shall then notify the classification sergeant and medical that the form has been completed. The operations bureau commander and watch commanders shall be notified of any special housing assignment for transgender and intersex inmates.

...

f. Classification is responsible for the initial determination of vulnerability using the PREA risk assessment and any other information available to decide housing.

g. The mere identification of an inmate's sexual orientation is insufficient to warrant an assumption of enhanced risk that the inmate will be sexually abusive or be sexually abused. Within 72 hours of arrival, the Possible Risk Factors and Possible Predatory Factors screening tools will be used to assess victimization and abusiveness [PREA 115.41 (a,b,c,d,e)].

...

### **D. Classification and Housing**

1. Classification shall not classify inmates solely on the basis of their gender status or perceived gender status. Classification shall evaluate all available information, including inmate gender self-identification.

...

3. Inmates shall not be placed in segregation or dedicated housing units for the sole reason of their gender identity or status, unless the housing area has been established in connection with a consent decree, legal settlement, or legal judgment [PREA 115.42(g)]. Transgender, intersex, or other inmates who are placed in administrative segregation or other special management housing for their safety and security shall not have their privileges, programs, education and work opportunities restricted, without documentation listing limited opportunities, duration of the limitations, and non-discriminatory reasons for limitations [PREA 115.43(b)(1)(2)(3)].

4. Classification shall make individual determinations using the information from the risk screening to determine housing, bed, work, education, and program assignments with the goal of keeping separate inmates at risk of being sexually victimized from those at risk of being sexually abusive [PREA 115.42(a)(b), 115.62].

...

7. Transgender or intersex inmates may be housed according to their gender identity, rather than their birth sex. In deciding whether to assign a transgender or intersex inmate to housing for male or female inmates, as well as other programming assignments, classification and the operations bureau commander or his/her designee shall consider, on a case-by-case basis, whether a placement would ensure the inmate's health and safety, and if the placement would present management or security problems. If deemed necessary for the inmate's safety and emotional well-being, classification may place transgender or intersex inmates according to their birth sex and considering the facility's safety and security [PREA 115.42(c)].

8. All inmates may make requests to have their housing re-evaluated using the grievance system. A transgender or intersex inmate's own view with respect to his or her own safety shall be seriously considered. [PREA 115.42(e)].

9. The facility may consult with an identified member of the LGBTI or allied community to provide external resources and support in assistance with the LGBTI population or other gender identification.

## Georgia

**State Policy:** Policy: Georgia Department of Corrections Policy No. 507.04.68, Management and Treatment of Transgender Offenders, effective Feb. 1, 2022.

### **A. General Information . . .**

2. When making housing and programming assignments, the medical, mental health, and facility staff shall consider on a case-by-case basis whether a placement would compromise the offender's health and safety and any management or security concerns.

3. Separate housing dedicated specifically to Transgender or Intersex offenders shall not be established.

4. Staff shall not physically examine an offender for the sole purpose of determining the offender's genital status. If unknown, it may be determined during conversations with the offender, by reviewing medical records, or if necessary, as part of a broader medical examination conducted in private by a medical practitioner.

. . .

6. To be diagnosed with Gender Dysphoria, the offender must meet the Diagnostic and Statistical Manual of Mental Disorders (DSM) criteria.

. . .

### **B. Multi-Disciplinary Team Recommendations:**

1. Within thirty (30) days of admission to the facility or within thirty (30) days of a report to staff that an offender reports they have or have been diagnosed with Gender Dysphoria or are Transgender, Intersex or Gender Non-Conforming and requesting accommodations, the facility Classification Committee Chairperson, or designee, shall convene a multidisciplinary team composed of medical, mental health, security and PREA Coordinator's office, as well as any other staff deemed appropriate.

2. This multi-disciplinary team shall make recommendations about the following:

a. Whether male or female housing is appropriate for the offender;

. . .

3. The multi-disciplinary team shall make recommendations based on all information available, including any evaluation for Gender Dysphoria and any relevant medical and/or mental health assessment.

. . .

4. The recommendations shall be based on, but not limited to the following:

a. The gender of the offender assigned at birth;

b. The offender's views with respect to his or her own identity and safety and whether or not those views have been consistent;

c. Any relevant characteristics of the offender, including physical stature, any tendency toward violence or predatory behavior, and any vulnerability to violence or predatory behavior;

d. Any relevant characteristics of other offenders with whom the person might be housed or come into contact;

e. Prior institutional history (for example, any previous management problems that impacted the safety or security of other persons or security within the facility);

f. Any co-occurring mental health issues; and

g. Any perceived risks to the continuing safety and health of the offender or others.



5. The final decision on the recommendations shall be used in the development of the offender's case plan and classification.
6. It is the responsibility of the offender's treatment team to reassess all Transgender and Intersex persons in custody at least every six (6) months, or more frequently as deemed necessary.

**State Policy:** Georgia Department of Corrections Policy No. 208.06, Prison Rape Elimination Act – PREA: Sexually Abusive Behavior Prevention and Intervention Program, effective Dec. 1, 2014.

#### **D. SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS**

- c) In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing or programming assignments, the Department shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.
- d) Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate.

## Guam

**Policy:** Guam Department of Corrections General Order No. 90.01, Prison Rape Elimination Act 203 (PREA), Aug. 21, 2020.

11. In deciding prisoner housing and programming assignments for transgender or intersex prisoners, the department shall consider on a case-by-case basis whether a placement would ensure the prisoner's health and safety, and whether the placement would present management or security problems.
12. If requested, transgender and intersex prisoners shall be given the opportunity to shower separately from other prisoners.
13. A transgender or intersex prisoner's own view with respect to his or her own safety shall be given serious consideration.
14. The PREA Compliance Manager will review placement and programming assignments for each transgender or intersex prisoner at least twice each year to review any threats to safety experienced by the prisoner.

## Hawaii

**State Policy:** State of Hawaii Department of Public Safety Policy No. ADM.08.08, Prison Rape Elimination Act, effective Nov. 15, 2021.

### **25. USE OF SCREENING INFORMATION**

1. PSD shall use the information from the risk assessment screening for housing designations, work line, program assignment, or scheduling to keep separated those offenders at high risk of being sexually victimized from those at high risk of being sexually abusive. (115.42 a)
2. PSD shall use the risk screening tool information to make an individualized assessment about how to ensure the safety of each individual offender. (115.42 b)

...

### **26. LESBIAN, GAY, BISEXUAL, GENDER X, TRANSGENDER, AND INTERSEX (LGBTI) USE OF SCREENING INFORMATION**

1. A gender X, transgender, or intersex offender will be housed based on their legal status as a male or female. Any deviation in the housing assignment of a transgender or intersex offender to a facility for male or female offenders will be determined by medical and mental health practitioners with input from program and security staff initially at the intake process.
2. In deciding whether to assign a gender X, transgender, or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, PSD shall consider on a case-by-case assessment of whether a placement would ensure the offender's health and safety, and whether the placement would present a management or security concern.
3. In the event that an offender's sex designation is changed as specified under Hawaii revised Statutes § 338-17.7, "Establishment of new certificates of birth" (effective July 1, 2015), then facility, housing, and programming assignments shall still be made as indicated in .2, but the PREA Coordinator shall be included in the case-by-case assessment.
4. Biannually designated facility staff identified by the Warden shall reassess the placement and programming assignment of each transgender or intersex offender for the purpose of assessing any threats to the safety of the offender.
5. This biannual assessment shall be documented by utilizing the PREA Mandated Reporting Form (PSD 8317) and/or may be conducted as part of a classification review for the transgender or intersex offender. The completed PREA Mandated Reporting Form shall be forwarded to the Department PREA Coordinator via email, fax, or mail within three (3) days.
6. A gender X, transgender, or intersex offender's own views with respect to his or her own safety shall be given serious consideration.
7. Gender X, Transgender, and intersex offenders shall be given the option to shower separately from other offenders in dorm shower situations, if so requested. This provision is applicable only when individual showers are not available at the offender's assigned housing unit.
8. PSD Facilities shall not place Gender X and LGBTI offenders in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such offenders.

## Idaho

**State Policy:** Idaho Department of Correction Standard Operating Procedure Control No. 149.01.01.001 (v.6), Prison Rape Elimination, adopted Aug. 17, 2004, approved Jan. 21, 2021.

### **6. Placement of Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) Residents**

The department does not place lesbian, gay, bisexual, transgender, or intersex residents in dedicated facilities, units, or wings solely based on such identification or status. The IDOC considers the management and placement of transgender or intersex residents on a case by case basis. Health and safety, operational management, security, and mental health needs are considered. Serious consideration is given to the resident's own views regarding safety.

**State Policy:** Idaho Department of Correction Standard Operating Procedure Control Number 149.01.01.002, Prison Rape Elimination Screening and Cautions, adopted July 12, 2021, approved July 12, 2021.

b. Security supervisors will assign staff to complete six-month checks on transgender, intersex, and gender non-conforming residents to ensure they feel safe in their housing and have programming access. If safety or placement concerns emerge, the security supervisor shall conduct a housing review. Case Managers shall follow-up on programming concerns. The six-month checks are documented in C-notes.

**State Policy:** Idaho Department of Correction Standard Operating Procedures Control No. 401.06.03.501 (v. 4.0), Gender Dysphoria: Healthcare for Inmates with, adopted Oct. 31, 2002, approved Oct. 5, 2018.

### **2. Referral and Placement of the Inmate for Evaluation Purposes**

The chief psychologist will take the necessary action to transfer an inmate who is scheduled to be evaluated for GD to the appropriate facility for evaluation if a move is needed. When determining appropriate placement, the chief psychologist will consider factors such as the inmate's diagnostic needs, prior institutional adjustment, and safety and/or security concerns. In consultation with the warden, unless there are overriding security and/or safety concerns for the inmate, the chief psychologist will place the inmate (who either requests a GD evaluation or is diagnosed with GD) in a correctional facility consistent with the inmate's primary physical sexual characteristics.

...

### **6. Management and Treatment Committee (MTC) Meeting**

When convened, the MTC will develop and recommend a plan for the management and placement of the inmate. Copies of all reports authored by the evaluators will be provided to the MTC. The MTC will develop and recommend an individualized Management and Placement Plan for each inmate diagnosed with GD, which implements the treatment plan developed by the treating medical and mental health providers... Management and placement recommendations for inmates with GD will take into account both treatment and security needs, with a goal of least restrictive placement. As provided in section 2, facility placement will be based upon the inmate's primary physical sexual characteristics.

**State Policy:** Idaho Department of Juvenile Corrections Institutional Policy/Procedure Number 613, Prison Rape Elimination Act (PREA) Compliance, effective Jan. 30, 2009, reviewed Nov. 8, 2021.

## A. Placement

1. LGBTIQ juveniles are not placed in a particular housing unit, bed or other placement based solely on the juvenile's LGBTIQ status, or perceived status.
2. The IDJC shall not consider a juvenile's LGBTIQ status, or perceived status, as an indicator or likelihood of being sexually abusive.
3. **Transgender and Intersex Juveniles**
  - a. Placement and programming assignments for transgender or intersex juveniles are reassessed at least every six months to review any threats to safety experienced by the juvenile.
  - b. When making a placement decision, placement staff consider whether a transgender or intersex juvenile would prefer to be placed with males or females and the reason for that preference, with the final decision for placement being made by the Clinical Supervisor and/or Program Manager. LGBTI and questioning juveniles will not be isolated or otherwise separated from other juveniles solely due to LGBTI or questioning status.

**Local Canyon County Policy:** Canyon County Sheriff's Office Prison Rape Elimination Act, 2014, revised July 2021.

In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.

Staff shall use all information obtained to make housing, bed, program, education, and work assignments for inmates with the objective of keeping all inmates safe and free from sexual abuse.

Lesbian, gay, bisexual, transgender, or intersex inmates shall not be placed in particular housing, bed, or other assignments solely on the basis of such identification or status.

In making other housing and programming assignments, the agency shall consider on a case by case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.

Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate.

A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration when considering changing housing assignments.

Transgender and intersex inmates shall be provided with the opportunity to shower separately from other inmates.

## Illinois

**State Policy:** Illinois Department of Corrections Administrative Directive No. 04.03.104, Evaluation, Treatment and Correctional Management of Transgender Offenders, effective April 1, 2021.

### 2. Placement and Programming

- a. Transgender, intersex and gender incongruent offenders shall not be assigned to gender-specific facilities based solely on their external genital anatomy.
- b. A review of each transgender, intersex and gender incongruent offender's placement and programming assignments shall be conducted by the facility twice annually to review any threats to safety experienced or posed by the offender.
- c. The Transgender Administrative Committee (TAC) shall make individualized determinations about how to ensure the safety of each offender including considering transfer from one gender-specific facility to an opposite gender facility and specifying the gender of staff which will perform searches of the offender. The determination shall consider, on a case-by-case basis, whether a specific placement would ensure the offender's health and safety, and whether the placement would present management or security concerns.

**Note:** The TAC shall make these determinations without the necessity of a referral for any offender identified as transgender, intersex, and gender incongruent. However, an offender may be referred for these reviews by written request of the offender, the offender's treating mental or medical providers, or the CAO.

- d. A representative of the TAC shall interview the offender, review PREA allegations, offender grievances, criminal history, medical, psychiatric and disciplinary records and present findings to the TAC. Decisions shall be made by the TAC on a case-by-case basis with serious consideration given to circumstances including, but not limited to, the following:

- (1) The offender's perception of whether a male or female facility is safest for him or her, as well as the preferred gender of staff to perform searches.
- (2) The offender's prior institutional history (to include incidents and grievances).
- (3) The offender's prior violent or sexual criminal history.
- (4) The offender's gender expression including physical appearance, age and physical build.
- (5) The offender's vulnerability to sexual victimization, including prior allegations of sexual abuse or harassment made by the offender.
- (6) The offender's likelihood of perpetrating abuse against other offenders including consideration of prior allegations of sexual abuse or harassment made against the offender.
- (7) The offender's compliance with medical and mental health treatment plans, including psychopharmacologic and hormone therapy compliance (if applicable).
- (8) Any relevant information obtained about the offender from security staff or medical and mental health staff since arrival.
- (9) The ability of security staff to house and supervise the offender to ensure his or her safety and the safety of the population in the current and requested environment.
- (10) The services available to meet the needs of the offender in each environment.
- (11) Any obstacles identified for the appropriate management of the offender in each facility.

(12) Any other relevant information about the offender’s ability to positively or negatively manage himself or herself in each type of environment.

- e. The decision made by the Committee to transfer the transgender, intersex or gender incongruent offender to an alternative gender facility shall be documented and the offender shall be notified by letter from the Chairperson of the TAC or designee.
- f. If after a transfer occurs the transgender, intersex or gender incongruent offender poses a significant threat to residents of the receiving facility or creates a disruption to the safe operation of that facility, the offender may be presented to the combined TAC and THAWC for placement consideration.
- g. In the event where a transgender, inter-sex or gender incongruent offender is housed in a facility inconsistent with their gender identification, whether by their choice or decision of the TAC, accommodations shall be afforded to them as outlined below.

**Local Cook County Policy:** Cook County Administration Policy Manual Policy No. 125, Transgender and Intersex Subjects.

**125.4 INTERAGENCY ACCOMMODATION PLAN COMMITTEE**

- (a) The Interagency Accommodation Plan Committee shall consider each transgender or intersex subject, and recommend appropriate accommodations for the subject on a case-by-case basis. The committee may also choose to consider subjects who are gender non-conforming.
- (b) In its deliberations, the Interagency Accommodation Plan Committee shall ensure the dignity and respect of transgender or intersex subjects are taken into consideration. The transgender or intersex subject’s views of his/her safety shall be given serious consideration.
- ...
- (d) In deciding the housing assignment of a transgender or intersex subject, the committee shall consider the following:
  - 1. Whether to place the subject in male or female housing;
  - 2. Whether a placement will ensure the subject’s health and safety; and
  - 3. Whether a placement will present significant management, security or clinical challenges.
- (e) A transgender or intersex subject shall not be housed separately (e.g., protective custody, administrative segregation) from other members of the jail population solely based on his/her status as transgender or intersex, nor shall such a subject be isolated as part of a group from other subjects solely based on his/her status.

## Indiana

**State Policy:** State of Indiana Department of Correction Policy and Administrative Procedure Number 02-01-118, Transgender and Intersex Offenders, effective July 1, 2019.

**VI. HOUSING ASSESSMENTS:** . . . After the facility PREA Compliance Manager receives the completed State Form 56492, “Transgender Evaluation,” from the facility HSA, the PREA Compliance Manager shall convene the facility PREA Committee to complete State Form 56615, “Transgender/Intersex Placement Review” The PREA Committee shall consider the following information to complete State Form 56615:

- A. The offender’s own views of where he/she feels safe;
- B. Medical and Mental Health assessment;
- C. Security Threat Group (STG) affiliation;
- D. Criminal history – sex or violent offense;
- E. Conduct history – sex or violent offense;
- F. PREA flag status;
- G. Gender expression – gender non-conforming;
- H. Policy and Administrative Procedure 01-04-101, “Adult Offender Classification;”
- I. Security level; and,
- J. Any other factors impacting safety and security.

The PREA Committee shall make a recommendation on State Form 56615 for the placement of the offender based on all information reviewed. The PREA Compliance Manager shall forward the completed State Form 56615, last completed SVAT and State Form 56492, “Transgender Evaluation” to the Executive Director of PREA. The Executive Director of PREA shall convene a committee . . .to discuss and determine the offender’s placement. Serious consideration shall be given to the facility’s assessment recorded on State Form 56492. The findings of this committee shall be documented and a recommendation forwarded to the office of the Deputy Commissioner of Operations for review and decision.

**VII. HOUSING ASSIGNMENT:** Transgender and intersex offenders may not be assigned to gender-specific facilities based solely on their external genital anatomy. While determining housing placement, the Department shall consider physical layout and offender privacy issues when determining location. In deciding whether to assign a transgender or intersex offender to a facility for male or female offenders, and in making other housing and programming assignments, the Department shall consider, on a case-by-case basis, whether a placement would ensure the offender’s health, safety, and security; and whether the placement would present management or other safety or security concerns. Serious consideration shall be given to such an offender’s own views with respect to his or her own safety. Facilities shall not place transgender or intersex offenders in dedicated buildings, units, or ranges solely on the basis of such identified status. The Division of Classification, in consultation with the Department’s Executive Staff, including the Chief Medical Officer, shall ensure transgender and intersex offenders are housed in a manner consistent with their medical and mental health needs, sentencing level, and in accordance with Policy and Administrative Procedure 01-04-101.

**State Policy:** State of Indiana Department of Correction Policy and Administrative Procedures Number 02-01-115, effective April 1, 2020.



**C. Use of Screening Information (115.42) . . .**

2. The Department shall make individualized determinations about how to ensure the safety of each offender.
  3. In deciding whether to assign a transgender or intersex offender to a facility for male or female offenders (see Policy and Administrative Procedure 02- 01-118, “Transgender and Intersex Offenders”), and in making other housing and programming assignments, the Department shall consider on a case-by-case basis whether a placement would ensure the offender’s health and safety, and whether the placement would present management or security problems.
  4. Placement and programming assignments for each transgender or intersex offender shall be reassessed twice each year to review any threats to safety experienced by the offender.
  5. A transgender or intersex offender’s own views with respect to their own safety shall be given serious consideration.
- . . .
7. The Department shall not place lesbian, gay, bisexual, transgender, or intersex offenders in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such offenders.

**State Policy:** State of Indiana Department of Correction Policy and Administrative Procedure Number 01-04-101, Adult Classification, Effective Date, June 1, 2022.

**XIII. CONSIDERATIONS FOR OFFENDER CELL ASSIGNMENTS**

**C.** Upon the arrival of an offender following a transfer from another facility, staff shall thoroughly review the offender’s packet, offender information system, IRIS, and any other pertinent information (e.g., Medical, Mental Health, STG, Investigations and Intelligence, gender identity issues, etc.) to determine whether there is any information that might require special consideration in the assignment of the offender to a particular housing unit, or a double-cell assignment.

In reviewing the offender’s packet and offender information system screens, IRIS records, and any other pertinent information, staff shall pay particular attention to the following areas:

1. Gender Identity: Used to classify a person as male, female, both, or neither. Gender encompasses aspects of social identity, psychological identity, and human behavior.
2. Intersex Identity: Used to classify a person whose reproductive, genetic, or sexual anatomy does not seem to fit the typical definitions of female or male. Intersex identification does not necessarily mean the offender also identifies as Transgender.

## Iowa

**State Policy:** State of Iowa Department of Corrections Policy No. 00, PREA Standards for Adult Prisons and Jails, effective April 2018.

### **Screening for Risk of Sexual Victimization and Abusiveness**

**§ 115.41** Screening for risk of victimization and abusiveness.

(a) All inmates shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates.

...

**§ 115.42** Use of screening information.

(a) The agency shall use information from the risk screening required by § 115.41 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

(b) The agency shall make individualized determinations about how to ensure the safety of each inmate.

(c) In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems and reassessed at least twice a year.

(d) Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate.

(e) A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration.

(f) Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.

(g) The agency shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

**State Policy:** State of Iowa Department of Corrections Policy No. HSP-704, Management of Gender Dysphoria, effective March 2022.

### **B. Identification and Diagnosis of Patients with GD**

#### **1. Identification of patients with GD**

a. All patients who self-identify themselves as GD entering IDOC custody shall be evaluated to confirm diagnosis by the mental health team.

b. Patients seeking treatment or accommodations for GD should be forwarded to psychology staff.

...

## **5. Housing and Facility Transfers**

- a.** Before transferring a transgender female patient from one male institution to another male institution, there should be a conference between the sending and receiving institutions to discuss the patient's case.
- b.** In deciding whether to reassign a transgender female patient to a female institution, or a transgender male patient to a male institution, and in making other housing and programming assignments, the patient's Institutional Classification Team, and Wardens from the sending and receiving institutions shall consider on a case-by-case basis whether a placement would ensure the patient's health and safety and whether the placement would present management or security problems. If approved internally, the case will be presented to the GD Clinical Supervision Group, Offender Services, and the Assistant Deputy Director – Reentry and Programs to review and make a final determination, then document such reasoning in writing.
- c.** All housing determinations shall be made in accordance with PREA and its implementing regulations.

## Kansas

We were unable to obtain Kansas state-specific policies related to housing transgender inmates. Please note, however, the Kansas Department of Corrections published **Prison Rape Elimination Act (PREA)** audits to its website that include summaries of relevant policies. For example:

**PREA Audit:** Lansing Correctional Facility PREA Facility Audit Report: Final, submitted June 24, 2022.

Kansas Department of Corrections IMPP: Transgender and Intersex Offender Placement, dated July 7, 2019 page 2, section II. A. 1., “Transgender and Intersex offenders must not be assigned to gender-specific facilities based solely on their external genitalia. While determining facility placement, the Department must consider physical layout and offender privacy issues. 1. In deciding whether to assign a transgender or intersex offender to a facility for male or female offenders, and in making other housing and programming assignments, the Department must consider, on a case-by-case basis, whether placement would ensure the offender’s health, safety, and security; and whether the placement would present management or other safety or security concerns.”

Kansas Department of Corrections IMPP: Transgender and Intersex Offender Placement, dated July 7, 2019, page 3, section II. A. 1., “For each transgender or intersex offender, the reassessment must be completed at least twice per year to review the appropriateness of placement and programming assignments and to assess any threats to safety experienced by the offender. (28 C.F.R. §§ 115.42 and 115.342).”

Kansas Department of Corrections IMPP: Transgender and Intersex Offender Placement, dated July 7, 2019, page 2, section II. A. 2., “During the interview process to assess any safety concerns, serious consideration must be given to an offender’s own views with respect to his or her own safety.” (f)  
Kansas Department of Corrections, IMPP 10-143D: Transgender and Intersex Offender Placement, page 3, section IV. B. 1. a., states, “A transgender or intersex offender must be given the opportunity to shower separately from other offenders. a. This offer and their refusal or acceptance of separate shower times must be documented in a case note.

## Kentucky

**State Policy:** Commonwealth of Kentucky Corrections Policies and Procedures Policy No. 14.8, Lesbian, Gay, Bisexual, Transgender, and Intersex Offenders, effective Aug. 11, 2021.

### **A. Facility Determination**

1. An assessment to determine the facility a transgender or intersex inmate shall be assigned to shall be made on a case-by-case basis via an individualized assessment of the inmate by the Therapeutic Level of Care (TLOC) committee, which includes input from medical and mental health staff, in consultation with the Director of Classification. A determination shall not be made based on genital status alone.
2. Staff shall consider if placement would ensure the inmate's health and safety and if the placement would present management or security problems.
3. Staff shall give serious consideration to the inmate's own views concerning his or her safety.
4. The individualized assessment shall consider the following:
  - a. Classification's housing decision;
  - b. The offender's documented choice of whether a male or female facility is safest for him or her;
  - c. The inmate's physical characteristics;
  - d. Whether the inmate identified as male or female;
  - e. The offender's prior institutional history, to include incidents and grievances;
  - f. The offender's prior violent or sexual crime history;
  - g. The offender's physical appearance, age, and physical build;
  - h. Any relevant information obtained about the offender from security, medical or mental health staff since arrival;
  - i. The ability of security staff to house and supervise the offender to ensure his or her safety in each environment;
  - j. Any management problems that can be identified in each facility; and
  - k. Any other relevant information about the offender's ability to positively or negatively manage his or herself in each type of environment.
5. If a transgender or intersex inmate already housed at a DOC facility requests transfer to a facility housing the opposite gender, the request shall be reviewed by the institutional treatment team prior to being referred to TLOC. The institutional treatment team shall complete the individualized assessment outlined in number 4 above. The TLOC shall then review and consider the information and recommendation provided by the institutional treatment team.

**State Policy:** Commonwealth of Kentucky Corrections Policies and Procedures Policy No. 14.7, Sexual Abuse Prevention and Intervention Programs, effective July 20, 2021.

### **F. Offender Risk Assessment**

1. An offender shall be assessed during intake screening within seventy-two (72) hours of arrival at the Assessment and Classification Center and upon each transfer to another facility . . . . Housing concerns shall be documented in the comments section on the assessment in KOMS.

. . . .

**4.** The information gleaned from the intake screening shall be used to make housing, bed, program and work assignment decisions with the goal of keeping separate those offenders who are prone to sexual victimization from those who are prone to sexual aggression.

**5.** Within 30 days of arrival to each facility, the offender's risk level shall be reassessed based upon any additional information received since the intake screening. A reassessment shall also occur when any new information is learned that bears on an offender's propensity for sexual victimization or abusiveness, such as an incident or new disclosure of sexual abuse.

Reassessments shall include consultation with the inmate.

...

**10.** Placement decisions regarding lesbian, gay, bisexual, transgender and intersex (LGBTI) offenders shall be individualized.

**Louisiana**

**State Policy:** La. Admin. Code tit. 67, pt. V, § 7513 (Juvenile Detention Facilities—Admission and Release)

**G. Classification Decisions . . .**

**4.** Decisions for housing or programming of youth who are or are perceived to be gay, lesbian, bisexual, or transgender youth on the basis of their actual or perceived sexual orientation shall be made on an individual basis in consultation with the youth and the reason(s) for the particular treatment shall be documented in the youth’s file. The administrator or designee shall review each decision.

**14. USE OF SCREENING INFORMATION UPON INITIAL INTAKE: . . .**

**B.** In deciding whether to assign a transgender or intersex offender to a facility for male or female offenders, and in making other housing and programming assignments, the unit shall consider on a case-by-case basis whether a placement would ensure the offender’s health and safety, and whether the placement would present management or security problems. Transgender offenders will also be given the opportunity to shower separately and each unit shall maintain documentation of the efforts to offer separate showers utilizing a Shower Preference Statement (Form C-01-022-N). Questions regarding identification of a transgender or intersex offender’s genital status shall be referred to the Department’s Medical/Mental Health Director for review and, if needed, determination if a physical examination in a private setting by a health care provider is necessary. (§115.15(E) and 115.42(C))

. . .

**16. USE OF SCREENING INFORMATION AT PERMANENT HOUSING ASSIGNMENT (§115.42):**

. . .

**B.** Placement and programming assignments for transgender or intersex offenders shall be reassessed and documented at least twice each year utilizing the Transgender/Intersex Reassessment (Form C-01-022-O) by Classification staff to review any threats to safety experienced by the offender.

**Note:** It is prohibited to place a lesbian, gay, bisexual, transgender, intersex and gender nonconforming offender (LGBTI) in a dedicated unit or facility solely on the basis of LGBTI identification unless such placement is pursuant to a legal requirement for the purpose of protecting such an offender.

## Maine

**State Policy:** State of Maine Department of Corrections Policy No. 23.8 (Adult Facilities), Management of Transgender and Intersex Prisoners, effective Nov. 16, 2015, revised Nov. 30, 2015.

4. In general, a prisoner shall be placed in a facility and housing unit in accordance with his or her gender assigned at birth, except as set out below.
5. If a prisoner has fully completed sex reassignment surgery, then that person shall be housed and otherwise managed in accordance with his or her gender as reassigned.
6. The determination whether to assign a transgender or intersex prisoner who has not fully completed sex reassignment surgery to a facility for male or female prisoners and other housing and program assignments shall be done on a case-by-case basis, taking into account the views of the prisoner, and shall be based on protecting the prisoner's safety and mental health and preventing security issues, including, but not limited to, risks to the safety of others.
7. Separate housing dedicated specifically to transgender or intersex prisoners shall not be established.

**State Policy:** State of Maine Department of Corrections Policy No. 6.11.2 (Entire Department of Corrections), Sexual Misconduct (PREA and Main Statutes), Prevention, effective May 19, 2008, revised April 9, 2018.

### **Procedure G: Lesbian, Gay, Bisexual, Transgender, or Intersex (LGBTI) Prisoners and Residents**

1. Facility staff shall not search or physically examine a transgender or intersex prisoner or resident for the sole purpose of determining the person's genital status. If the person's genital status is unknown, it may be determined by discussing the matter with the prisoner or resident, reviewing medical records, and, if necessary, by a health care provider performing a general physical health assessment that is not viewed by other staff.
2. The determination whether to assign a transgender or intersex prisoner or resident to a facility for male or female prisoners or residents and other housing and program assignments shall be individualized, take into account the views of the prisoner or resident, and be based on protecting the prisoner's or resident's safety and mental health and preventing security issues. These determinations shall be made in accordance with Department Policies (AF) 23.8 and (JF) 18.8, Management of Transgender and Intersex Prisoners and Residents, as applicable.
3. Facility, housing, and program assignments for a transgender or intersex prisoner or resident shall be reviewed through the facility classification process at least every six (6) months to consider any threats to safety experienced by the prisoner or resident.
4. If a facility does not have separate individual shower facilities for use by transgender and intersex prisoners or residents, then a transgender or intersex prisoner or resident shall be given the opportunity to shower at separate times from other prisoners or residents.
5. Lesbian, gay, bisexual, transgender, or intersex prisoners or residents shall not be housed in dedicated facilities, units, or wings solely on the basis of such identification or status.
6. All housing decisions for lesbian, gay, bisexual, transgender, or intersex prisoners or residents shall be clearly documented in the prisoner's or resident's housing unit file and in CORIS.

**State Policy:** State of Maine Department of Corrections Policy Number 18.8 (Juvenile Community Corrections), Management of Transgender, Gender Nonconforming, and Intersex Residents, effective Nov. 16, 2015, revised March 9, 2020.



**Procedure B: Housing and Programs**

1. Separate housing dedicated specifically to transgender, gender nonconforming, or intersex residents shall not be established.
2. In general, a resident shall be placed in a housing unit in accordance with their sex assigned at birth, except that, in the case of a transgender or intersex resident, the decision about housing shall be made on a case-by-case basis, taking into account the views of the resident, and shall be based on protecting the resident's safety and mental health and preventing security issues, including, but not limited to, risks to the safety of other residents.
3. In the case of a transgender, gender nonconforming, or intersex resident, decisions about programs shall be made on a case-by-case basis, taking into account the views of the resident, and shall be based on protecting the resident's safety and mental health and preventing security issues, including, but not limited to, risks to the safety of other residents.

## Maryland

**State Policy:** Maryland Department of Public Safety and Correctional Services Executive Directive No. OPS 131.0001, Identification, Treatment and Correctional Management of an Inmate Diagnosed with Gender Dysphoria, effective Sept. 16, 2016.

### **J. Case Management.**

- (1) A Gender Dysphoric inmate's housing placement shall be made on a case-by-case basis seriously considering the inmate's opinion regarding the inmate's safety and the inmate's biological gender presentation and appearance considering:
- (a) Intact external genitalia and secondary sex characteristics, such as pubic hair, chest hair, facial hair; and
  - (b) Specific factors, such as partial completion of sex reassignment surgery, removal or augmentation of breasts, or removal of testicles.
- (2) Each inmate shall be evaluated on a case-by-case basis by the facility's Security Chief and Case Management staff with support from the Director, Clinical Services and Deputy Director of Mental Health or specialty consultation considering safety, security, or operational issues.
- (3) Mental health staff may provide input as to clinical recommendations related to housing of a Gender Dysphoric inmate to the managing official and Case Management staff as part of the Regional Treatment Team's individualized treatment plan, however, final determination regarding housing placement is the responsibility of the managing official.
- (4) If mental health staff input and recommendations and a managing official's decision on placement of a Gender Dysphoric inmate conflict, the final decision shall be made by the Deputy Secretary for Operations, or a designee.

### **K. Custody Issues.**

- (1) A Gender Dysphoric inmate shall be confined in accordance with provisions established under the Prison Rape Elimination Act of 2003 and all related Department policy and procedures.
- (2) Consistent with an inmate's security level, a Gender Dysphoric inmate:
- (a) Whose assigned gender is male and expressed gender is female and who is housed in a male facility is permitted to purchase and retain clothing items and other articles authorized for other male inmates at the facility, as well as items authorized for females at a female facility;
  - (b) Whose assigned gender is female and expressed gender is male and who is housed in a female facility is permitted to purchase and retain clothing items and articles authorized for other female inmates at the facility, as well as items authorized for males at a male facility; and
  - (c) May only purchase and retain personal property and commissary items that are authorized by established policy and procedures related to allowable inmate personal property.

**State Policy:** Maryland Department of Public Safety and Correctional Services Executive Directive No. OPS 200.0006, Assessment for Risk of Sexual Victimization and Abusiveness, effective April 4, 2018.

**C.** The PREA Coordinator shall ensure that the following issues are appropriately addressed in procedures for using information obtained during screening required under this directive:

(1) Screening information shall be considered:

(a) When making decisions related to housing, bed, work, education, and program assignments with the goal of separating inmates who are determined to be at high risk of being sexually victimized from inmates who are determined to be at high risk of being sexually abusive.

(b) When making individualized determinations as how to ensure the safety of each inmate.

(c) When deciding to assign a transgender or intersex inmate to a facility for male or female inmates and in other housing and programming assignments and, on a case by case basis, determining if the placement or assignment:

(i) Ensures the inmate's health and safety; and

(ii) Presents management or security problems.

(2) Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review threats to safety experienced by the inmate.

(3) A transgender or intersex inmate's own views with respect to personal safety shall be seriously considered.

...

(5) Lesbian, gay, bisexual, transgender, or intersex inmates may not be placed in dedicated facilities, units, or wings solely on the basis of such identification or status, unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting inmates.

**Local Montgomery County Policy:** Montgomery County Department of Corrections and Rehabilitation Departmental Policy and Procedure Manual, Policy No. 3000-64, Implementation of the Prison Rape and Elimination Act (PREA), effective May 1, 2022.

#### **V. Use of Screening Information:**

(a) The Department shall use information from the risk screening to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

(b) The Department shall make individualized determinations about how to ensure the safety of each inmate.

(c) In deciding whether to assign a transgender or intersex inmate to a housing unit or a programming assignment, the Department shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.

(d) Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate.

(e) A transgender or intersex inmate's own view with respect to his or her own safety shall be given serious consideration.

...

(g) The Department shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

## Massachusetts

**State Policy:** Mass. Gen. Laws Ch. 127 § 32A, Prisoner Gender Identity, effective Dec. 31, 2018.

A prisoner of a correctional institution, jail or house of correction that has a gender identity, as defined in section 7 of chapter 4, that differs from the prisoner's sex assigned at birth, with or without a diagnosis of gender dysphoria or any other physical or mental health diagnosis, shall be: . . . housed in a correctional facility with inmates with the same gender identity; provided further, that the placement shall be consistent with the prisoner's request, unless the commissioner, the sheriff or a designee of the commissioner or sheriff certifies in writing that the particular placement would not ensure the prisoner's health or safety or that the placement would present management or security problems.

**State Policy:** Massachusetts Department of Correction Policy No. 103 DOC 653, Identification, Treatment, and Correctional Management of Gender Non-Conforming Inmates, effective Oct. 26, 2022.

### **653.03 MANAGEMENT AND PLACEMENT**

At the time of their commitment, sentenced individuals are court ordered into the custody of the Department of Correction and are transported to the Department's reception center for males or females based upon the court's order.

Once committed to the Department of Correction, placement decisions, classification, and other programming assignments for gender non-conforming inmates shall be considered on a case-by-case basis. Factors which shall be considered include, but are not limited to, the inmate's stated request, whether a placement would ensure the inmate's health and safety, and/or whether the placement would present management or security problems.

Placement and programming assignments for each gender non-conforming inmate shall be reassessed at least twice each year in order to review any threats to safety experienced by the inmate.

A gender non-conforming inmate's own views with respect to his or her own safety shall be given serious consideration.

**1. Initial Classification and Placement:** For all new commitments, an IMS Housing Risk Factor Assessment is completed which examines issues of risk of victimization and risk of violence/predatory behavior/abusiveness. Should an inmate identify as gender non-conforming, the additional process of the verification of the gender non-conforming status shall commence as outlined in 103 DOC 653.04. The findings of the verification of the gender non-conforming status process, along with the Housing Risk Factor Assessment, shall inform housing, work, education, and program assignments.

**A. Bi-Annual Review:** A Housing Risk Factor Assessment will be completed at least every six months for all gender non-conforming inmates. In preparing for the status review, medical staff, mental health staff, and other security personnel will collaborate to assess appropriate programming and placement within the agency for each gender

non-conforming inmate. The review shall assist with decisions regarding housing, work, education, and program assignments and shall focus on individual safety. Recommendations shall be considered on a case by case basis, and shall consider whether placement will ensure the inmate's health and safety, and whether the placement would present management or security issues. Security level, criminal and discipline history, medical and mental health assessment of needs, vulnerability to sexual victimization and potential of perpetrating abuse based on a history of being sexually or physically abusive, shall all be considered. The inmate's own views with respect to his or her own safety shall also be given serious consideration. This bi-annual review shall include a review of any threats to safety experienced by the inmate.

In addition, specific cases with partial completion of sex reassignment surgery, removal or augmentation of breasts, removal of testicles, etc., shall be evaluated on a case by case basis by the Program Medical Director. In the event that the Program Medical Director's recommendation may potentially present security, safety, or operational difficulties within the correctional environment, the Director of Behavioral Health shall refer the request to the Deputy Commissioner of the Prison Division and the Deputy Commissioner of Clinical Services and Reentry for a security review, pursuant to 103 DOC 653.08, Security Review.

**B. Internal Placements:** Site mental health directors may provide input as to their clinical recommendations related to housing gender non-conforming inmates within their respective institutions. Consideration of these clinical recommendations should be given by the Department of Correction when making determinations regarding such issues; however, final determination regarding internal housing placement is the responsibility of the Superintendent.

**C.** Gender non-conforming inmates will not be housed in dedicated institutions, units, or wings solely on the basis of their gender non-conforming identification or status, unless such placement is in a dedicated institution, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

#### **653.04 VERIFICATION OF GENDER NON-CONFORMING STATUS**

1. If, upon admission to the Department, or at any time during an inmate's incarceration, an inmate self-identifies as being gender non-conforming, a institution-based medical provider, or qualified mental health professional assigned to the inmate, shall review the inmate's gender non-conforming status to determine whether the inmate's gender identity is sincerely held as part of the inmate's core identity. This assessment shall include a thorough record review including obtaining releases of information for external providers as well as a face to face interview. Gender identity may be verified by providing to the medical provider or qualified mental health professional evidence of the inmate's gender non-conforming status which may include, but is not limited to, medical history, mental health history, care or treatment of the gender identity, consistent and uniform assertion of the gender identity, or any other evidence that the gender identity is sincerely held.

For persons returned to the custody of the Department of Correction with a previously confirmed gender non-conforming status, a new gender identity verification process shall not be required unless indicated by the contracted medical provider or qualified mental health professional assigned to the inmate.

2. If an inmate's gender non-conforming status is denied by the contracted medical provider or qualified mental health professional assigned to the inmate, the inmate may appeal to the Statewide Medical Director within thirty (30) days of the denial. The Statewide Medical Director shall issue his/her/their decision for the appeal within sixty (60) days of receipt of the appeal. The grounds for the appeal decision shall be in writing and given to the inmate. The Statewide Medical Director's decision is final.

If an inmate's gender non-conforming status is denied, the inmate may request a re-verification process by the institution-based medical provider or qualified mental health professional assigned to the inmate after one year of the prior denial.

### **653.08 SECURITY REVIEW**

1. A gender non-conforming inmate may request to be housed in a institution of the gender with which the inmate identifies. Upon receipt of the request, the site administration shall notify the Department's Director of Behavioral Health. In the event that a request may potentially present security, safety, or operational difficulties within the correctional environment, the Director of Behavioral Health shall refer the request to the Deputy Commissioner of the Prison Division and the Deputy Commissioner of Clinical Services and Reentry for a security review. The security review shall take into account the inmate's individual history of incarceration and present circumstances.

2. Arrangements for transition to the institution of the gender with which the inmate identifies shall occur unless the Commissioner certifies in writing that the particular placement would not ensure the inmate's health or safety or that the placement would present management or security problems.

The Commissioner shall articulate specific and justifiable reasons based on security, safety and/or operational concerns, in writing. The security review shall be completed within ninety (90) calendar days of the referral from the Director of Behavioral Health.

## Michigan

**State Policy:** State of Michigan Department of Corrections Lansing Director's Office Memorandum 2022-28, effective Jan. 1, 2022 (supersedes DOM 2021-33 (10/21/2021))

### HOUSING REQUEST

Offenders with a gender identity defined above may make a housing request to be reviewed by the Gender Dysphoria Review Committee (GDRC). If there is a specific safety or security concern, the offender may request protection pursuant to PD 05.01.140 "Prisoner Placement and Transfer".

Housing assignments shall be considered on a case-by-case basis utilizing the below "Individual Risk Assessment of Housing Placement," including considering whether a placement would compromise the offender's health and safety and whether the placement would present any management or security problems.

The MDOC shall not place transgender or intersex offenders in dedicated facilities, units, or wings solely on the basis of such identification, status, or based solely on their external genital anatomy.

**State Policy:** Michigan Department of Corrections Policy Directive No. 03.03.140, Sexual Abuse and Sexual Harassment of Prisoner – Prison Rape Elimination Act (PREA), effective April 5, 2021.

### RISK ASSESSMENTS

**KK.** All prisoners shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other prisoners or being sexually abusive toward other prisoners.

...

**Prisoners shall be asked:**

1. Questions relating to mental, physical, or developmental disabilities.
2. Whether they are, or are perceived to be, gay, lesbian, bisexual, transgender, intersex, or gender nonconforming.
3. Whether they have been previously victimized.
4. What is their perception of being vulnerable?

...

**LL.** Results of the risk assessment shall be considered when making housing, bed, work, education, and program assignments with the goal of keeping separate those prisoners at high risk of being sexually victimized from those at high risk of being sexually abusive. . . Employees designated by the Warden shall complete both PREA Risk Assessments if any of the following occur:

1. Within 72 hours of a prisoner's arrival at a correctional facility, including intake.
2. Whenever warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that may increase the prisoner's risk of being sexually abused by other prisoners or being sexually abusive toward other prisoners.

**MM.** In addition to the PREA Risk Assessments required in Paragraphs KK and LL employees designated by the Warden shall complete a PREA-Risk Assessment Review-Prison:

- 1. No earlier than 14 days but no later than 30 calendar days of arrival, including intake (unless the prisoner transfers from the facility prior to 30 days).
- 2. When it has been 12 months since the last review.

The review shall consist of review of the most recent victim and aggressor risk assessments, including asking questions relating to mental, physical, or developmental disabilities, whether they are, or are perceived to be, gay, lesbian, bisexual, transgender, intersex, or gender nonconforming, previous victimization, or their own perception of vulnerability.

**NN.** If the assessment/review indicates a change in designation, the PREA overall designation shall be updated in the Department’s computerized database. If a prisoner self-identifies as an LGBTI prisoner, the specific category they identify shall be documented to ensure their safety and necessary services.

**State Policy:** Michigan Department of Corrections Policy Directive, No. 04.06.184, Gender Dysphoria, Effective June 26, 2017.

**C. Gender Dysphoria Collaborative Review Committee (GDCRC) . . .**

**G.** When making housing and programming assignments, the GDCRC and facility staff shall consider on a case-by-case basis whether a placement would compromise the prisoner’s health and safety and any management or security concerns.

. . .

**INDIVIDUAL MANAGEMENT PLAN AND PLACEMENT**

**L.** If the evaluation(s) supports a diagnosis of Gender Dysphoria, the evaluator shall formulate an individual management plan in consultation with the referring integrated treatment team and GDCRC. An Individual Management Plan for Gender Dysphoria (CHJ-339) form shall be used for this purpose. The evaluator shall give consideration to all of the following in development of the plan:

- 1. Facility placement and housing in accordance with Prison Rape Elimination Act (PREA) standards (generally single-occupancy cell);



## Minnesota

**State Policy:** State of Minnesota Department of Corrections Policy No. 202.045, Management of Transgender/Gender Non-Conforming/Intersex Offenders/Residents , effective 6 Oct. 2020.

### PROCEDURE

#### A. Screening

1. When an offender/resident identifies through kite or other communication as transgender, gender non-conforming, or intersex, facility mental health staff must complete a transgender psychological screening, including the offender's/resident's view with respect to their own safety.
2. Mental health or health services staff may not search or physically examine any offender/resident for the sole purpose of determining the offender's/resident's genital status. This prohibition equally applies to transgender, gender non-conforming, or intersex offenders/residents. If the offender's/resident's mental health or medical provider needs to know the offender's/resident's genital status for the purposes of treatment or the offender's/resident's safety, it may be determined through conversations with the offender/resident, by reviewing medical records or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
3. Facility health services staff must have an offender/resident (or a resident's guardian) sign a release of information to obtain medical/mental health records when the offender/resident:
  - a) Expresses a history of receiving care for gender dysphoria or other gender-related treatment;
  - b) Identifies as, or has self- reported to any staff member as, gender non-conforming; or
  - c) Has other medical/clinical conditions related to gender.

...

#### B. Placement

1. Facility staff determine the preliminary placement of an offender/resident who is transgender, gender non-conforming, or intersex upon intake screening, until the transgender committee makes a placement recommendation and the deputy commissioner – facility division determines placement.
2. In deciding whether to assign a transgender, gender non-conforming, or intersex offender/resident to a facility for male or female offenders/residents, the department considers on a case-by-case basis whether a placement would ensure the offender's/resident's health and safety, and whether the placement would present management or security problems. The department must not place lesbian, gay, bisexual, transgender, gender nonconforming, or intersex offenders/residents in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such offenders/residents from harm.

- 3. Upon completion of the transgender psychological screening, the facility mental health director must forward the screening to the chair of the transgender committee and the offender/resident. The chair schedules a meeting of the transgender committee.
- 4. The transgender committee makes recommendations regarding facility placement and other matters that it deems necessary to maintain the offender’s/resident’s safety, such as single cell/room or shower restrictions. The committee must consult with the offender/resident and may seek consultation from outside health care providers to assist in making its recommendations. The committee considers factors such as the offender’s/resident’s security level, criminal/adjudication and disciplinary history, current gender expression, medical and mental health needs, vulnerability to sexual victimization, and the likelihood of perpetrating such abuse on other offenders/residents.
- 5. The transgender committee must promptly forward its recommendations regarding facility placement and other matters to the deputy commissioner – facility division for a final decision. The deputy commissioner should, whenever possible, review the committee’s recommendations within five days and inform the committee chair whether the recommendations have been approved, denied, or modified. The deputy commissioner’s determination is sent to the members of the transgender committee and to the offender/resident, and must be placed in the offender’s/resident’s health record.
- 6. A facility may seek reconsideration of the deputy commissioner’s placement decision for any reason. The warden must contact the deputy commissioner, who may ask the transgender committee chair to convene another meeting and make recommendations if the deputy commissioner determines that further evaluation is needed.
- 7. Placement and programming assignments for each transgender, gender non-conforming, or intersex offender/resident must be reassessed at least twice each year by the deputy commissioner – facility division or designee, to review any threats to safety experienced by the offender/resident.

**State Policy:** State of Minnesota Department of Corrections Policy No. 202.105, Multiple Occupancy Cell/Room Assignment Policy, effective April 16, 2019.

**B. Single cell restriction**

**1. Mental health and medical restrictions:**

...

- e) The transgender committee must review a transgender offender’s need for a single cell and recommend placement as appropriate (see Policy 202.045, “Management of Transgender/Gender Non-Conforming/Intersex Offenders”).

**State Policy:** State of Minnesota Department of Corrections Policy No. 202.057, Sexual Abuse/Harassment Prevention, Reporting, and Response, effective Aug. 21, 2018.

**3. Offender screening**

- a) When an offender arrives at a DOC facility as a new commitment, release violator, department transfer, jail delegation, or non-department admission, a qualified staff person completes a PREA Intake Screening Tool in COMS, screens the offender’s available file information, and interviews the offender to assess his/her potential for vulnerability to sexual abuse and/or tendencies to engage in sexually aggressive behavior.

...

PREA screening information is used to determine housing, bed assignment, work assignment, and the need for further referral based on the information (see Division Directive, 202.105, "Multiple Occupancy Cell/Room Assignment"). For additional information on placement options, see the Reference section for links on administrative segregation, offender incompatibility, and transgender offenders.

**Mississippi**

**State Policy:** Mississippi Department of Corrections Policy No. 20-16, Management of Transgender and Intersex Offenders, effective May 1, 2021.

(b) The Transgender Committee shall assess, review, and manage inmates who identify as transgender or intersex on a case-by-case basis, in a respectful manner, considering each inmate’s individual circumstances, including but not limited to the inmate’s physical sexual characteristics, gender identification, physical presentation, behavior and programming needs.

...

**PROCEDURE A: Intakes Screening Process**

**Prison Rape Elimination Act (PREA):** MDOC states that its intake screening shall consider, at a minimum, the following criteria to assess individuals risk for sexual victimization – whether the individual is known or perceived to be gay, lesbian, bisexual, transgender, intersex or gender nonconforming.

**1. Initial Designation**

Staff will seek to identify inmates who present or identify as transgender or intersex upon delivery to MDOC during intake processing, based on available information from the county, the inmate (including the inmate’s stated gender identity, if any) and as developed by staff.

**2. Identification at Intake (Appropriate and Professional Questioning)**

a. Staff will interview inmates regarding their sex and gender identity only when necessary to develop information for making appropriate intake and housing assignments, classification assignments, programming assignments; to provide healthcare and health assessments; and as necessary for the inmate’s health or safety, or for the safe, secure, and orderly operation of the facility.

c. Designated staff will submit information to the Transgender and Intersex Committee for review and determination of appropriate housing placement.

...

**3. Initial Placement in Holding Cell:**

When staff identify an inmate who presents or identifies as transgender or intersex during intake processing, staff will place the inmate in a holding cell with no other inmates present to provide for the inmate’s safety and to provide the inmate with a measure of privacy pending further review.

...

**5. Intake Housing Assignment:**

a. Following initial placement in a holding cell, an inmate who identifies as transgender or intersex during intake processing will be assigned to a single cell in the Infirmary, on a space available basis, until the appropriate housing for the inmate has been staffed by the Transgender Intersex Committee.

b. If there are no infirmary beds available, the functional unit manager or designee will assign the inmate to appropriate alternative housing in the facility, and document the reasons for the alternative housing assignment.

...

**PROCEDURE B: Management of Transgender or Intersex Inmate Housing Assignment and Processing after Intake**

1. The Transgender and Intersex Committee will collect and review relevant information regarding inmates who identify as transgender or intersex and make appropriate facility and housing assignment decisions on a case-by-case basis.
2. The Transgender and Intersex Committee will notify staff at the receiving facility of the facility and housing assignment decisions regarding the inmate prior to the inmate's transfer.
3. When an inmate is assigned to a facility by the Transgender and Intersex Committee, designated facility staff will determine and assign the inmate to the appropriate housing within the facility unless the inmates' housing assignment has been specifically directed by the Transgender and Intersex Committee.
4. An inmate who identifies as transgender or intersex may not be transferred to another facility without the approval of the Transgender and Intersex Committee.

...

#### **Identification after Facility Assignment:**

If an inmate identifies as transgender or intersex after being assigned to a facility, staff will notify the Contract Health Provider (CHP) and the PREA Compliance Manager at the receiving facility. The PREA Compliance Manager will notify the Transgender and Intersex Committee and gather information for the Transgender and Intersex Committee's review.

#### **Appropriate and Professional Questioning:**

Contract Health Provider and PREA Compliance Manager will interview the inmate regarding the inmate's assigned sex at birth, gender identify, gender expression, and security concerns.

**State Policy:** Mississippi Department of Corrections SOP No. 20-14-01, Prison Rape Elimination Act of 2013, effective Feb. 1, 2015.

#### **Use of Screening Information**

**Prisons and Jails:** (a) The agency shall use information from the risk screening required by § 115.41 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

(b) The agency shall make individualized determinations about how to ensure the safety of each inmate.

(c) In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.

(d) Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate.

(e) A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration.

...

(g) The agency shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status,

unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates. PREA [§ 115.42]

...

**Community Corrections:** (a) The agency shall use information from the risk screening required by § 115.241 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive.

(b) The agency shall make individualized determinations about how to ensure the safety of each resident.

(c) In deciding whether to assign a transgender or intersex resident to a facility for male or female residents, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether the placement would present management or security problems.

(d) A transgender or intersex resident's own views with respect to his or her own safety shall be given serious consideration.

...

(f) The agency shall not place lesbian, gay, bisexual, transgender, or intersex residents in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such residents. PREA [§ 115.242]

**Missouri**

**State Policy:** Missouri Department of Corrections Department Procedural Manual IS5-3.3, Transgender and Intersex Offenders, effective July 6, 2019.

**III. PROCEDURES:**

**A. RECEPTION AND DIAGNOSTIC**

- 1. If the gender of the offender is unknown at the time of intake, staff members shall not search the offender for the sole purpose of determining the offender’s genital status. Privacy considerations must be afforded to transgender and intersex offenders.
  - a. Genital status may be determined during conversations with the offender, reviewing medical records, or if necessary, through a broader medical examination conducted in private by the appropriate health care staff members.

...

**B. TRANSGENDER COMMITTEE**

- 1. Each institution shall have a transgender committee to make informed recommendations regarding the health and safety of transgender and intersex offenders.
  - 2. The transgender committee shall meet with the offender within 10 working days of either the offender’s arrival to the facility or upon learning the offender’s transgender or intersex status and every 6 months thereafter.
- ...
- 3. Following the initial ITC meeting, the ICMHS or designee will:
    - a. Meet with the offender to discuss health and safety needs related to the offender’s transgender or intersex status;
- ...
- 4. Within 10 working days of the meeting with the offender, the transgender committee review form shall be completed and forwarded to the transgender review team.
    - a. The transgender committee review shall include the following:
      - ... (5) Review of programming assignments and accommodation needs; (6) Need for showering accommodations; and (7) The transgender committee’s recommendations.
  - 5. Within 10 working days of receiving the transgender committee review form the transgender review team shall complete the review and approve the recommendations as submitted, or with modifications to the PREA site coordinator.

...

**C. INSTITUTIONAL PROTOCOLS**

- 1. Housing assignments for transgender and intersex offenders shall be made in accordance with the institutional services procedure regarding offender housing assignments.
  - a. Offenders are not to be placed in restrictive housing solely based on gender identity or intersex status.

**State Policy:** Missouri Department of Corrections Institutional Services Procedural Manual 1S5-3.1, Offender Housing Assignments, effective Feb. 9, 2019.

**III. PROCEDURES:**

**A. HOUSING ASSIGNMENT CRITERIA**

1. Offender housing assignments shall be made in an individualized, nondiscriminatory manner and not be made based on race, religion, nationality, political belief or sexual orientation.

...

**C. TRANSGENDER HOUSING ASSIGNMENTS:**

1. The transgender committee is responsible for determining a permanent housing assignment for each transgender or intersex offender, and prior to this assignment shall meet with each offender to determine his vulnerability within the general population and length of time living as the acquired gender.

2. Transgender and intersex housing assignments shall not be made based solely on genitalia but must consider the offender’s health and safety and the security of the facility through a review of the respective classification, medical and mental health records.

**State Policy:** Missouri Department of Corrections Department Procedural Manual D1.8.13, Offender Sexual Abuse and Harassment, effective July 1, 2017.

b. Housing assignment for transgender and intersex offenders will be made as outlined in this procedure, on a case-by-case basis by the institutional transgender or intersex committee or designee of the community confinement facilities to ensure the health and safety of the offender in accordance with the institutional services procedure regarding offender housing assignments and the probation and parole procedure regarding risk assessment and housing assignments.

...

c. All housing, cell, bed, education, and programming assignments for transgender or intersex offenders will be made in accordance with the institutional services procedures regarding offender housing assignments and programming assignments.

...

**D. TRANSGENDER COMMITTEE**

1. Each institution will have a transgender committee to make informed decisions regarding the health and safety of transgender and intersex offenders assigned at that facility.

...

5. The transgender committee meeting and subsequent written report shall include the following:

...

g. recommendations regarding the offender’s health and safety to include:

(1) housing assignment,

(A) Housing assignments for transgender or intersex offenders shall not be made based solely on genitalia but must consider the offender’s health and safety and the security of the facility through a review of the respective classification, medical and mental health records.

(B) The transgender or intersex offender’s own views with respect to his safety shall be given serious consideration when determining housing.



## **Montana**

**State Policy:** Montana Department of Corrections Policy Directive 1.1.17, Prison Rape Elimination Act of 2003 (PREA), revised June 22, 2021.

**9.** In deciding whether to assign a transgender or intersex offender to a facility, and in making other housing and programming assignments, the Department will consider on a case-by-case basis the placement's effect on the offender's safety, whether the placement would present management or security problems, and whether such placement would likely endanger the safety of other offenders.

A review committee consisting of a qualified health care professional, qualified mental health professional, PREA coordinator, chief legal counsel or designee, and the Montana State Prison and Montana Women's Prison wardens or designees will determine appropriate facility placement of transgender and intersex offenders based on their review of all relevant information.

- a.** The review committee will conduct an individual assessment of each transgender and intersex offender based upon their specific areas of expertise, knowledge, and control.
- b.** This assessment will occur as soon as possible following notification to the Department that a transgender or intersex offender has been committed to a Department secure facility but no later than 30 days after arrival at a facility.
- c.** The review committee may request information or participation from other subject matter experts as needed.
- d.** All documentation, information, and recommendations of the review committee are confidential and will be maintained in a secure location.
- e.** The recommendation for facility placement by the review committee will be given to the Director for final approval.

**11.** Placement and programming assignments for each transgender or intersex offender will be reassessed at least twice each year to review any threats to safety experienced by the offender. A transgender or intersex offender's own views with respect to his or her own safety will be given serious consideration.

**Nebraska**

Please note that the Nebraska Department of Correctional Services publishes Prison Rape Elimination Act (PREA) audits to its website that include summaries of certain relevant policies. For example, please see: Nebraska Department of Corrections Prison Rape Elimination Act (PREA) Audit Report: Adult Prisons and Jails, Nebraska State Penitentiary, final audit date July 7, 2021. To put in a public records request for policies related to housing transgender inmates you may email DCS.PublicRecords@nebraska.gov.

**State Policy:** Nebraska Department of Correctional Services Policy No. 203.11, Sexual Assault/Abuse, revised July 31, 2022.

**E. PREA Standard Secured Facility 115.15 a-f / Community Facilities 115.215 a-f Limit To Cross Gender Viewing And Searches**

...

4. NDCS shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate’s genital status. If an inmate’s genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

...

6. NDCS will recognize the gender of an inmate based on the legal classification of that inmate as listed on their birth certificate as it is recorded on the inmate’s birth state. When a transgender inmate has been approved to change their birth certificate to reflect how the inmate identifies and the birth certificate has been changed, and the NDCS has received an official copy of the new birth certificate, the inmate can be approved to have a pat search and a safety search conducted by the appropriate staff member. However, if an inmate has undergone gender transformation surgery and failed to change their gender on their birth certificate, the inmate’s reproductive organs may be a factor in NDCS gender designation of the inmate (as determined by the initial medical screening). In the event a female post for male facilities and or a male post for female facilities is needed on shift to perform these pat/safety searches, the facility will adjust their staffing plan to adhere to the PREA standards.

7. Policy 204.01, Inmate Property Control states all inmates regardless of gender, have an option to choose one of the following state-issued underwear options: boxers, unisex boxers, or panties. Male inmates who have undergone hormone treatment, and, as a result, developed breasts, will be permitted to request a medical evaluation to determine whether a medical basis exists requiring the inmate be provided a bra. If the inmate disagrees with the result of the medical evaluation, he/she may appeal the decision of the Director.

...

**Q. PREA Standard Secure Facility 115.42 a-g / Community Facility 115.242 a-g Use of Screening Information**

1. Facilities will utilize information from the risk screening to inform housing, bed, work, education and program assignments with the goal of keeping those inmates who are at high risk of being sexually victimized from those who are at high risk of being sexually abusive. The institution’s physical plant, staffing levels, size, and number of programs and services, as well as activity schedules, will determine the extent to which separation is possible or contacts minimized. Computer tracking of high risk inmates within an institution may be utilized. Facilities

will make individualized determinations about how to ensure the safety of each inmate. (ACI-3D-10, ACI-3D-12)

2. In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, NDCS shall consider on a case-by-case basis whether a placement would ensure the inmates health and safety, and whether the placement would present management or security problems.
3. Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year and shall consider any threats to safety experienced by the inmate. The PREA Compliance Manager will also complete an in person assessment and submit a written report that will be maintained in the inmates file indicating a review was conducted.
4. A transgender or intersex inmate's own views with respect to the inmate's own safety shall be given serious consideration.
5. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.
6. NDCS shall not place lesbian, gay, bisexual, transgender or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

**State Policy:** Nebraska Department of Correctional Services Policy No. 201.03. Identification of Potential Aggressors and Victims, revised July 31, 2022.

#### **I. SCREENING PROCEDURES: (PREA standard Secure facilities -115.41 a-c/ Community facilities-115.241 a-c)**

All inmates shall be assessed during an intake screening at reception facilities and upon each transfer to another facility for their risk of being sexually abused/assaulted by other inmates or sexually abusive toward other inmates. This screening shall ordinarily take place within 72 hours of arrival at the facility and be conducted using an objective screening instrument.

...

**C.** The intake screening shall consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization:

1. Physical condition/weakness makes him/her vulnerable (unrelated to age)
2. Slight physical stature (short and/or thin)
3. Smaller, unassertive, lacks self-confidence, timid or withdrawn
4. Vulnerable to sexual victimization due to nature of his/her crime (sex offender or all non-violent offenses in history)
5. Cognitive concerns/comprehension difficulties (difficulty answering questions/special education placement)
6. Reports history of sexual victimization
7. Age related vulnerability (young/naïve or older/fragile)
8. Detained for immigration purposes only
9. Inmate concerned about assault, pressuring, victimization
10. Inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming
11. History of serious mental or physical disability
12. Passively acknowledges homosexuality

...

E. Designated staff will notify housing unit, mental health and case management staff of inmates rated high for aggression or victimization for further review and monitoring.

F. If the screening indicates an inmate has experienced prior sexual victimization or has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, that inmate shall be offered a follow-up meeting with mental health staff within 14 days of the intake screening. Mental Health will complete the Mental Health Screening form (Attachment A).

## **II. FOLLOW UP ASSESSMENTS (PREA standard Secured facilities 115.41f/ Community facilities (115.241f)**

Within a set time period not to exceed 30 days from the inmate's arrival at the facility, the facility will reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the 72 hour intake screening. When an inmate is transferred to another facility the inmate must be screened within 72 hours of arrival and then again within a set time frame not to exceed 30 days.

## **V. REASSESSMENTS USING THE POTENTIAL FOR SEXUAL ASSAULT/SEXUAL VICTIMIZATION SCREENING INSTRUMENT (PREA standard Secured facilities 115.41g/Community facility 15.241g).**

...

F. Review and rescore each known transgender inmate twice a year. If this rescore suggests any change in the inmate's aggression or victimization potential, changes to the inmate's housing, programming and work assignments shall be made as appropriate.

**State Policy:** Nebraska Department of Correctional Services Policy No. 010.08, Transfer Order, revised Dec. 31, 2021.

## **III. CLEARANCE FOR TRANSFER**

Each inmate, whether on initial transfer from the DEC or the Nebraska Correctional Center for Women (NCCW) or an inter-institution transfer shall be thoroughly screened and appropriate clearance for transfer given by designated team members. Information required on either the Initial Transfer Order or the Inmate Transfer Order forms shall be accurately completed, with special attention given to the following:

### **C. Reason for Transfer**

A specific explanation of the need for transfer is to be stated; i.e., routine transfer, inappropriate custody, pending disciplinary action (identify specific charges), approved for community programming, parole violation pending preliminary hearing/revocation hearing (identify specific charges, i.e. programming needs, pending investigation and/or restrictive housing placement needs, custody change, etc.).

### **D. Medical Clearance**

Facility medical team members shall review each transfer to determine appropriateness for placement at the intended facility. Consideration should be given to specific medical needs, pending appointments, accessibility/accommodation needs, etc. Medical team members shall note specific details if their recommendation differs from the transfer order. Facility team members shall consult with Central Office classification team

members when the medical review is in conflict with agency security needs and/or individual programming needs.

## Nevada

**State Policy:** Nevada Department Of Corrections Administrative Regulation 573, Prison Rape Elimination Act Screening and Classification, effective March 1, 2018.

### **573.01 PREA SCREENING AND CLASSIFICATION**

1. All inmates shall be assessed, during intake and upon transfer to another facility, for their risk of being sexually abused by other inmates or sexually abusive toward other inmates in accordance with federal PREA standards.

**A.** Initial screening should take place as soon as possible, but shall be completed within 72-hours of arrival at an institution or facility.

**C.** Transgender/Intersex inmates will be reassessed every six (6) months for placement and programming needs.

### **573.02 INSTITUTIONAL PLACEMENT BASED ON GENDER IDENTITY**

1. In deciding whether to assign a transgender or intersex inmate to a facility/institution for male or female inmates, and in making other housing and programming assignments, the agency shall consider, on a case-by-case basis, whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security risks. Reference should also be made to Administrative Regulation 494. the following factors will be taken into account for housing and programming:

**a.** A transgender or intersex's own views with respect to his or her own safety;

**b.** Transgender or intersex inmates shall be given the opportunity to shower separately from other inmates; and

**c.** Lesbian, gay, bisexual, transgender, or intersex inmates will not be placed in dedicated facilities, units, or wings solely on the basis of such identification or status.

2. A classification review committee consisting of a certified medical/mental health practitioner, Inspector General's Office, PREA management team member, and a designated staff member from Offender Management will determine appropriate institutional placement of a transgender or intersex inmate based on the review.

**a.** The classification review committee will conduct an individual assessment based upon their specific area of expertise, knowledge, and control.

## New Hampshire

**State Policy:** New Hampshire Department of Corrections Policy and Procedure Directive Statement No. 6.85, Standards for Treatment of Gender Dysphoria, May 2014, reviewed May 2015.

### **C. Housing and Facility Transfer**

**a.** In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the NHDOC shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems and document such reasoning in writing.

**b.** All housing determinations shall be made in accordance with the Prison Rape Elimination Act ("PREA") and its implementing regulations.

**State Policy:** New Hampshire Department of Corrections Policy and Procedure Directive No. 5.19, Prison Rape Elimination Act Procedures, March 2014, reviewed March 2020.

### **F. Classification**

...

**9.** In deciding whether to assign a transgender or intersex inmate to a facility and in making housing and program assignments, classification should consider on a case-by-case basis whether the placement will ensure the person's health and safety, and whether the placement would present management or security problems. Placement and program assignments shall be reassessed at least twice each year to review any threats to safety experienced by the person. The person's own views with respect to his or her own safety shall be given serious consideration.

**10.** Lesbian, gay, bisexual, transgender or intersex inmates shall not be placed in dedicated facilities or housing units solely on the basis of such identification or status.

## New Jersey

**State Policy:** New Jersey Department of Corrections Internal Management Procedure No. PCS.001.TGI.01, Transgender, Intersex and Non-Binary Inmates, effective Dec. 15, 2019, revised July 1, 2021, to be reviewed on or about July 1, 2023.

### III. POLICY

It is the policy of the NJDOC to address the needs of transgender, intersex, and non-binary inmates in a manner consistent with federal Prison Rape Elimination Act (PREA) standards, the New Jersey Law Against Discrimination (NJLAD), and in accordance with departmental regulations, policies and procedures.

Once the NJDOC learns and confirms an inmate's gender identity, using the procedures laid out in this document, it shall determine the inmate's facility and housing unit assignment, with a presumption that the inmate will be housed in line with their gender identity. The PREA Accommodation Committee (PAC) may deviate from the presumptive placement after an individualized determination and upon written certification that the placement would jeopardize the inmate's health and safety. When making such determinations, the inmate's own views with respect to their safety shall be given serious consideration.

...

#### B. Housing and Classification Reviews

**9.** The NJDOC considers whether the particular placement would present management or security problems in all housing and programmatic assignments. This consideration will be applied equally to all inmates, regardless of their sex or gender identity, and may justify a deviation from an inmate's presumptive placement in line with gender identity for cisgender, transgender, intersex, and non-binary inmates alike. Although this consideration therefore applies to Part IV.B of this document, under no circumstances will a transgender, intersex, or non-binary inmate's placement in line with their gender identity be considered a management or security problem solely due to their gender identity.

**10.** Once the NJDOC learns and confirms the gender identity of an inmate using the procedures laid out in this document, it shall determine the inmate's facility and housing unit assignment, with a presumption that the inmate will be housed in line with their gender identity. The PREA Accommodation Committee (PAC) may deviate from the presumptive placement after an individualized determination and upon written certification that the placement would jeopardize the inmate's health and safety.

**a.** In some cases, NJDOC may learn and confirm that an inmate's gender identity is neither male nor female. In such cases, inmates shall be housed in the most appropriate placement, taking into consideration whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems. The inmate's own views with respect to their safety shall be given serious consideration.

**3.** In deciding transgender inmates' precise housing and programming assignments, pursuant to PREA Standard 115.42 (b-e), the NJDOC makes individualized determinations about how to ensure the safety of each inmate, and considers on a case-by-case basis whether a particular placement would ensure the inmate's health



and safety. When determining such assignments, the transgender inmate's views with respect to their safety shall be given serious consideration. At all times, the facility assignment will be in compliance with Parts IV. B.1-2 of this document.

4. A transgender, intersex, or non-binary inmate's housing assignment will be reviewed by the PREA Accommodation Committee (PAC) as follows:

a. At all times, the PAC will ensure that the inmate's facility assignment complies with Parts IV.B.1-2 of this document. If the PAC has a substantiated, credible, and non-discriminatory basis for believing that an inmate is not sincere in their assertion of their gender identity and is asserting it for an improper purpose, the PAC may ask further questions to better understand the inmate's identity and offer the inmate a fair opportunity to present additional information. The PAC must make a written record of the basis for its belief, which shall be included in the inmate's classification file and available to the inmate should they challenge the PAC's decision pursuant to Part IV.B.3(e) or other procedures.

b. Because multiple classifications and placements exist for male inmates within male facilities and female inmates within female facilities, in deciding the specific placement for a particular inmate, the PAC will consider:

- i. All aspects of an inmate's social and medical transition when formulating recommendations to address safety and privacy concerns, including factors such as behavioral history, institutional adjustment, overall demeanor, and likely interactions with other inmates; and the inmate's own views with respect to safety.
- ii. Whether a placement would threaten the orderly operation, management and security of the correctional facility and/or pose a risk to other inmates in the facility (e.g., considering inmates with histories of trauma, privacy concerns, etc.). This consideration will be applied equally to all inmates, regardless of their gender identity.

**iii. The following factors on a case-by-case basis:**

- 1. The Gender Identity Information Form, if completed;
- 2. custody level and sentencing information;
- 3. criminal history;
- 4. institutional disciplinary history;
- 5. current gender expression;
- 6. the inmate's own views regarding safety;
- 7. medical and mental health needs/information/status;
- 8. compliance with medically recommended treatments;
- 9. vulnerability to sexual victimization;
- 10. likelihood of perpetrating sexual abuse;
- 11. facility-specific factors including physical layouts; and
- 12. any other relevant information.

These factors are also considered on a case-by-case basis in deciding the specific placement for a cisgender inmate.

iv. The considerations outlined in Part IV.B.3(b)(i) through (iii) shall not apply to decisions to place a transgender inmate in a facility in line with their gender identity.

...

- 5.** The housing assignment/transfer of inmates approved to be housed in a different facility due to their gender identity will be handled in accordance with all applicable operational policies and procedures and the provisions set forth in N.J.A.C. 10A.
- 6.** In keeping with PREA standard 115.42, the particular placement of a transgender, intersex, or non-binary inmate shall be reassessed by the IPCM and supplemental staff as deemed appropriate by the facility Administrator, or the Administrator's designee, at least twice each year.
- ...
- 8.** In accordance with PREA standards, all transgender, intersex, and non-binary inmates will receive an in-person review every six months to assess the inmate's institutional adjustment and safety. The PREA Compliance Manager will meet with the inmate prior to this review and complete the Gender Identity Information Reassessment form. This form will be maintained by the IPCM. A record of these reviews will be recorded and maintained in the inmate's iTAG Progress Notes.
- 9.** In keeping with PREA standard 115.42, NJDOC shall not place transgender, intersex, or non-binary inmates in dedicated facilities, units, or wings solely on the basis of such identification or status.

## New Mexico

**State Policy:** New Mexico Corrections Department No. CD-150800, Transgender, Intersex, and/or Gender Non-Conforming, reviewed and revised March 11, 2022.

**D.** Inmates are screened within 24 hours of arrival at the facility for potential vulnerabilities or tendencies of acting out with sexually aggressive behavior. Housing assignments are made accordingly.

...

**G.** The facility shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. If the inmate's genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner. [§115.15e]

**H.** The agency shall use information from the risk screening required by § 115.41 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. [§115.42a]

**I.** The agency shall make individualized determinations about how to ensure the safety of each inmate. [§115.42b]

**J.** Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate. [§115.15d]

...

1. During intake and the initial classification screening and when determining whether inmates are transgender or gender non-conforming, the following shall be taken into consideration:
  - a. Inmate appearance and behavior and whether or not it matches the gender marker on the inmate's arresting paperwork or identification materials
  - b. Self-Reporting from the inmate
  - c. Inmate's past history, if known
  - d. Any alerts from the transporting agency
2. Any other documentation that may be available to intake and classification staff upon initial screening to include:
  - a. Gender identity
  - b. Gender marker on identification documents
  - c. Social gender role in the community prior to incarceration (i.e. was the person living daily life as a man or woman)
  - d. Any past diagnosis or treatment for Gender Dysphoria.
  - e. The inmate's views regarding the safest placement option.
  - f. An assessment by medical and mental health staff of the potential health impact of placement in a male or female setting (e.g. on PTSD or Gender Dysphoria).
3. The inmate should be temporarily housed in a single cell, for his or her own protection, and the paperwork be immediately and confidentially forwarded to The Cabinet Secretary or Director of Adult Prisons.
4. The inmate may choose to fill out a Transgender Preference Form documenting the individual's preferred pronoun and name. The form will be retained in the inmate's file in the classification section.

5. If the intake process and classification has determined that an inmate is transgender, intersex, or gender non-conforming they will contact the Director of Adult Prisons in a confidential manner for further assessment in placing the inmate within seventy-two (72)

...

**B. Transgender Advisory Group**

1. The Cabinet Secretary or Director of Adult Prisons will assign a Transgender Advisory Group when notified by intake/classification that an inmate presents as transgender, intersex, or gender non-conforming to determine individualized placement in an appropriate facility. The group will take into consideration the needs, vulnerability and safety of the inmate as well as the safety of the current population at the receiving facility.

2. In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the Transgender Advisory Group shall consider on a case-by-case basis whether a placement would ensure the inmate’s health and safety, and whether the placement would present management or security problems. [§115.42c]

3. The agency shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.[115.42g]

4. The Transgender Advisory Group will review the intake and classification documentation and make a determination as to the placement of the individual in an expeditious manner.

...

5. A transgender or intersex inmate’s own views with respect to his or her own safety shall be given serious consideration. [115.42e]

6. If needed, the Transgender Advisory Group may consult with an identified member of the Transgender Resource Center of New Mexico who is knowledgeable with the issues surrounding transgender and gender nonconforming people to advise on appropriate housing to the classification officer and/or the programs and services needed by the individual.

...

8. The Transgender Advisory Group will make decisions based on majority within fourteen (14) days of the inmate’s intake date. The decisions made are for advisory only and can be overridden, changed, or enhanced by the [SIC] The Cabinet Secretary or Director of Adult Prisons at any time during the process.

...

**Attachment C** . . . To be filled out either by an offender or a staff member with input from the offender. Requests the following information: Birth Sex; Gender Identification; Transgender: MTF or FTM; Name Preference: Pronoun Preference (He/She); Housing Preference: Male Unit, Female Unit or no preference; preference to be searched by a male or female staff member.

**State Policy:** New Mexico Corrections Department, CD-150800, Transgender, Intersex, and/or Gender Non-Conforming (March 11, 2022)

To be filled out either by an offender or a staff member with input from the offender. Requests the following information: Birth Sex; Gender Identification; Transgender: MTF or FTM; Name Preference: Pronoun Preference (He/She); Housing Preference: Male Unit, Female Unit or no preference; preference to be searched by a male or female staff member.

**State Policy:** New Mexico Corrections Department No. CD-150100, Offender Protection Against Abuse; Sexual Misconduct; Reporting Procedures; PREA, revised May 29, 2020, reviewed March 26, 2021.

I. Inmates shall be screened within 48 hours of arrival at the facility and reassessed 25 days after the inmate's arrival, for potential vulnerabilities or tendencies of acting out with sexually aggressive behavior. Inmates will be reassessed thereafter due to a referral, request, incident of sexual abuse or sexual harassment, or receipt of additional information that bears upon an inmate's risk of sexual victimization or abusiveness. Housing and program assignments will be made accordingly. Transgender and Intersex inmates shall be screened every six months. In the event of an incident, both the inmate perpetrator and/or inmate victim will be re-screened.[4-4281-2] [§115.41]

...

K. Transgender and intersex inmates shall not be searched or examined by non-medical staff for the sole purpose of determining the inmate's genital status. Genital status shall be determined by interviews or medical records reviews. A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration.

[§115.15] [§115.42]

**Local Bernalillo County Policy:** Bernalillo County Metropolitan Detention Center No. SEC 8.17, Inmate Searches, revised May 2022.

Staff are prohibited from searching of physically examining a transgender or intersex inmate for the sole purpose of determining the inmate's genital status.

**Local Bernalillo County Policy:** Bernalillo County Metropolitan Detention Center No. ICL 17.00, Classification / Screening / Housing Categories / Non-Discrimination, effective July 15, 2013.

#### H. General Housing Assignments:

...

2. In addition to other relevant information, Classification staff will also consider the screening for risk of victimization and abusiveness conducted pursuant to Policy.
3. In deciding whether to assign a transgender or intersex inmate to the MDC for male or female inmates, and in making other housing and programming assignments, the facility will consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.
  - a. A transgender or intersex inmate's own view with respect to his or her own safety will be given serious consideration.
4. Transgender and intersex inmates will be given the opportunity to shower separately from other inmates regardless of where they are housed.
5. MDC will not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated units or pods solely on the basis of such identification of status, unless such placement is in a dedicated unit or pod established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

**Local Santa Fe County Policy:** Santa Fe County Adult Detention Facility No. J-B-05, Inmate Protection Against Abuse and Sexual Misconduct Reporting Procedures, revised Jan. 31, 2020.

8. Inmates must be screened within 24 hours of arrival at the facility by the case manager assigned to booking. Inmates must be re-screened within 30 days after the inmates arrival by the respective case manager assigned to the inmates unit, for potential vulnerabilities or tendencies of acting out with sexually aggressive behavior. In the event of an incident, both the inmate perpetrator and/or inmate victim will be re-screened within 14 days (conducted by the unit’s assigned case manager). Inmates will also be re-screened due to a referral, request, incident of sexual abuse, or receipt of additional information that bears upon an inmates risk of sexual victimization or abusiveness. Housing and program assignments will be made accordingly. Transgender and Intersex inmates shall be screened every six months. [§115.41] [4-ALDF-4D-22-1] [SC-59]

14. Transgender and intersex inmates shall not be searched or examined by non-medical staff for the sole purpose of determining the inmate’s genital status. Genital status shall be determined by interviews or medical records reviews. A transgender or intersex inmates own views with respect to his or her own safety shall be given serious consideration. [§115.15] [§115.42]

**Local Doña Ana County Policy:** Doña Ana County Detention Center No. SOP 2A-29, Prison Rape Elimination Act, dated March 1, 2020.

**A. Cross Gender Viewing and Searches/Searches of Transgender Detainees [§ 115.15]**

**a. Searches . . .**

iv. No staff member shall conduct a search of a transgender or intersex detainee solely for the purpose of determining genital status. If the detainee’s genital status is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

**C. Use of Information Obtained from Screening [§ 115.42]**

- a. The Detention Center shall use information from the risk screening to inform housing, bed, work, education, and program assignments with the goal of keeping separate those detainees at high risk of being sexually victimized from those at high risk of being sexually abusive.
- b. The Detention Center shall make individualized determinations about how to ensure the safety of each detainee.
- c. In deciding whether to assign a transgender or intersex detainee to a facility for male or female detainees, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the detainee’s health and safety, and whether the placement would present management or security problems.
- d. Placement and programming assignments for each transgender or intersex detainee shall be reassessed at least twice each year to review any threats to safety experienced by the detainee.
- e. A transgender or intersex detainee’s own views with respect to his or her own safety shall be given serious consideration.
- f. Transgender and intersex detainees shall be given the opportunity to shower separately from other detainees.
- g. The Detention Center shall not place lesbian, gay, bisexual, transgender, or intersex detainees in dedicated facilities, units, or wings solely on the basis of such identification or status unless pursuant to a legal settlement or judgment.

## New York

**State Policy:** State of New York Department of Corrections and Community Supervision (DOCCS) Administrative Directive No. 4021, Inmate Reception/Classification, dated Jan. 23, 2019.

### **Transfer to a General Confinement Facility. . .**

5. Each inmate shall be re-assessed by an ORC (Offender Rehabilitation Coordinator) for their risk of being sexually abused by other inmates or sexually abusive toward other inmates using the gender appropriate PREA Risk Screening Form #115.41M or Form #115.41F, in accordance with the facility-specific PREA Risk Screening Facility Operation Manual. Sexual orientation and gender identify information from the PREA Risk Screening shall be used to assign Other Security Characteristics as appropriate.

. . .

### **Transgender/Intersex Inmate Classification and Placement**

1. An inmate who identified as transgender, intersex, or gender non-confirming during PREA Risk Screening, or who has a diagnosis of Gender Dysphoria or Intersex (identified via extended classification codes), shall be asked additional questions by their ORC using the "Gender Identity Interview," Form #115.41GI, regarding their gender identification, expression, and preferences. The interview will also document the inmate's statement regarding their safety in connection with decisions regarding their housing and placement. Information from the Gender Identity Interview will be used to assist the Department in making an individualized assessment of the inmates placement and program assignments in order to maximize the inmates safety.
2. Upon request from an inmate who identifies as transgender or intersex for a transfer from a male classified facility to a female classified facility, or vice versa, the ORD shall notify the Supervising Offender Rehabilitation Coordinator (SORC) upon completion of the Gender Identity Interview, Form #115.41GI. The SORC shall notify the Deputy Superintendent for Program Services and the facility's designated Assistant Deputy Superintendent PREA Compliance Manager. The Deputy Superintendent for Program Services/Deputy Superintendent for Reception/Classification shall notify the Director of Classification and Movement of the inmate's request via electronic mail, including the completed Form #115.41GI, and the most recently complete gender-appropriate PREA Risk Screening Form #115.41M or Form #115.41F, which shall be used to assist the Department in making an individualized assessment of the inmate's placement and program assignments, in order to maximize the inmate's safety. The request will be forwarded to the Central Office Transgender Placement Review Committee for a case-by-case assessment. Housing assignment by gender identify will be made when appropriate.
3. An inmate who identifies as transgender or intersex will not be placed in a gender-specific facility, housing unit, or program based solely on their external genital anatomy.
4. A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration.

**Local New York City Policy:** The City of New York Office of the Mayor Executive Order No. 16, Access to Single-Sex City Facilities Consistent With Gender Identity and Expression, March 7, 2016.

WHEREAS, it is the policy of the City of New York that transgender and gender non-conforming people be assured of their right to access to single-sex facilities controlled by the City so that they enjoy equal treatment in the terms and conditions of City employment and the ability to access City services;

...

**Section 2. Single-Sex Facility Policy.** All employees of City agencies (“Agencies”) and all members of the public using City services must be allowed to use the single-sex facility within facilities owned or operated by the City that most closely aligns with their gender identity or expression without being required to show identification, medical documentation, or any other form of proof or verification of gender.

**Local New York City Policy:** The City of New York Department of Correction (DOC) Administrative Directive 4498R-A, Lesbian, Gay, Bisexual, Transgender, Intersex, Gender Non-Binary and Gender Non-Conforming Inmates, with Attachments, dated December 3, 2014 effective October 22, 2019.

### **I. Purpose**

This policy is intended to provide a housing determination process that most closely aligns with an individual’s gender identity and provide supplemental guidelines to staff on operational issues related to LGBTI-GNC-GNB inmates, including identification, searches, housing and programming decisions, and access to programs, services, commissary, toiletries, and clothing items.

...

### **B. Guidelines**

#### **1. Facility Determination**

- a. In deciding housing placement for a transgender, intersex, or gender non-binary inmate, the Department shall consider on a case-by-case basis whether a placement would ensure the inmate’s health and safety, and whether the placement would present management or security concerns. Persona shall be housed in the facility consistent with their gender identity, absent overriding concerns for the detained person’s safety.
- b. The SCDU (Special Consideration Determination Unit) is responsible for making case-by-case decisions about the housing and placement of a transgender/intersex inmate and gender non-binary inmates.
- c. Decisions are based on, but not limited to, the following, when determining risk of vulnerability and safe placement of each transgender, intersex and gender non-binary individual:
  - d. The inmates own views of where they feel safest, as documents on the SCH form, shall be given serious consideration. If an inmate changes their mind of where they feel safest, a new form must be completed and submitted to the SCDU;
  - e. The inmates prior institutional history (to include incidents and grievances);
  - f. The inmates prior violent or sexual crime history;
  - g. Whether the inmate is at risk because the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, gender non-confirming, or gender non-binary;
  - h. The inmates gender identify including any designation from the PREA Intake Questionnaire (Form PREA-2);
  - i. Whether the inmate has previously experienced sexual victimization;
  - j. The inmate’s physical appearance, age, and physical build;
  - k. Any relevant information obtained about the inmate from the PREA unit, security staff or medical and mental health staff, including information received since arrival;
  - l. Whether the placement would present management or security problems;



- m.** Separation orders or requests between inmates and/or staff; and
- n.** Any other relevant information about the inmate, including information that would present management or security problems.
- o.** A final determination shall be made by the SCDU. The SCDU will provide its determination for appropriate housing within three (3) business days excluding holidays, unless extenuating factors exist which would require an extension of such time limit. Extenuating factors must be documented and verifiable. The SCDU must retain records concerning all housing applications and determination for no less than three (3) years.
- p.** LGBTI-GNC and GNB inmates will be processed identified by themselves or by facility staff (at any time while in custody), and processed according to defined procedures.

## 2. Identifying LGBTI-GNC and GNB Inmates

- a.** When identifying LGBTI-GNC and GNB Inmates the following should be taken into consideration:
  - i.** Inmate self-reports
  - ii.** Information provided by the PREA Unit.
  - iii.** Information provided by the Health Care Provider.
  - iv.** Information contained in the Securing Order.
- b.** Inmates who are known to the Department to identify as transgender, intersex, or non-binary, or who have self-identified as such, shall be given the opportunity to complete the “Special Considerations Housing Form” (Attachment – A) during intake, booking or at any time while in the Department’s custody. This is an ongoing obligation.
- c.** Inmates may request the Special Considerations Housing Form from the Department any time after intake, while in the Department’s custody.
- d.** The Department shall consider all Health Care provider referrals for placement in the SCU.
- e.** Process for Transgender, Intersex and Non-Binary Individuals
  - i.** Inmates with securing orders that indicate male shall start their custody at a male housing facility. Those inmates who identify as transgender, intersex or non-binary during their PREA screening and meet the guidelines for facility level determinations set forth in paragraphs IV.B.1.c. shall be transferred to a female housing facility for intake and transgender/intersex new admission processing to await determination of the SCDU.
  - ii.** Those individuals whose securing order indicate male; and who identify as gender non-binary during their PREA screening, shall continue through the intake and new admission process at the male housing facility to await a determination from the SCDU.
  - iii.** Inmates with securing orders that indicate female or transgender female shall start custody at a female housing facility. Inmates who identify as transgender, intersex or gender non-binary during PREA screening and meet the guidelines for facility determinations set forth in paragraph III.B.1.c shall remain at the female housing facility, complete the intake and transgender/intersex new admission process and await determination from the SCDU.
  - iv.** All inmates who identify or have been identified as transgender, gender non-binary or intersex must complete the SCH form (Attachment – A) during the intake process.

- v. The facility, command, or division accepting an inmate's written SCH form shall immediately forward the form to the SCDU for processing via email [SCDUCommittee@doc.nyc.gov](mailto:SCDUCommittee@doc.nyc.gov).
  - f. The Special Considerations Determination Unit will provide its written determination for appropriate housing within three (3) business days excluding holidays, unless extenuating factors exist, which would require an extension of such time limit. Extenuating factors must be verifiable, and the reason must be documented.
  - g. An inmate's self-identification as transgender, intersex, and gender non-binary shall be sufficient for consideration for housing by gender identity absent evidence that the inmate is requesting admission for reasons unrelated to identifying as such, or if there are security or management concerns preventing placement within SCU and/or female facility.
- 3. Inmates who qualify will be housed based on their gender identity in a facility determined by SCDU.**
- a. Inmates who have indicated a preference for a female facility will be housed either in SCU or considered for placement in an otherwise appropriate housing unit in the female facility (i.e., General Population Unit).
    - i. Admission to SCU will be on a voluntary basis.
    - ii. Inmates who do not qualify to be housed at a female housing facility and/or SCU or who have listed a preference to be housed at a male facility that is determined to be appropriate will be transferred to a male housing facility for processing.
    - iii. Such inmates should be interviewed for Protective Custody (PC).
  - b. Justification for denial to housing in the inmate's requested housing facility must be documented in writing and notice of the determination and their right to reconsideration provided to the inmate.

**Local New York City Policy:** The City of New York Department of Correction (DOC) Administrative Directive 5011R-A Elimination of Sexual Abuse and Sexual Harassment, effective May 31, 2019.

## **5. HOUSING LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND INTERSEX INMATES**

- a. In deciding whether to assign a transgender or intersex inmate to a male or female facility and in making other housing and programming assignments, the Department shall consider on a case-by-case basis whether a placement would ensure the health and safety of the inmate and whether the placement would present management or security problems.
- b. Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experiences by the inmate.
- c. A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration.
- d. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.
- e. The Department shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings based solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit or wing established in connection with a consent decree, legal settlement or legal judgment for the purpose of protecting such inmates.

d. For more information as it pertains to lesbian, gay bisexual, transgender, intersex, gender non-binary and gender non-conforming inmates, see Directive 4498, “Lesbian, Gay, Bisexual, Transgender, Intersex and Gender Non-Forming Inmates.”

**Local Steuben County Policy:** Steuben County Sheriff’s Office, General Order 16, Transgender, Intersex, Gender, Non-Binary, and Gender Nonconforming People in Custody, effective June 1, 2020.

### **E. Housing**

1. Housing determinations shall be individually tailored and based upon classification factors and an evaluation of the inmate’s emotional and physical well-being and in compliance with NYS Commission of Correction regulations.
2. A person taken into custody shall, if that person so desired, have the right to request placement in a sex-segregated unit . . . that is consistent with that person’s gender identity and affirmed sex. The Sheriff and jail shall make a reasonable effort to grant such a request if in accordance with the security requirements of the facility, as set forth in paragraph (3) of this section.
3. If the Sheriff, Jail Superintendent, medical staff, or mental health staff have significant safety, security or health concerns related to a person’s stated housing preference pursuant to paragraph (1) above, the Sheriff or designee may, on a case-by-case basis, deny that person’s housing placement request

**North Carolina**

**State Policy:** North Carolina Department of Public Safety Policy and Procedure Ch. F Section .3400, Offender Sexual Abuse and Sexual Harassment Policy, issued June 9, 2022.

**(M)** The transgender or intersex offender, upon self-disclosure, may be housed temporarily in a single cell or bed with officer visibility until the Facility Transgender Accommodation Review Committee (FTARC) convenes and determines permanent housing placement based on the offender’s concerns for safety, request for accommodations, screening information, and high-risk status.

...

**(3) Use of Screening information:**

**(A)** The information from the screening for risk of victimization and abusiveness shall be used to inform housing, bed, work, education, and program assignments with the goal of keeping separate those offenders at high risk of being sexually victimized from those at high risk of being sexually abusive.

**(B)** The following procedures will be followed to manage housing and bed assignments:

**(i)** Any offender identified as a high-risk abuser or high risk of being sexually victimized shall be restricted from double-cell housing (5-ACI-2C-02).

...

**(iv)** The facility shall make individualized determination for bed assignments, based on facility housing designs, to ensure the safety of each offender.

[ . . . ]

**(E)** In deciding whether to assign a transgender or intersex offender to a facility for male or female offenders, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the offender’s health and safety, and whether the placement would present management or security problems.

**(F)** Placement and programming assignments for each transgender or intersex offender shall be reassessed by the case manager at least twice each year to review any threats to safety experienced by the offender.

**(G)** A transgender or intersex offender’s own views with respect to his or her own safety shall be given serious consideration.

**(I)** The agency shall not place lesbian, gay, bisexual, transgender, or intersex offenders in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such offenders (5-ACI-4B-34).

**State Policy:** North Carolina Department of Public Safety Policy and Procedure Ch. F, Section .4300, Evaluation & Management of Transgender Offenders, amended July 13, 2021.

**(f)** A transgender offender requesting accommodation shall be scheduled for an interview with the Facility TARC.

...

**(g)** The Facility TARC process should reflect individualized consideration and review.

...

(h) The transgender offender shall be informed of any Facility TARC privacy and housing recommendations within 48 hours of the meeting.

...

(A) When the transgender offender requests accommodation related to their gender identity, the multidisciplinary Facility TARC will convene.

(B) A diagnosis of Gender Dysphoria is not required for an offender to be considered for accommodation.

...

(G) All accommodation requests will be reviewed on a case by case basis considering the offender’s medical and mental health history as well as risk safety profile.

...

(E) Facility housing considerations – Offender may be approved for alternate housing assignments within the facility to enhance staff supervision.

...

Non-routine accommodation requests shall be reviewed by the Facility TARC and forwarded to the Division TARC for review . . . When reviewing non-routine accommodations, the Division TARC will consider on a case-by-case basis whether an accommodation will ensure the offender’s health and welfare without compromising facility safety and security.

All accommodation requests for surgical intervention or gender-identity-consistent facility transfer shall be reviewed by the Division TARC with recommendations referred to the Assistant Commissioner of Prisons and Director of Health & Wellness Services for review and determination.

...

**The Division TARC will review non-routine accommodations to include but not limited to:**

(B) Gender-consistent facility assignment – Decisions to transfer an offender to a facility consistent with their gender identity are not permanent and will be continually reassessed for safety and security considerations.

...

**.4307 ADDITIONAL CONSIDERATIONS AND PROVISIONS**

...

(4) An offender shall not be placed in Restrictive Housing on the basis of gender identity alone (5-ACI-4B-34).

**State Policy:** North Carolina Department of Public Safety, Policy and Procedures, Ch. E, Section .2600, Reasonable Accommodations for Offenders with Disabilities, issued March 31, 2021.

**.2604 DEFINITIONS**

(a) Disability . . .

(4) The following conditions do not constitute disabilities: transvestitism, transexualism . . . gender identity disorders not resulting from physical impairments. . .

**.2605 POLICY**

It is the policy of Prisons to establish procedures for an offender to request an accommodation for a qualified disability that affects a major life activity and to ensure that:

(a) Every offender, including an offender with a qualified disability, shall be housed in a manner that provides for their safety and security(5-ACI-2C-11);

- (b) Reasonable accommodations are made only if the accommodations pose no direct threat to the individual requesting the accommodation or cause an undue hardship on Prisons;
- (c) Reasonable accommodations shall be made to the physical structure of housing for an offender with a qualified disability to accommodate for the physical limitations of the disabled offender and facilitate the offender's inclusion in facility life(5-ACI-2C-11);
- (d) The Facility ADA Coordinator will ensure visually impaired offenders are assigned to bottom bunks in their assigned living area.
- (e) Reasonable accommodations shall be made to facility jobs, programs, activities, and services to permit accessibility by a qualified offender with a disability(5-ACI-2C-11);

Please note, the Fourth Circuit rejected a reading of the ADA "that would exclude gender dysphoria from the ADA's protections." See *Williams v. Kincaid*, 45 F.4th 759 (4th Cir. 2022).

**Local Mecklenburg County Policy:** Mecklenburg County Sheriff's Office Classification Policy No. 4.35, PREA-Classification, effective Sept. 2020.

#### **IV. Procedure:**

- A.** Within 72 hours of incarceration, excluding holiday and weekends, the Initial Assessment Team (IAT) will review all collected information provided from the Intake and booking process; and that provided by the resident(s). Additionally, the Initial Classification Questionnaire (ICQ) shall be completed to further substantiate determinations made on identified LGBTI residents. Moreover, the residents' current charges, DCI, and past or present institutional behaviors, past or present history of Sexual Assaultive offenses will be considered as part of the housing process.
- B.** The IAT will make notification to the Classification Agent of an identified LGBTI resident whose gender is to be determined.
- C.** The Gender Committee shall conduct a hearing, which is to be documented in the Offender Management System (OMS). The Committee shall consider all available information and records when determining gender and appropriate housing. Identified LGBTI residents shall not be placed in segregated or protective custody based solely on their gender and physical characteristics. The identified LGBTI resident shall be present for the hearing regarding both gender designation, classification level, and housing; and has the right to speak and present information.
- D.** The Committee shall determine if the resident will be housed in general housing or protective custody consistent with the determined gender identity and/or genitalia. The Committee shall document the decision/recommendation action within the Medical section of OMS. The Major of the Facility shall be provided the information, and may approve, override, or amend the Committee's decision, in writing, to the Gender Committee. Once final determination has been deemed, the affected resident shall be made aware of the findings in writing by the Committee or Classification Section.
- E.** IAT will assess residents based on factual criteria and apparent needs, rather than personal biases, conflicts, values, or prejudices.
- F.** During the ICQ interviews, IAT members shall screen each LGBTI resident for individual placement decisions that prioritize the physical safety and emotional wellbeing of the resident. Additionally, Form: CR 4.35 Attachment #1 shall be completed.

**G.** Additionally, residents will be assigned to housing units consistent with their custody levels, and with guidance from the Gender Committee.

...

**V.** Housing Managers:

**A.** Any LGBTI resident who remains in custody after their initial court appearance will be assigned a Housing Manager (HMR) based on housing location.

...

**C.** The HMR shall also consider each LGBTI resident's own views with respect to his or her safety while incarcerated.

**D.** Any identified LGBTI resident the HMR feels may be high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of available alternatives has been made, and there is no available alternative means of separation from likely abusers.

...

**F.** The Gender Committee or HMR shall assign such residents to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.

...

**K.** When making housing placement decisions, consider the host of issues specific to LGBTI residents.

## **North Dakota**

**State Policy:** North Dakota Department of Corrections and Rehabilitation Policy No. and Security 4B-07, Gender Non-Conforming Persons, effective Sept. 27, 2012, revised July 18, 2022.

**4. POLICY:** The Department shall provide access to evaluation, housing placement, and access to services for adults in custody who claim to be undergoing or claim to have undergone treatment for Gender Dysphoria; adults in custody who appear to be, or claim to be, gender-non-conforming; and adults in custody having other clinical conditions in which the biological sex or gender assignment is unclear. The Department shall offer appropriate gender-related behavioral health services and other medically care throughout the adult in custody’s incarceration. (4-4305)

**5. PROCEDURES:**

**A. Gender Identity Committee:**

...

**4. Functions:**

a. The committee will discuss any requests from the adult in custody regarding specific treatment, services, housing, and property and determine the course of action.

...

c. The committee will develop an individual management plan that reflects specialized housing and property needs, if applicable.

d. If applicable, the Gender Liaison will work with the facility Treatment Coordinator to assign appropriate staff to develop an individualized treatment plan to address the adult in custody’s specific medical, behavioral health, and adjustment needs and review and the facility Treatment Coordinator will approve the plan prior to its implementation.

...

**4.** Adults in custody who identify as gender non-conforming or transgender, but who do not meet criteria for a Gender Dysphoria diagnosis, may be given special property or housing accommodations based on their individual needs and safety considerations or by their request as required by PREA related policy. These may be done through the committee’s development of an individualized plan without creating an individual treatment plan.

...

**G. Placements of Adults in Custody:**

1. In general, adults in custody are placed in facilities, in accordance with their sex assigned at birth, as determined by the gender indicated on their most recent form of government-issued identification.

2. Exceptions may be made to routine housing practices for adults in custody who identify as gender non-conforming or transgender based on individual needs and the safety concerns of others.

**State Policy:** North Dakota Department of Corrections and Rehabilitation Policy No. and Security 3C-04, (PREA) Prison Rape Elimination Act of 2003, effective Aug. 17, 2011, revised May 12, 2022.

**15. § 115.41/115.341 Screening for Risk of Sexual Victimization and Abusiveness.**



c. Adults in custody and juveniles may not be disciplined for any refusal or nondisclosure during screening regarding gender identity, sexual orientation, intersex condition, disability status, or prior sexual victimization.

**16. § 115.42/115.342 Use of Screening Information.**

a. Adults – Refer to Policy 4A-01, Admission, Reception and Orientation, and Transfers; Policy 4B-07, Gender Non-Conforming Persons; PREA Rating Assessment Manual.

b. Juveniles – Refer to Policy 4A-01, Admission, Screening, Orientation, and Transfers; Policy 4B-07, Gender Non-Conforming Persons.

**State Policy:** North Dakota Department of Corrections and Rehabilitation Policy No. and Security 3A-06, Control of Contraband, Searches of Adults in Custody, Visitors and Facilities, effective March 28, 2011, revised Dec. 10, 2021.

f. Staff may not search or physically examine a transgender or intersex adult in custody for the sole purpose of determining the adult in custody's genital status. [PREA 115.15]

1.) If the adult in custody's genital status is unknown, it may be determined through conversation with the adult in custody, by reviewing medical records, or, if necessary by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

**Ohio**

**State Policy:** State of Ohio Department of Rehabilitation and Correction No. 79-ISA-05, Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI) Policy, effective July 13, 2015.

**LGTBI Screening and Initial Placement**

- 1. All inmates shall be screened for the risk of being sexually abused by other inmates or sexually abusive toward other inmates in accordance with Department Policy 79-ISA-04, PREA Risk Assessments and Accommodation Strategies.
- 2. In addition to the criteria in Department Policies 53-CLS-01, Inmate Security Classifications Levels 1 through 4; 53-CLS-04, Level 5 Classification; and 52-RCP-07, Reception Center Housing Assignments staff shall consider on a case-by-case basis whether the housing assignment for a transgender or intersex inmate would ensure the inmate’s health and safety and whether the placement would present management or security problems.

The transgender or intersex inmate’s own views shall be given serious consideration during the classification process and shall be documented. The PREA Accommodation Strategy Team (PAST), consisting of the Operational Compliance Manager, Unit Management Chief, medical and mental health staff, and other staff as necessary shall complete a PREA Accommodation Strategy in accordance with Department Policy 79-ISA-04, PREA Risk Assessments and Accommodation Strategies, for all transgender and intersex inmates.

...

- 3. LGBTI inmates shall not be placed in dedicated facilities, units, or wings solely on the basis of such identification unless placement in a dedicated facility, unit, or wing has been established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

**State Policy:** State of Ohio Department of Rehabilitation & Correction No. 69-OCH-07, Gender Identification and Treatment, effective August 15, 2021.

**E. Evaluation and Treatment of Gender Dysphoria**

- b. If it is determined that the incarcerated individual satisfies the current DSM5 criteria for gender dysphoria, the diagnosis shall be recorded by Behavioral Health Operations in the incarcerated individual’s EHR.

...

- 2. Referrals for additional accommodations shall be made to the institution’s Accommodation Strategy Team and shall comply with ODRC Policies 79-ISA-04, PREA Risk Assessment and Accommodation Strategies, and 79-ISA-05, LGBTI Policy.

**State Policy:** State of Ohio Department of Rehabilitation and Correction No. 79-ISA-01, Prison Rape Elimination, effective November 15, 2021.

- 1. As set forth in ODRC Policy 79-ISA-04, PREA Risk Assessments and Accommodation Strategies, all incarcerated individuals shall be screened and assessed upon admission to ODRC and for all subsequent intra-system transfers for their risk of being a victim of sexual abuse or their likelihood of committing sexual abuse . . . As a result of these screenings, incarcerated individuals shall be assigned

a PREA classification. The UMC, or in their absence, the acting UMC, shall make appropriate housing assignments based upon PREA classifications by using a PREA accommodation strategy. The PREA accommodation strategy team (PAST) shall make appropriate housing assignments for transgender and intersex incarcerated individuals.

**State Policy:** State of Ohio Department of Rehabilitation and Correction No. 79-ISA-04, PREA Risk Assessments and Accommodation Strategies, effective April 1, 2021.

2. All transgender and intersex incarcerated individuals all receive a special screening at least every six (6) months as set forth in ODRC Policy 79-ISA-05, Lesbian, Gay, Bisexual, Transgender, Intersex (LGTBI) Policy.

**Oklahoma**

**Policy:** Oklahoma Department of Corrections OP-030601, Prison Rape Elimination Act, effective Dec. 1, 2021, revised March 28, 2022.

**VII. Screening/Assessment at Reception Centers (5-ACI-3D-10)**

All inmates receive a mental health screening and/or evaluation, conducted by a trained mental health professional during the initial reception and assessment process within 24 hours of arrival in accordance with OP-140114 entitled "Screening New Arrivals."

...

1. The facility shall use information from the risk screening evaluation in accordance with "Cell Assessment Form" (OP-030102, Attachment A) in order to inform staff making housing, work, education, and program assignments; with the goal of keeping those inmates who are at risk of being sexually victimized separate from those at high risk of being sexually abusive.(PREA 115.42(a), 115.81(d))

- a. Each facility shall make individualized determinations about how to best ensure the safety of each inmate. (PREA 115.42(b))
- b. In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the facility shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.(PREA (115.42(c), 115.242(c))
- c. Placement and programming assignments for each transgender or intersex inmates shall be reassessed at least twice each year to review any threats to safety experienced by the inmate. (PREA 115.42(d))
- d. A transgender or intersex inmate's own view with respect to his or her own safety shall be given serious consideration.(PREA 115.42(e))
- e. Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates. (PREA 115.42(f))

...

- g. Management of gender nonconforming inmates will be handled in accordance with OP-140147 entitled "Determination and Management of Inmates with Gender Dysphoria."
- h. The agency shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates. (PREA (115.42(g), 115.242(g))

**State Policy:** Oklahoma Department of Corrections OP-140147, Determination and Management of Inmates with Gender Dysphoria, effective June 24, 2021.

Inmates may self-identify as transgender, but not have gender dysphoria.

...

Following diagnosis of gender dysphoria, if the inmate requests specific treatment and/or reasonable accommodations, the inmate must submit a "Request for Health Services" (DOC 140117A) form for each housing or treatment request. Housing requests will be submitted to mental health services.

...

#### **D. Housing**

Housing will be in accordance with OP-030601 entitled "Oklahoma Prison Rape Elimination Act." The agency shall not place transgender or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status. Health services staff may make housing recommendations to the facility head, after any necessary medical and/or mental health assessments have been completed. Complex cases that require a more extensive review will be submitted to the Personal Identity Administrative Review Authority (PIARA) by health services staff, a facility's PREA compliance manager, or a facility/unit head.

...

#### **IV. Initiating Review by Personal Identity Administrative Review Authority (PIARA)**

Inmates with a confirmed gender dysphoria diagnosis may have their housing, clothing, and health care needs specific to their gender associated request assessed by PIARA. This committee will consider each inmate on a case-by-case basis to ensure fair, safe, and appropriate management of their gender associated requests. (PREA 115.42/115.242)

## Oregon

**Policy:** State of Oregon Department of Corrections DOC Policy 40.1.13, Prison Rape Elimination Act, effective Jan. 20, 2022.

### **C. SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS**

...

**f.** In deciding AIC housing and programming assignments for transgender or intersex AICs, the department shall consider on a case-by-case basis whether a placement would ensure the AIC's health and safety, and whether the placement would present management or security problems.

**(1)** If requested, transgender and intersex AICs shall be given the opportunity to shower separately from other AICs.

**(2)** A transgender or intersex AIC's own views with respect to their own safety shall be given serious consideration.

- 2.** The PREA Compliance Manager or designee will review placement and programming assignments for each transgender or intersex AIC at least twice each year to review any threats to safety experienced by the AIC.
- 3.** The department makes individualized determinations about how to ensure the safety of each AIC including housing, work assignments and access to services.
- 4.** The department shall use information from the risk screening to inform housing, bed, work, education, and program assignments with the goal of keeping separate those AICs at high risk of being sexually victimized from those at high risk of being sexually abusive.

**Local Multnomah County Policy:** Multnomah County Sheriff's Office, Corrections Division Special Order 14-32, December 31, 2014.

#### **7.7.13 General Requirements**

- 1.** MCSO has zero tolerance for any staff sexual misconduct or sexual harassment directed toward LGBTQI arrestees/inmates. MCSO has zero tolerance for derogatory terms used toward LGBTQI inmates. . . .
- 2.** When discussing an arrestees/inmates sexual orientation or gender identity, for the purpose of making placement and custody decisions, Corrections Division staff must recognize the sensitive nature of the topic and potential repercussions for the inmates. Appropriate staff sharing will be conducted through the CIMS system. Sharing this information with other inmates is inappropriate, and absolutely prohibited.
- 3.** Conversations involving the transgender inmate in regards to their gender identity shall be conducted in private. Private areas may include; a medical exam room or single cell.
- 4.** If an inmate discloses their sexual orientation or gender identity to staff without prompting during their custody, the staff member will report the information to their supervisor to ensure review of the inmate's classification.
- 5.** In an effort to avoid confusion, and provide consistency from staff, an LGBTQI inmate's last name should be used when possible.
- 6.** Staff shall not search, or physically examine a transgender-identified arrestee/inmate for the sole purpose of determining the inmate's sex at birth.

7. Upon identification of a transgender inmate staff shall conduct searches in accordance with the inmate's identified gender, in accordance with Corrections Division Chapter 7.7 Searches.
8. Inmates may not be disciplined for refusing to answer or for not disclosing complete information in response to screening questions regarding gender identification.
9. Transgender Inmates will only be held in single cells for their protection. This housing option is to be non-punitive, and must not result in any unnecessary loss of privileges, programs or access to medical or mental health care.

...

#### **7.7.14 Intake/Admissions . . .**

3. When determining whether inmates identify as transgender, the following should be taken into consideration:
  - A. An arrestee's appearance or behavior does not match the gender marker on the arrestee's custody paperwork or identification;
  - B. The arrestee self- reports. If there is doubt or a question concerning the validity of the self-report, the deputy shall consult the Intake Sergeant;
  - C. The arresting/transporting agency has alerted the MCSO staff to the arrestee's transgender/gender identity;
  - D. Prior booking records/ medical records; and,
  - E. Identification carried by the person identifies their gender, or conflicting gender markers on identification.
4. Upon completion of the initial booking process the Sergeant shall determine placement of the arrestee in open holding or assignment to a single cell. This determination shall be made after consulting both medical staff and the arrestee.

...

#### **7.7.16 Classification Criteria**

1. Inmates identified as transgender shall be housed at MCIJ at dorm 18, or at MCDC in Module 4A, for up to 72 hours, excluding weekends and holidays, while the Transgender Review Board assesses appropriate housing options that address the following concerns:
  - A. Safety;
  - B. Protecting inmates at high risk for abuse;
  - C. Minimizing perceived or actual fear of becoming a victim of violence
2. In accordance with Corrections Division Operations Manual, Chapter 13, LGBTQI inmates will have opportunities to seek changes in classification through submission of a Service Request Form.

...

#### **7.7.20 Transgender Review Board . . .**

2. The Board shall meet to consider the case of each inmate who is identified as transgender within 72 hours, excluding holidays/weekends, from the time the inmate was booked into custody.
  3. Prior to meeting, the Facility Commander, or their appointee, shall meet with the inmate to discuss the purpose of the Review Board and to explain the following:
    - B. Explaining the housing process;
- ...
4. The Transgender Review Board shall discuss the specifics of the transgender inmate's case to determine the most appropriate housing option(s).
  5. The Transgender Review Board shall be given access to only the clinical information necessary to make a determination regarding the safe housing of the inmate.

...

7. The Board will develop a Management Plan for the inmate which outlines the following:

**A.** Housing Assignment;

...

**I.** When developing the Management Plan, the Review Board shall:

**J.** Take into consideration preferences and requests made by the inmate. Such requests from the inmate shall be considered as part of the review board's discussions, but shall not be the only determining factors;

**K.** Consider the physical and psychological findings provided by medical staff; and

**L.** The safety and security issues as they relate to inmate and staff, as well as the operations of the facility.

...

8. The Board shall conduct reviews every 30 days to ensure transgender inmates remain appropriately housed.

...

11. The Transgender Review Board has the ultimate authority in regards to making any housing changes pertinent to a transgender inmate.

...

3. The Transgender Review Board will periodically review cases with approved community advocates. Names and medical conditions will be redacted from these reviews to ensure the inmate's rights within HIPPA are maintained.



**Pennsylvania**

**Policy:** Pennsylvania Department of Corrections Policy DC-ADM 008, Prison Rape Elimination Act (PREA) Procedures Manual, Section 19 – Working with Transgender and Intersex Inmates, effective April 22, 2019.

**A. General**

1. Each facility shall ensure that staff effectively interact professionally and respectfully toward transgender and intersex inmates. (28 C.F.R. §115.31[a]) This specialized population may require a more non-traditional approach to best satisfy their housing, security, programming, and other needs.

...

5. Standards pertaining to the identification and management of transgender or intersex detainees are not applicable to Lockup facilities. When a detainee presents as gender nonconforming, the detainee shall not be double celled with any other detainee without direct sight and sound observation by staff in the Lockup.

**B. Reception and Classification – General**

Every inmate shall be assessed upon reception for potential risk of sexual abuse and victimization in order to identify at-risk inmates and ensure safety and security for all inmates committed to the custody of the Department. (28 C.F.R. §115.41) 1

1. The Prison Rape Elimination Act (PREA) Risk Assessment Tool (PRAT) shall be administered in accordance with Section 9 of this procedures manual. This assessment shall provide an opportunity for the inmate to self-identify as a transgender or intersex individual.

2. If an inmate identifies as a transgender in a State Correctional Institution (SCI), a DC-97, Mental Health Referral Form shall be completed and forwarded to the Psychology Department to initiate the procedures outlined in accordance with Department policy 13.2.1, “Access to Health Care Procedures Manual.”

...

e. The transgender or intersex inmate, upon self-disclosure, may be housed with a temporary Z-Code in SCIs or in single room status in Community Corrections Centers (CCCs) and Community Contract Facilities (CCFs) until the PCM and PAC convenes and determines permanent housing placement based on the inmate’s responses to the questions presented in the PAC Checklist.

f. If single room status is unavailable at the current CCC or CCF, the reentrant may, at the discretion of the Bureau of Community Corrections (BCC), be transferred to a facility that can accommodate single room status until the PAC is able to convene.

**C. PREA Accommodation Committee (PAC)**

1. The purpose of the PAC is to make individualized determinations about transgender or intersex inmates’ privacy, housing, and programming assignments to ensure their safety at the current facility. (28 C.F.R. §115.42[b])

2. PAC participants must consider all aspects of an inmate’s social and medical transition when formulating recommendations to address safety and privacy concerns affirmatively identified by the transgender or intersex inmate on the PAC Checklist.

...

5. PAC participants shall listen attentively to the inmate’s responses without interfering with the PCM’s line of questioning or challenging the inmate about any inconsistencies known to them by

various sources. The PCM shall be responsible to ensure decisions of the committee remain consistent with applicable PREA Standards.

...

#### **D. Administrative PREA Accommodation Committee (A-PAC)**

1. In deciding whether to assign a transgender or intersex inmate to a facility that is consistent with his/her gender identity, and in making other privacy, housing, and programming assignments, the Department shall consider, on a case-by-case basis, whether a placement would ensure the health and safety of all impacted inmates and whether the placement or accommodation could potentially present management or security problems. (28 C.F.R. §115.42[c])
  2. In SCIs and as requested by the BCC, the A-PAC shall be activated, and the local PAC shall meet as necessary when a transgender or intersex inmate has been identified and the facility or the inmate recommend or request the inmate be housed in a facility that is consistent with his/her gender identity.
  3. A transgender/intersex inmate's own views, with respect to his/her own safety shall be given serious consideration. (28 C.F.R. §115.42[e]) (28 C.F.R. §115.242[d])
- ...
8. Decisions to transfer an inmate to a facility consistent with their gender identity are not permanent and shall be continually reassessed for their continued appropriateness

**Local Sheriff's Office, City & County of Philadelphia Policy: Philadelphia Police Department Directive 4.15, Department Interaction with Transgender Individuals PLEAC 1.8.3, effective March 27, 2019.**

#### **4. GENDER CLASSIFICATION GUIDELINES FOR TRANSGENDER INDIVIDUALS WHO HAVE BEEN ARRESTED**

- A. An arrestee's gender will be classified as it appears on the individual's government-issued identification card.
  1. If an individual explicitly informs personnel that they are transgender, and an officer finds a record for an individual (NCIC or any other law enforcement record) that lists a different gender from what the individual is currently presenting, the officer shall notify the cell block assistant (CBA) or police correctional officer (PCO) before delivering the individual into their custody. The CBA/PCO will document the information in the "Notes" section on the Prisoner Flow Chart/Medical Checklist and in the "Prisoner Log."

**NOTE:** If the individual refuses to provide their gender identity, the individual will be housed in a single cell according to their gender expression.

...

#### **6. TRANSPORTATION, DETENTION, AND PROCESSING**

...

- B. Transgender arrestees will be housed in a secure single cell. The designated holding facility of adult transgender arrestees will be the Police Detention Unit (PDU).

...

- D. Transgender juvenile arrestees shall be taken directly to Divisional Headquarters and housed in a secure single cell. The only exceptions will be for detainees suspected of sexual offenses or homicide, which will be handled by the pertinent investigative unit.

**NOTE:** If there is no empty cell for a juvenile prisoner at Divisional Headquarters, the ORS at Divisional Headquarters will call other districts within their division for secure holding placement.

1. Transgender juveniles taken into custody for Status Offenses only, will be taken directly to the designated non-secure holding facility for that division and be guided by Directive 5.5, “Juveniles in Police Custody, Appendix B.”

...

**NOTE:** If the individual refuses to provide their gender identity, the individual will be housed in a single cell according to their gender expression.

**Local Alleghany County Policy:** Allegheny County Bureau of Corrections Policy No. 324, Guidelines for Detaining Transgender and Intersex Inmates, effective July 25, 2016, revised Feb. 21, 2019.

**D. Housing**

The following processes shall take place to determine appropriate initial and long-term housing of a transgender or intersex inmate:

1. Initial housing decisions shall be based on:
  - a. Inmate’s responses to the Booking Observation Questions (BOQ);
  - b. Consideration of the inmate’s health and safety; and
  - c. Consideration for placing the inmate in a location that minimizes management and security problems.
  - d. The Intake Sergeant will house the transgender or intersex inmate according to their legal gender identity until a committee appointed by the warden can determine long term housing.

...

**E. Transgender/Intersex Housing Committee**

1. The Warden shall appoint a committee to convene a housing meeting to determine long term housing for transgender and intersex inmates. This committee shall meet within 72 hours (excluding weekends and holidays) of the inmate being processed into the ACBOC. This committee will include representatives from the following departments: Administration, Medical, Mental Health, Classification and the PREA Compliance Manager.
2. The committee will determine whether to assign a transgender or intersex inmate to a male or female housing unit and in making other programming and security assignments. The ACBOC shall consider on a case-by-case basis whether a placement would ensure the inmate’s health and safety, and whether the placement would present management or security problems.
3. A transgender or intersex inmate own views with respect to his or her safety shall be given serious consideration. They will be given the opportunity to shower separately from other inmates.
4. To accomplish this, the committee will meet to discuss a recommended housing plan. The plan will be developed with consideration of an assessment completed by medical and mental health professionals, information obtained from the Booking Observation Questions, Classification process, PREA Assessment, and from an interview with the inmate. The written recommendation will be forwarded to the Warden for final approval.
5. The housing committee shall determine if the transgender or intersex inmate will be housed in the general population or in a protective custody unit of the gender consistent with their gender identity. The assignment shall be justified in writing and stored in the inmate’s classification file. A housing plan will be developed and maintained by the Transgender/Intersex Housing Committee.
6. If it is determined that a transgender or intersex inmate can be housed in the general population, the inmate shall be transferred to a unit that matches his/her classification level.

...

**8.** A transgender or intersex inmate will be housed in administrative or protective custody when there is reason to believe the inmate presents a heightened risk to him/herself or others, or where the inmate fears he/she will be vulnerable to victimization in any other housing setting. This assignment shall be only for the period during which the heightened risk and/or fear exists. Transgender and intersex inmates in administrative segregation and protective custody shall have access to programs and services consistent with that status.

**9.** The Housing Committee will reassess placement and programming assignments for each transgender or intersex inmate at least twice a year to review any threats to safety experienced by the inmate.

...

### **Use of Screening Information/Confidentiality**

**2.** Classification shall use this information to determine housing and bed assignments with the goal of keeping transgender and intersex inmates at high-risk to be victimized from those at high-risk to be abusive.

**3.** Classification and other Staff shall make individualized determinations on how to ensure the safety of every inmate.

## Puerto Rico

**Policy:** Orden Administrativa DCR-2018, Para Establecer La Política Pública Sobre Las Normas para el Afianzamiento del Respeto, La Adecuada Interacción y la No Discriminación con Personas de la Comunidad Lesbiana, Gay, Bisexual, Transgénero, Transexual, Queer, Intersexual y Asexual, fecha de efectividad, 5 diciembre de 2018).

### **VIII. NORMAS Y PROCEDIMIENTOS PARA LA ATENCIÓN ADECUADA DE MIEMBROS DE LA POBLACIÓN CORRECCIONAL Y JOVEN TRANSGRESOR DE LA COMUNIDAD LGBTTTQIA**

1. Al momento del ingreso de un miembro de la comunidad LGBTTTQIA, el técnico de servicios socio-penales (TSS) o el trabajador social (TS) debe evaluar el riesgo de que pueda ser objeto de victimización y/o maltrato, reconociendo si la persona se percibe o expresa ser lesbiana, gay, bisexual, transgénero, transexual, intersexual, queer, intersexual, asexual o de un género no conforme, tomando las medidas que considere adecuadas con el apoyo de la Oficina de PREA y de Control de Población del DCR. [115.41]
2. La información recopilada como resultado de la evaluación de riesgo de victimización y maltrato, realizada al momento de ingreso, será utilizada para propósitos de ubicación en vivienda, cama, trabajo, educación y las asignaciones de programas, con el objetivo de mantenerlos seguro. [114.42 (a)]
3. Al decidir la ubicación de un miembro de la población correccional o joven transgresor miembro de la comunidad LGBTTTQIA, en una institución, vivienda o programa para población masculina o femenina, se hará una evaluación individualizada considerando todas las características médicas y psicosociales del miembro de la población correccional o joven transgresor. Se debe tener en cuenta si dicha colocación aseguraría su salud y seguridad, a la vez que se examinará si la colocación presentaría problemas de índole administrativo o de seguridad, a los fines de hacer un balance de intereses como parte de la toma de la decisión. [115.42 (c)]
4. La colocación y asignación en programas para cada miembro de la población correccional o joven transgresor de la comunidad LGBTTTQIA, deberá ser reevaluada al menos dos (2) veces al año, para revisar cualquier amenaza a su seguridad [115.42 (d)] o al momento de sospechar que pueda existir una amenaza. Para esto se debe tener seriamente en cuenta la propia percepción de la persona en términos de su seguridad. [115.42 (e)]
5. Se le debe ofrecer la oportunidad a los miembros de la población correccional o joven transgresor que se identifican como miembros de la población LGBTTTQIA, a que utilicen las duchas separadas de otros miembros de la población correccional. [115.42 (f)] Para esto, se debe tener seriamente en cuenta si existe una amenaza a su seguridad; también, se debe incluir la percepción del miembro de la población correccional o joven transgresor que se identifica como de la comunidad LGBTTTQIA.
6. No se podrán ubicar a miembros de la comunidad LGBTTTQIA en unidades especializadas, con motivo único y exclusivo de dicha identificación, a menos que tal ubicación sea establecida como resultado de consentimiento, acuerdo legal o juicio legal con el propósito de la protección a su persona. [115.42 (g)]
7. El aislamiento del miembro de la población correccional o joven transgresor en las instituciones, no puede ser motivado por su orientación sexual e identidad de género. No obstante, podrá aislarse en el ambiente menos restrictivo posible cuando se base en

determinaciones de peligrosidad, seguridad, conducta o la naturaleza del delito que haya cometido. Deben existir motivos fundamentados para determinar el aislamiento.

**8.** El DCR proveerá áreas de vivienda habilitadas para la colocación voluntaria de aquellos miembros de la población correccional o joven transgresor de la comunidad LGBTTTQIA, que así lo soliciten, teniendo en cuenta su identidad o expresión de género.

**9.** Cuando un miembro de la población correccional o joven transgresor de la comunidad LGBTTTQIA se encuentre en un Centro de Ingreso o Centro de Detención, se le otorgará la oportunidad de solicitar ser ubicado en un área de custodia protectora disponible cuando así lo solicite.

**13.** Se deberá adiestrar a los miembros del Cuerpo de Oficiales de Custodia sobre la manera adecuada de registrar a un Trans, según lo establecido en el Artículo VII de esta Orden Administrativa.

**14.** Las medidas en torno a ubicación aquí esbozadas serán aplicables a toda persona Trans, indistintamente a que institución correccional hubiese sido llevado por oficiales del Negociado de la Policía de Puerto Rico.

**English Translation: Administrative Order DCR-2018, To Establish a Public Policy on the Legal Standards for the Strengthening of Respect, Appropriate Interaction and Non-Discrimination with Persons from the Lesbian, Gay, Bisexual, Transgender, Transsexual, Queer, Intersexual and Asexual Community, effective date, Dec. 5, 2018.**

#### **VIII. STANDARDS AND PROCEDURES FOR THE APPROPRIATE CARE OF MEMBERS OF THE CORRECTIONAL AND YOUNG VIOLATOR POPULATION OF THE LGBTTTQIA COMMUNITY**

**1.** *At the moment of a member of the LGBTTTQIA community entering the facility, the socio-criminal services technician (SST) or social worker (SW) must assess the risk that he or she may be subjected to victimization and/or abuse, recognizing whether the person is perceived to be or expresses that he or she is lesbian, gay, bisexual, transgender, transsexual, intersexual, queer, asexual, or of a nonconforming gender, the technician taking whatever measures he or she deems appropriate, with the support of the Office of PREA and DCR Population Control. [115.41]*

**2.** *The information gathered as a result of the victimization and abuse risk assessment conducted at the time of entry will be used for purposes of placement in housing, bed, work, education, and program assignments to keep them safe. [114.42 (a)]*

**3.** *When deciding on the placement of a member of the correctional or young offender population who is a member of the LGBTTTQIA community in an institution, housing, or program for the male or female population, an individualized assessment will be made considering all the medical and psychosocial characteristics of the member of the correctional or young offender population. Consideration should be given to whether such placement would ensure the person's health and safety, while examining whether the placement would cause administrative or safety issues, in order to balance interests as part of making the decision. [115.42 (c)]*

**4.** *Placement and assignment in programs for each member of the correctional or young offender population of the LGBTTTQIA community must be re-evaluated at least twice (2) a year, to review any threat to their safety [115.42(d)], or when it is suspected that there may be a threat. For that purpose, the person's own perception of his or her safety must be taken seriously. [115.42 (e)]*

- 5.** *Members of the correctional or young offender population who identify themselves as members of the LGBTTTQIA population must be offered the opportunity to use showers that are separate from other members of the correctional population. [115.42 (f)] For that purpose, it must be taken seriously into account if there is a threat to the person's safety. The perception of the member of the correctional or young offender population who is identified as part of the LGBTTTQIA community must also be taken into account.*
- 6.** *Members of the LGBTTTQIA community may not be placed in specialized units for the sole and exclusive reason of being identified as such, unless such placement is made as a result of the person's consent, a legal agreement, or a legal judgment for the purpose of protecting him or her. [115.42 (g)]*
- 7.** *Isolation of a member of the correctional or young offender population in institutions cannot be motivated by their sexual orientation and/or gender identity. However, the individual may be isolated in the least restrictive environment possible, when based on determinations of safety, security, conduct, or the nature of the offense that he or she committed. There must be substantiated reasons for determining the need for isolation.*
- 8.** *The DCR will provide housing areas suitable for the voluntary placement of those members of the correctional or young offender population of the LGBTTTQIA community, who so request, taking into account their gender identity or expression.*
- 9.** *When a member of the correctional or young offender population of the LGBTTTQIA community is in an Entry Center or Detention Center, they will be granted the opportunity to request being placed in an available protective custody area when he or she requests it.*
- ...
- 13.** *Members of the Custodial Officer Corps must be trained in the appropriate way to search a Trans person, as set forth in Article VII of this Administrative Order.*
- 14.** *Measures mentioned here about the placement of individuals shall be applicable to every Trans person, regardless of which correctional institution the person has been taken to by officers of the Puerto Rico Police Department.*

## Rhode Island

**State Policy:** Rhode Island Department of Corrections Standard Operating Procedure (SOP), Identification, Treatment and Management of Transgender and Intersex Inmates, rev. March 5, 2018.

### **D. Housing**

1. If deemed appropriate, RIDOC may house transgender or intersex inmates according to their birth sex to protect their physical and emotional well-being, while assuring the facility's safety and security; however, RIDOC can also house transgender or intersex inmates according to their gender identity rather than their birth sex. All decisions to assign a transgender or intersex inmate to a facility for male or female inmates shall be made on a case-by-case basis by the Transgender and Intersex Review Board.

a. At no time will identification as a transgender or intersex inmate be the sole factor in determining placement.

b. Transgender and intersex inmates shall not be placed in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

2. Whenever an inmate is identified as transgender or intersex, the inmate shall complete a Gender Housing Request Form and request to be housed according to either their assigned sex at birth or their gender identity expression.

a. If an inmate requests to be housed according to their assigned sex at birth, housing placement shall not be delayed; however, the inmate will be subject to review by the Transgender and Intersex Review Board to determine that the placement meets the needs of the facility and the inmate.

b. If an inmate requests to be housed according to their gender identity expression, the inmate shall appear before the Transgender and Intersex Review Board.

...

3. The Transgender and Intersex Review Board shall meet within seventy-two (72) hours of a determination that an inmate is transgender or intersex, excluding weekends, legal holidays and emergencies. The Board shall conduct a review in order to assess the on-going and long-term medical, psychological and facility needs of the individual

...

4. The Transgender and Intersex Review Board will attempt to reach consensus, ultimately relying on majority vote when needed, to recommend a transgender or intersex inmate's assignment to a male or female facility. The Transgender and Intersex Review Board shall document its reasons for recommending placement in a male or female facility on the Housing Recommendation Form. The Board's written recommendation shall be forwarded to the ADIO for approval by the PREA Coordinator.

...

5. A transgender or intersex inmate shall not be placed in restrictive housing solely on the basis of such identification. Inmates at high risk for sexual victimization shall not be involuntarily segregated unless an assessment of all available alternatives has been made and it is determined that no feasible alternative exists.

...



c. Every thirty (30) days the Warden/designee shall review the transgender or intersex inmate's circumstances and determine if it is still necessary to keep this inmate separate from the general population.

...

**6.** Placement and programming assignments for each transgender or intersex inmate shall be reassessed by the Warden/designee at least every six (6) months or more frequently as necessary. For those inmates who are housed according to their gender identity whose Gender Identity Housing Risk Assessment Score identified a Moderate or High Risk, their reviews shall be conducted every three (3) months. Specific attention shall be given to any threats to safety experienced by the inmate or any concerns with the inmate population.

...

a. If the Warden/designee recommends a change to a male or female facility, the Warden/designee shall notify the PREA Coordinator and the Transgender and Intersex Review Board will meet within seventy-two (72) hours of the Warden's recommendation, excluding weekends, legal holidays and emergencies. The Board shall conduct a review in order to assess the needs of the transgender or intersex inmate.

...

**7.** Transgender and intersex juvenile inmates shall be housed separate from adult inmates and afforded the same privileges as other juvenile inmates consistent with their classification. Please refer to the most recent version of RIDOC Policy 12.26 DOC, Special Management of Juvenile Offenders.

## South Carolina

**State Policy:** South Carolina Department of Corrections General Administration No. GA-06.09, Care and Custody of Transgender Inmates Diagnosed with Gender Dysphoria, issued Sept. 12, 2017.

### **2. THE MULTIDISCIPLINARY MANAGEMENT AND TREATMENT TEAM:**

**2.1.** The Multidisciplinary Management and Treatment Team will, on a case-by-case basis, create individualized management accommodation plans that will provide for all medically necessary treatment, including personal adjustment and housing needs and search preferences, where deemed medically necessary.

...

**2.3.** The Prison Rape Elimination Act Coordinator will, with the assistance of the Chief Legal and Compliance Officer, oversee compliance with the individualized management accommodation plans created by the Multidisciplinary Management and Treatment Team.

...

### **3. HOUSING OF TRANSGENDER INMATES AND INMATES DIAGNOSED WITH GENDER DYSPHORIA**

**3.1.** In deciding whether to house transgender inmates and inmates with gender dysphoria in a facility for male or female inmates, and in making other housing decisions (bathroom and shower access) and programming assignments, the Multidisciplinary Management and Treatment Team will consult with the Division of Operations as well as Central Classifications to create a plan with a reasonable outcome for the inmate and institution as a whole. Safety concerns will be taken into account.

**3.2.** The following factors, along with 3.1 above, must be given serious consideration in making housing and placement decisions:

- The inmate's views with respect to safety;
- The inmate's expressed gender identity;
- The inmate's current gender expression;
- The inmate's vulnerability to victimization;
- The likelihood that the inmate will perpetrate abuse;
- Facility considerations such as staffing patterns, physical layout, and inmate population;
- Length of sentence.

**State Policy:** South Carolina Department of Corrections General Administration No. GA-06.11, Prevention, Detection, and Response to Sexual Abuse/Harassment, issued Aug. 10, 2022.

#### **1.2 Inmate Intake, Screening, and Assessment:**

**1.2.1** Screening for Risk of Sexual Victimization and Abusiveness: All inmates shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates.

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**1.2.1.2** Information provided from the screening assessment will be used to determine the inmate's housing, bed, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

**1.2.1.3** Inmates who self-identify as transgender or intersex will be assessed and provided the minimally necessary accommodations on a case-by-case basis. For those inmates who self-identify as transgender, information will be provided to the Agency's Multidisciplinary Management and Treatment for individualized case management and review.

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**1.2.1.5** Those inmate cases that are brought before the Agency's MMTT will be discussed on a case-by-case basis with the intention of ensuring the inmate's health and safety, and whether the placement would present management or security problems.

**1.2.1.6** No inmate will be placed specifically on their identity of lesbian, gay, bisexual, transgender, or intersex.

**State Policy:** South Carolina Department of Corrections General Administration No. GA-06.11B, Applying the Prison Rape Elimination Act, issued Nov. 23, 2021.

**4.5:** In determining housing and programming for inmates who identify as transgender, or intersex, assignment staff will complete the PREA Screening Application and will document the inmate's preferences in their assignment. Decisions on housing, programming, and other placements will be determined on a case-by-case basis. [PREA Standard(s) 115.42]

**4.6:** Inmates who identify as transgender or intersex during confinement will have their own perceptions of safety and housing documented and considered on a case-by-case basis. [PREA Standard(s) 115.42 (d)]

**4.7:** Those inmates identified by the MMTT as transgender, intersex, or diagnosed with gender dysphoria, will be provided an individualized accommodation plan. All individualized accommodation plans will be followed by SCDC Staff, absent exigent circumstances, whenever possible in consideration with employee, security, and safety concerns.

**State Policy:** South Carolina Department of Corrections Operations No. OP-21.04, Inmate Classification Plan, issued Oct. 22, 2020.

**5.1.1** On a case by case basis, the Gender Dysphoria Multi-Disciplinary Team will determine whether to assign a transgender or intersex inmate to an institution for male or female inmates. The placement decision will be based on the inmate's own views with respect to his or her health and safety, and whether such decision will present a management or security problem. (PREA Standard 115.42)

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**5.1.7** Initial Housing of LGBT (lesbian, gay, bisexual, and transgender) inmates: Lesbian, gay, bisexual, transgender, or intersex inmates will not be housed solely on the basis of such identification unless placed for the purpose of protecting the inmate. Transgender and intersex inmates will be given the opportunity to shower separately from other inmates. Placement and program assignment of transgender and intersex inmates will be reassessed every six months to review any threats to safety experienced by the inmate. (PREA Standard 115.42)

## South Dakota

**State Policy:** South Dakota Department of Corrections Policy No. 1.4E.13, Management of Gender Dysphoria, effective June 2, 2021.

**2. Placement and Programming:** A. Facility housing and programming assignments for all inmates, including those that identify as transgender, intersex or who have a diagnosis of gender dysphoria, shall be made on a case-by case basis, consistent with the inmate classification system, taking into consideration the inmate's gender identity, crimes, disciplinary history, history of violence, medical and mental health needs, risk screening, individual safety, programming needs and legitimate penological interests of the DOC. An inmate's own view regarding individual safety shall be considered when determining placement and assignments.

1. Inmate housing is not based exclusively on external genital anatomy of those housed in the unit or facility.

B. Housing placement shall be consistent with the inmate's custody level/classification, PREA score (vulnerability to sexual victimization or perpetrating abuse) and AIMS code (male facilities only).

1. Requests by a transgender, intersex or gender dysphoric inmate to transfer to a facility inconsistent with the inmate's external genital anatomy (sex), may be considered. Requests will be forwarded to the Gender Dysphoria Committee for review.

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C. Inmates who have underwent genital sexual reassignment surgery prior to incarceration, may be referred to the Gender Dysphoria Committee to identify appropriate housing. The Committee may provide recommendations for housing to the Director of Prison Operations. Any housing recommendation that seeks to place an inmate in a housing facility that is not consistent with the inmate's birth sex, must be reported to the Director of Prison Operations and Secretary of Corrections.

D. Inmates who have underwent partial genital sexual reassignment surgery, i.e. some removal or augmentation of breasts and/or some removal or modification of sex organs prior to incarceration, shall be reviewed by the Gender Dysphoria Committee. 1. The committee may consider housing that is not consistent with the majority results of an inmate's genital sexual reassignment surgery. 2. Exigent circumstances that may negatively affect safety and security shall be considered when considering housing placement. 3. Housing decisions shall be made on a case by case basis.

E. Self-inflicted genital mutilation and genital self-harm by an inmate does not constitute genital sexual reassignment and does not solely support referral of the inmate to the Gender Dysphoria Committee for housing review.

F. Housing assignments for transgender, intersex or gender dysphoric inmates shall be reviewed a minimum of twice a year by classification staff. Incidents or concerns that pose a threat to the inmate's safety may be reviewed by unit staff and/or forwarded to the Gender Dysphoria Committee (See DOC policy 1.4.B.2 Male Inmate Classification and DOC policy 1.4.B.1 Female Inmate Classification and PREA 115.42).

1. Inmates may be housed at any facility owned or operated by the DOC, contract facilities and outside housing approved for placement and housing of DOC inmates.

G. Transgender, intersex and gender dysphoric inmates shall not be placed in restricted housing solely on the basis of gender identity, intersex status or diagnosis.

1. Transgender, intersex and gender dysphoric inmates considered for placement in protective custody for their own protection must consent to placement in protective custody unless no other housing options available and the placement is temporary.

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I. The DOC shall not place inmates in dedicated facilities or units based solely on the basis of the inmate's gender identification or diagnosis of gender dysphoria, unless such placement is ordered through a consent decree, legal settlement or legal judgement.

**State Policy:** South Dakota Department of Corrections Policy No. 1.4.B.16, PREA Institutional Risk Screens, effective Sept. 1, 2021.

2. Individualized facility, housing and programming decisions for transgender and intersex inmates must be made based on consideration of all information available at the time, including the inmate's PREA Risk Screen score and individualized assessment. Placement shall be reviewed a minimum of twice a year and documented in COMS in the case notes.

**State Policy:** South Dakota Department of Corrections Policy No. 1.3.E.5, PREA Compliance with Prison Rape Elimination Act Standards, effective Sept. 21, 2021.

## 7. Transgender, Gender Dysphoria or Intersex Inmates:

### A. Gender Nonconforming Committee.

#### 1. The Committee will convene when:

- a. Staff identifies or suspects an inmate is transgender or intersex (usually when an inmate is in A&O or following assessment by Behavioral Health staff or consultant).
- b. When staff has identified safety concerns related to the inmate's placement. Staff shall complete a Gender Review Request form (Attachment 5). Forms may be completed at any time during the inmate's incarceration with the DOC.
- c. When an inmate who identifies as transgender or inmates with gender dysphoria or intersex inmates submit a request concerning any issue which the Gender Review Committee has authority to take action on (Attachment 5).

1) Staff may assist the inmate in completing the Request form.

#### 2. The Gender Review Committee has authority to approve and make recommendations on the following:

a. Housing placement, including transfer to a different facility, consistent with the inmate's external custody/risk classification and safety and security.

1) Transgender, gender dysphoric or intersex inmates shall not be placed in dedicated facilities or units solely on the basis of their identification or status, unless such placement is in connection with a consent decree, legal settlement, or legal judgement issued for the purpose of protecting the inmate(s).

2) The Committee may make recommendations for housing. Inmates will not be placed in involuntary protected custody housing unless all available alternatives have been reviewed and considered and a determination is made that there is no immediate alternative means of separating the inmate from likely abusers. Such placement will be temporary.

**3)** Transgender, Gender Dysphoric or intersex inmates will not be housed in dedicated units or cells/units solely on the basis of their gender identification, diagnosis or complaints received by other inmates about the inmate's gender identity. Inmates will not be housed based exclusively on external genital anatomy. Housing shall be determined on a case-by-case basis, consistent with safety and security.

**4)** Housing placement will be reassessed a minimum of twice a year for all transgender (self-determined) and intersex inmates for any threats to the inmate's safety since the placement or last review. Reassessment of housing will be completed whenever a triggering event occurs, such as an incident documented by staff that may pose a risk to the inmate's safety or a report by the inmate describing concerns for their safety. Housing placement shall be based on consideration of all information available to staff at the time of the review.

**5)** The bi-annual reassessment of the inmate's housing placement will be documented in COMS under Case Management/Case Note/Note Type: Case Management/Sub Type: GNC Review. These will be completed every 6 months by the inmate's case manager.

**6)** Inmates with a diagnosis of gender dysphoria by the consultant, may request through Behavioral Health, to access certain personal property or commissary items. Behavioral Health staff will assess and forward recommendations to the GNC Committee for approval or denial. The accommodation will be documented in COMS by the Facility PREA Compliance Manager. Requests by an inmate for accommodations shall be considered on an individual, case by case basis, with consideration towards safety and security.

**a)** Inmates who do not meet the criteria of a Gender Dysphoria diagnosis, but have a recommendation from the consultant for accommodations, may request personal property or commissary items through Behavioral Health using the procedure identified in 6) above.

**b.** Transgender, gender dysphoric or intersex inmate requests for separate showers and separate dressing. Separate does not imply "single" showers or space and may include showering or undressing with inmate the of the same gender identity.

**c.** Transgender, gender dysphoric or intersex inmate's gender preference of staff performing hand pat searches of the inmate. Female staff may pat search any inmate. Inmates may not request to be searched by a particular staff member.

**d.** Transgender, gender dysphoric or intersex inmates may request to use their preferred title of Ms., Miss., Mrs. or Mr. in correspondence, provided the inmate's legal first and last name and DOC ID is included. Inmates may request to be addressed by staff with gender neutral reference.

**3.** The Committee will review an inmate's request within 30 calendar days of the request being received (Attachment 5).

**a.** The facility PREA Compliance Manager is the leader of the Committee and will coordinate with the other members to schedule a date and time for review of the request.

- b.** The Committee will consider each request on a case-by-case basis. In each case, the Committee will consider safety and security interests and concerns.
- c.** The Committee must consider the following:
  - 1)** The inmate's gender identity;
  - 2)** The inmate's current genital status;
  - 3)** The inmate's own views of his or her safety and privacy concerns.

## Tennessee

**State Policy:** State of Tennessee Department of Correction Administrative Policies and Procedures Index 113.37, Gender Dysphoria, Transgender, Transsexual, Intersex, and Gender Non-Confirming Conditions, effective Jan. 15, 2019.

**E. Placement:** Facility and housing assignments shall be made on a case-by-case basis, and documented on pages 1 and 2 of the PREA Housing and Programs Review, CR-4086, considering the patient's health and safety, as well as, potential management and security concerns. An inmate's own views regarding safety shall be solicited and considered.

1. Inmates who have completed surgical sexual reassignment therapy prior to incarceration shall be placed in a correctional facility as determined by the Gender Dysphoria, Transgender, Transsexual, Intersex, and Gender Non-Confirming Accommodation Review Committee.
2. For the purposes of facility placement, self-inflicted genital mutilation does not constitute surgical sexual reassignment therapy and does not qualify an inmate for placement in a facility for opposite-gender inmates.
3. Placement and programming assignments shall be reassessed at least every six months at a re-classification hearing, or as warranted, to review any threats to safety experienced by the inmate.
4. Lesbian, gay, bisexual, transgender, or intersex inmates shall not be placed in dedicated facilities, units, or wings, solely on the basis of such identification or status.
5. An inmate will not be placed in restrictive housing on the basis of gender identity alone.
6. The TDOC Statewide PREA Coordinator shall notify the Commissioner, Deputy Commissioners, and the applicable Assistant Commissioners of the Committee's action to approve an inmate's assignment to a given facility.

**State Policy:** State of Tennessee Department of Correction Administrative Policies and Procedures, Index 502.06.1, Prison Rape Elimination Act (PREA) Screening, Classification, and Monitoring, effective August 1, 2020.

### **C. Referrals and Monitoring:**

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5. Inmates identified as transgender or intersex shall be considered on a case-by-case basis. (See Policy #113.37) These identified inmates shall be reclassified every six months by the assigned counselor to review any threats to safety experienced by the inmate.

**State Policy:** State of Tennessee Department of Correction, Inmate Rules and Regulations, August 2018.

Inmates having a diagnosis of Gender Dysphoria shall be governed by TDOC Policy #113.37.

### **Additional Policies:**

State of Tennessee Department of Correction Administrative Policies and Procedures, Index 502.06.2, Prison Rape Elimination Act (PREA) Allegations, Investigations, and Sexual Abuse Response Teams (SART), effective Aug. 1, 2020.



State of Tennessee Department of Correction Administrative Policies and Procedures, Index 502.06, Prison Rape Elimination Act (PREA) Implementation, Education and Compliance, effective August 1, 2020.

**Local Shelby County Policy:** Shelby County Sheriff's Office Standard Operation Procedure, Unit: Transgender/Gender Variant Procedures, revised Apr. 16, 2021, signed Jan. 13, 2023.

## V. GENERAL

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**C.** In deciding whether to assign a transgender or intersex resident to a facility for male or female inmates/ residents/detainees, and in making other housing and programming assignments, SCSO shall consider on a case-by-case basis whether placement would ensure the inmate/resident/detainee health and safety, and whether the placement would present management or security problems. (PREA 115.342 (d) and 115.42 (c) Placement and programming assignments for each trans gender or intersex inmate/ resident/detainee shall be reassessed at least twice each year to review any threats to safety experienced by the inmate. A transgender or intersex inmate/resident's/detainees own views with respect to his or her own safety shall be given serious consideration. (PREA 115.342 (e-f) and 115.42 (d-e)

**D.** The SCSO does not house gay, lesbian, bisexual, transgender, or intersex inmates/residents/detainees in dedicated units based solely on such identification or status.

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## VII. PROTOCOLS

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### 4. Housing

**a.** When assigning the inmate/ resident/detainee to a housing unit the Classification staff will take into consideration the inmate's/ resident/detainee concern about their own safety. Their own views with respect to his/her own safety shall be given serious consideration. However, the jail's/detention's decision for housing will prevail when dealing with concerns for the inmate's/ resident's/detainees safety and the normal day-to-day operations being disrupted.

**b.** Part of the Intake medical assessment will be to determine the transgender/intersex inmate's/ resident's/detainees vulnerability in general population. If the inmate/ resident/detainee expresses uncertainty about his/her gender, the medical professional will assess them to determine appropriate recommendation for housing.

**c.** A transgender inmate/ resident may be housed in Protective Custody or Administrative Segregation at the Administration's discretion if there are reasons to believe the inmate/ resident/detainee presents a valid risk to themselves or others. Medical Staff will be notified to conduct appropriate mental health evaluations according to standard operating procedures.

**d.** Transgender and intersex inmates/residents/detainees shall be given the opportunity to shower separately from other inmates/detainees. (PREA Standard 115.42f).

## Texas

**State Policy:** Texas Department of Criminal Justice, Correctional Institutions Division, Safe Prisons/PREA Plan, Feb. 2019.

### III. Offender Screening and Assessment

#### A. Intake

1. During the intake process, non-medical staff shall not search or physically examine a transgender or intersex offender for the sole purpose of determining the offender's genital status.
2. If the offender's genital status is unknown, it may be determined during conversation with the offender, by reviewing medical records, or, if necessary, as part of a broader medical examination conducted in private by a medical practitioner.
3. Offenders identified as transgender or intersex during intake shall be referred to medical in accordance with the TDCJ Intake Procedures Manual.

#### B. Obtaining Information from Offenders

1. All offenders shall be assessed during intake, and if transferred to another unit for permanent assignment, to determine the risk of being sexually abused by or sexually abusive toward other offenders.
2. Intake screening shall take place within 24 hours of arrival at the unit in accordance with the SPPOM.
3. Assignments shall be made through the collaborative efforts of intake staff, the USPPM, and medical and mental health services by using objective screening instruments.
  - a. The intake screening shall include, at a minimum, the following criteria to assess offenders for risk of sexual victimization:
    - (1) Any mental, physical, or developmental disability;
    - (2) The age of the offender;
    - (3) The physical build of the offender;
    - (4) Previous incarceration;
    - (5) Whether the criminal history is exclusively nonviolent;
    - (6) Prior convictions for sex offenses against an adult or child;
    - (7) Perception of the offender as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
    - (8) Previous sexual victimization; and
    - (9) The offender's own perception of vulnerability.

#### C. Use of Screening Information

9. When deciding to assign a transgender or intersex offender to a unit for male or female offenders, and when making other housing and programming assignments, consideration shall be made on a case-by-case basis with regard to the health and safety of the offender and potential management or security problems. Housing determinations shall not be made solely on the basis of LGBTI status.

- a. Placement and programming assignments for each transgender or intersex offender shall be reassessed semiannually to review any threats to safety experienced by the offender.

b. A transgender or intersex offender's views with respect to his or her own safety shall be given serious consideration.

10. Offenders shall not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to Section III.B.3.

**State Policy:** Texas Department of Criminal Justice, Correctional Managed Health Care Policy Manual No. G-51.11, Treatment of Inmates with Intersex Conditions, or Gender Dysphoria, Formerly Known as Gender Identity Disorder, effective Jan. 10, 2017, reviewed July 2022.

To ensure that inmates with complaints consistent with intersex conditions or Gender Dysphoria are evaluated by appropriate medical and mental health professionals and treatment is determined on a case-by-case basis as clinically indicated.

**Local Harris County Policy:** Harris County Sheriff's Office Policy No. 413, Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Department, Nov. 2013, revised Aug. 2021.

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

#### E. Intake Screening

3. LGBTQI prisoners may not be placed in segregated housing against their will due to the sole purpose of their sexual orientation. (See the Classification manual for procedures on reassessment periods).
4. Specially-trained gender classification specialists shall assist in the process upon which the Classification Division will base their housing decisions. The mere identification of an inmate as LGBTQI is insufficient to warrant an assumption of enhanced risk that the inmate will be sexually abusive.
5. Due to his or her vulnerability, a transgender prisoner shall be expedited through the entire booking process until Classification has determined housing in accordance with PREA standards. The Prisoner Processing Division supervisor on duty will be responsible for expediting the LGBTQI prisoner to Classification.
6. All inmates, within 72 hours of arrival at a HCSO detention facility, shall be assessed for their risk of being sexually abused by or sexually abusive towards other inmates in compliance with PREA standards.
7. If an indication of need arises, a gender classification specialist shall conduct a screening interview in a private and respectful manner. The gender classification specialist will only ask questions related to sexual orientation, gender identity, or gender expression for the purpose of making intake, housing, and classification assignments. If necessary, the inmate will be referred to HCSO Medical for screening.

#### F. Gender Classification Committee

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

1. Additional responsibilities:

a. Gender classification specialist certification and assistance,

- b. Housing assignment arbitration, and
  - c. Required reporting.
2. Mandatory review meetings:
- a. Placement of transgender inmates,
  - b. Gender classification specialist weekly documentation review,
  - c. Inmate housing appeals, and
  - d. 30-day reviews.
3. Monitoring and Reassessment: The housing and well-being of LGBTQI inmates shall be monitored and reassessed when needed by the gender classification committee. The committee will document and maintain records of all such monitoring and any reassessment deemed necessary.

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### **I. Inmate Services**

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

### **J. Use of Screening Information and Confidentiality**

1. A person's LGBTQI status is considered confidential information. This information, including electronic records, shall have strict dissemination controls. The HCSO shall keep LGBTQI screening information confidential except as necessary to conform to required protocols.
- ...
3. Classification shall use the information from the risk screening to determine housing, bed, work, education, and program assignments with the goal of keeping LGBTQI inmates at high risk of being sexually victimized separate from those at high risk of being sexually abusive.
4. Classification shall make individualized determinations on how to ensure the safety of each inmate.
5. In deciding whether to assign a transgender inmate to a facility for male or female inmates, and in making other housing and programming assignments, Classification shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety and whether the placement would present management or security problems.
6. The policy and procedure for and record of placements for transgender inmates shall be reassessed at least twice each year to review any threats to safety experienced by the inmates. Classification will record and keep these findings for permanent review and referrals for future training.
7. An LGBTQI inmate's own views with respect to his or her own safety shall be given significant consideration and recorded on his or her inmate record.
8. Classification shall strive not to place LGBTQI inmates in dedicated facilities, units, or wings solely on the basis of such identification or status unless such placement is necessary for his or her safety or such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

## Utah

**State Policy:** State of Utah Department of Corrections Vol. Operational Procedures: General, Ch. AG37 Diagnosis & Treatment of Offenders with Gender Dysphoria, effective Dec. 19, 2018.

### **AG37/01.03 Policy**

1. It is the policy of the Utah Department of Corrections to appropriately diagnose and treat offenders with gender dysphoria in a humane and safe correctional environment. This shall be done in a way that is sensitive to the offender's unique adjustment issues, and is consistent with the core values, vision, and mission of the Department and its commitment to provide adequate health care and mental health services to all offenders in its custody.

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### **AG37/01/04 Rationale**

The Utah Department of Corrections recognizes the need to properly evaluate offenders who express transgender issues.

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### **AG37/02.02 Procedure: Gender Dysphoria Offender**

Upon intake into the Utah prison system, or at any other time during an offender's incarceration, if the offender self-identifies as transgender and requests a mental health evaluation through the ICR process:

- A. The MHP shall meet with the offender within 14 working days from the date the referral is received.
- B. The offender shall receive an initial evaluation from a MHP using the "Transgender Initial Assessment Form."
- C. The MHP shall present the findings to the Gender Dysphoria Committee.
- D. The Director of Clinical Services/designee shall have final approval whether or not to refer the offender for an assessment for gender dysphoria.
- E. Offenders who are denied may apply to be reevaluated after one year.
- F. If approved for an evaluation for gender dysphoria, a referral shall be sent to the contract psychologist.

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- H. The contract psychologist shall meet with the offender for an evaluation for gender dysphoria.

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### **AG37/02.04 Procedure: Treatment and Services**

- A. The Director of Clinical Services/designee shall review and consider any recommendations made by the contract psychologist in developing a treatment plan.
- B. The Director of Clinical Services/designee may require additional consults in the diagnosis and the development of the individual treatment plan.

**State Policy:** Utah Department of Corrections Department Manual Policy No. FC05, Inmate Housing Assignments, revised April 28, 2022.

## **01.00 POLICY & RATIONALE**

### **01.01 Policy**

**A.** It is the policy of the Department that offender bed assignments are based on the consideration of all relevant factors which are necessary to appropriately assign offender housing, ensuring a properly functioning and safe institution.

**B.** Nothing in this policy or its corresponding procedure is designed or intended to confer due process rights on inmates or other individuals, revoke official discretion, or limit management flexibility.

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## **02.00 HOUSING ASSIGNMENTS**

### **02.01 Initiating a DPO Housing Assignment Change**

**A.** Housing Assignment changes may be initiated by:

1. offender classification,
2. OMR recommendation,
3. management/safety concerns,
4. programming opportunities/CAP priorities,
5. bed space needs,
6. upcoming court hearings/BOPP hearings,
7. medical needs,
8. STG,
9. Pre-release,
10. PVP,
11. restrictive housing, or
12. any administrative need, (i.e., investigations, etc.).

**State Policy:** Utah Code Ann. § 64-13-47, Prison Rape Elimination Act Compliance, effective July 1, 2022.

## Vermont

**State Policy:** State Of Vermont Agency of Human Services Department of Corrections Directive 432.01, Gender Identification Care and Custody, effective Feb. 22, 2015.

**d.** Whenever an inmate is identified as transgender and/or intersex, the facility multidisciplinary team will meet within seventy-two hours of the inmate's arrival or intake and conduct a review in order to assess the on-going and long-term medical, psychological and facility needs of the individual, using and considering the following criteria:

**i.** The Gender Preference Form.

**ii.** Sexual Violence Screening Tool[n.16]

[n.16 Includes factors related to the inmate's emotional and physical well-being as well as the inmate's self-evaluation of his or her safety. Note than per C.F.R. § 115.42(e) a transgender and/or intersex inmate's own views with respect to his or her own safety shall be given serious consideration.]

**iii.** The anatomy of the inmate.

**iv.** The individual's incarcerated history.

**v.** Other psychosocial factors that may contribute to either the individual's resiliency or vulnerability.

**vi.** The inmates' privacy concerns.

**vii.** Available housing.

**viii.** Recommendations from the inmate's mental health providers.

**ix.** LGBTQI inmates can make informal requests to staff, or utilize the grievance system to express issues concerning privacy concerns, housing, factor's related to the inmate's emotional and physical well-being, and the inmate's self-evaluation of his or her safety.

**e.** LGBTQI inmates will not be placed in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

**f.** Classification determinations will be made using the information from the risk screening to determine housing, bed, work, education, and program assignments with the goal of keeping separate LGBTQI inmates at risk of being sexually victimized from those at risk of being sexually abusive.

**g.** The multi-disciplinary team will review the determination as necessary but within thirty days of the initial assessment to determine if any adjustments or reconsiderations need to be made.

**h.** The multi-disciplinary team will review placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice a year to review any threats to safety experienced by the inmate.

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**j.** DOC can house trans gender or intersex inmates according to their gender identity rather than their birth sex. In deciding whether to assign an transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, DOC will consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems. DOC will consider the physical layout of the facility and privacy issues/concerns when determining the location of a transgender or intersex inmate. If deemed necessary for safety, DOC can place transgender or intersex inmates according to their birth sex to protect their physical and emotional well-being, while assuring the facility's safety and

security. All determinations regarding the housing of a transgender and/or intersex inmate will be made by a management team consisting of the Director of Correctional Facilities; the Health Services Director; the Corrections Case Work Director; and a DOC employee with the ability and knowledge needed to represent LGBTQI interests.

k. LGBTQI inmates can make requests to have their housing re-evaluated using the grievance system.

l. If an indication of need arises, the facility may consult with an identified member of the LGBTQI or allied community to provide external resources and support in assistance with the LGBTQI population.

**State Policy:** State of Vermont Agency of Human Services Department of Corrections Directive 409.09, Prison Rape Elimination (PREA) & Staff Sexual Misconduct – Facilities, effective Feb. 22, 2015.



## Virginia

**State Policy:** Virginia Department of Corrections Operating Procedure 038.3, Prison Rape Elimination Act, effective Oct. 1, 2020.

### **D. Inmate and CCAP Probationer/Parolee Screening and Use of Screening Information**

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2. Staff will use information from the Classification Assessment to determine appropriate housing, bed, work, education, and program assignments with the goal of keeping separate those inmates or CCAP probationers/parolees at high risk of being sexually victimized from those at high risk of being sexually abusive. (§115.42[a], §115.242[a])
  - a. Staff will make an individualized determination on how to ensure the safety of each inmate or CCAP probationer/parolee. (§115.42[b], §115.242[b])
  - b. When deciding whether to assign a transgender or intersex inmate or CCAP probationer/parolee to a male or female facility and when making other housing and programming assignments, staff will take into consideration whether an assignment would ensure the health and safety, and whether the assignment would present management or security problems. (§115.42[c], §115.242[c])
    - i. A transgender or intersex inmate's or CCAP probationer's/parolee's own views with respect to their own safety will be given consideration. (§115.42[e], §115.242[d])
    - ii. Lesbian, gay, bisexual, transgender, or intersex inmates and CCAP probationer/parolees will not be placed in a dedicated facility, housing unit, or wing based solely on their identification or status. (§115.42[g], §115.242[f])
  - ...
  - iv. The Gender Dysphoria Committee will make all specialized decisions when providing and CCAP probationers/parolees who are transgender, intersex, or diagnosed with Gender Dysphoria with specific individual accommodations.
3. Staff, in institutions, must reassess each transgender and intersex inmate's housing and programming assignments at least twice each year to review any threats to safety the inmate experienced. (§115.42[d])
  - a. The Institutional Program Manager (IPM) or designated staff at institutions without an IPM will print the Facility Offender Alert custom report from VACORIS in January and July to ensure staff complete the six month housing and programs reassessment for all transgender and intersex inmates.
  - b. The staff member must meet with the inmate to discuss their housing and program needs and verify their current assignments are still appropriate.
  - c. The staff member will place a note in VACORIS stating the "six month housing and program assignment reassessment completed" and documenting any necessary changes made to the inmate's housing and programs.
  - d. The IPM or designated staff member will refer the inmate to a Psychology Associate for follow-up, as needed.
  - e. Staff must complete all reassessments on the last day of January and July.

**State Policy:** Virginia Department of Corrections Operating Procedure 730.2, Mental Health and Wellness Services: Screening, Assessment, and Classification, effective June 1, 2021, amended March 1, 2022.

C. The Psychology Associate will notify facility staff responsible for making housing and programming assignments for transgender or intersex inmates of any relevant screening results that would present management or security considerations so staff, on a case-by-case basis, can make a determination that best ensures the inmate's health and safety. (§115.42[c], §115.242[c])

**State Policy:** Virginia Department of Corrections Operating Procedure 830.5, Transfers, Institution Reassignments, effective Nov. 1, 2020, amended June 1, 2022.

### C. Classification To Protective Custody Units

- ...
- i. The institution will make individualized determinations about how to ensure the safety of each offender.
  - ii. In deciding whether to assign a transgender or intersex offender to a Protective Custody Unit, institution staff must consider on a case-by-case basis whether this placement would ensure the offender's health and safety, and whether the placement would present management or security problems.
  - iii. A transgender or intersex offender's own views with respect to their safety will be given serious consideration.
  - iv. Lesbian, gay, bisexual, transgender, or intersex offenders will not be placed in the Protective Custody Unit solely based on their identification or status.

**State Policy:** Virginia Department of Corrections Operating Procedure 720.2, Medical Screening, Classification, and Levels of Care, effective Oct. 1, 2020, amended Sept. 1, 2021.

**Local Fairfax County Policy:** Fairfax County Sheriff's Office Standard Operating Procedure 535, Prison Rape Elimination Act, effective July 20, 2022, revised July 2022.

### 6. Use of Information Obtained from Screening (PREA 115.42)

- a. The Sheriff's Office shall use information from the risk screening to make informative decisions regarding housing, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.
- b. The Sheriff's Office shall make individualized determinations about how to ensure the safety of each inmate.
- c. In deciding whether to assign a transgender or intersex inmate to a housing unit for male or female inmates, and in making other programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.
  - 1) Transgender and intersex inmates shall receive a Notification of Referral to Institutional Classification Committee Form within 24 hours of their initial interview and will have a 72-hour waiting period prior to the Formal Hearing being conducted.
  - 2) The Formal Institutional Classification Committee shall conduct a hearing to determine appropriate housing for the inmate the day immediately following the 72-hour waiting period, excluding weekends, holidays or when the County is closed.
- d. Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate.

- ...
- 2)** The Formal Institutional Classification Committee (ICC) shall conduct a reassessment of all inmates who identify as transgender or intersex on a quarterly basis beginning in January of each calendar year. This reassessment will include a review of placement and programming for each inmate.
- e.** A transgender or intersex inmate's own view with respect to his or her own safety shall be given serious consideration.
- ...
- g.** The Sheriff's Office shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated housing units solely on the basis of such identification or status unless pursuant to a legal settlement or judgment.

**Local Fairfax County Policy:** Fairfax County Sheriff's Office Standard Operating Procedure 606, Transgender and Gender Non-Conforming Inmates, effective May 13, 2021, revised May 2021.

## **B. Intake Housing**

- 1.** After completion of the initial intake process, an inmate identified as transgender, or gender non-conforming shall be afforded the opportunity to request and receive an isolated housing location. The inmate can then be housed in a single cell in the Receiving Unit, consistent with the gender identified at intake. They shall remain in their assigned cell until they can be fully classified.

## **C. Classification Process**

- 1.** The classification of transgender and gender non-conforming inmates shall follow procedures outlined in SOP 608 Classification Intake and SOP 535 Prison Rape Elimination Act.
- 2.** During the classification interview, staff shall only ask questions related to sexual identity, gender identity or gender expression for making intake and housing assignments. Questions related to sexual identity, gender identity, or gender expression shall be asked in a private setting and in a respectful manner to preserve confidentiality, human dignity and to avoid subjecting the transgender or gender non-conforming inmate to abuse, humiliation or ridicule.
- 3.** A transgender or intersex inmate's own view with respect to his or her own safety shall be given serious consideration. All transgender and gender non-conforming inmates shall be classified and assigned housing based on their safety/security needs, housing availability, and potential vulnerability, if assigned to general population.
- 4.** In deciding whether to assign a transgender or intersex inmate to a housing unit for male or female inmates, and in making other programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate's health, and safety, and whether the placement would present management or security problems. Transgender and gender non-conforming inmates have the same right to appeal housing assignments as all inmates.
- 5.** If it is decided the inmate can be housed in the general population, the inmate shall be transferred to the general population housing unit as determined by the ICC. If it is determined the inmate requires administrative housing due to substantial risk, staff shall follow protocol provided in SOP 535 Prison Rape Elimination Act (Section IV. I, Protection of Inmates Facing Substantial Risk).
- 6.** A transgender or gender non-conforming inmate may be housed in administrative housing when there is reason to believe the inmate presents a heightened risk to themselves or to

others, or where the inmate fears they will be vulnerable to victimization in any other housing setting. This assignment shall be only for the period during which the heightened risk and/or fear exists and in accordance with PREA SOP 535.

7. Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate.

8. Transgender or gender non-conforming inmates who were receiving hormone treatment and therapy at the time of their incarceration shall be referred to an appropriate medical doctor for further evaluation.

...

10. The Sheriff's Office shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated housing units solely on the basis of such identification or status unless pursuant to a legal settlement or judgment.

**Local City of Richmond Policy:** City of Richmond Sheriff's Office Standard 115.5-115.89, Policy 129, Prison Rape Elimination Act (PREA), effective May 2014, revised Jan. 2022.

v. All transgender or intersex inmates will be housed according to the appropriate housing unit to ensure their safety and security of the facility.

...

#### **115.42 – Use of Screening Information**

... Procedure

1. Information from the risk screening will be used to determine housing, bed, work, education, and program assignments to prevent inmates with the high risk of being sexually victimized from those at the risk of begin sexually abusive.

2. The agency makes individualized determinations about how to ensure the safety of each inmate.

3. The agency makes housing and program assignments for transgender or intersex inmates in the facility on a case by case basis to ensure the inmates health and safety; and whether the placement would present management or security problems.

4. Placement and programming assignments for transgender or intersex inmates will be reassessed at least twice each year to review any threats to the inmate's safety.

5. A transgender or intersex inmates own views with respect to his/her own safety shall be given serious consideration.

...

7. The PREA Coordinator or designee will assess all transgender or intersex inmates for housing to include:

i. Does the inmate feel comfortable being housed in general population?

ii. What gender of inmates does the inmate feel comfortable being housed with?

iii. Does the inmate feel comfortable showering around other inmates?

iv. Does the inmate prefer to shower away from other inmates?

v. Transgender or intersex inmates who prefer to shower separately will be taken to Transfer & Release or an occupied dayroom and allowed to shower.

vi. Transgender or intersex inmates in general population can submit a request form to the PREA Coordinator or Classification to request a change in housing or showering status.

vii. Lesbian, gay, bisexual, transgender or intersex inmates shall not be placed in dedicated facilities, units or wings solely on the basis of such identification or status,

unless such placement is in a dedicated facility, unit or wing established in connection with a consent decree, legal settlement or legal judgment for the purpose of protecting such inmate.

We were unable to obtain Arlington County's policies relating to housing of transgender inmates. Please note, however, that the Arlington County Sheriff's Office publishes Prison Rape Elimination Act (PREA) audits to its website that include summaries of relevant policies. For example:

**PREA Audit: Arlington County Sheriff's Office, PREA Facility Audit Report, Sept. 20, 2020**

PREA Audit Language:

Policy – 8901 Intake Screening. The agency's Intake Screening policy requires staff to place an inmate whose gender-related expression, identity, appearance, or behavior that differs from their biological sex in a holding cell by themselves during the booking process. Staff are then required to perform the following to determine the sex of the inmate: (i) review commitment documents for gender assignment or notification that identifies the inmate as transgender or vulnerable, (ii) ask the inmate for verification of genitalia status, and (iii) if the sex cannot be determined or the inmate refuses to cooperate, notify a supervisor immediately so the inmate can be escorted to the medical unit for a physical examination and gender determination.

## Washington

**State Policy:** State of Washington Department of Corrections, Policy Number DOC 490.700, Transgender, Intersex, and/or Non-Binary Housing and Supervision, effective Feb. 13, 2020, revised March 9, 2022.

### III. Intake Screening

**A. DOC 02.420** Preferences Request will be completed if an individual identifies as transgender, intersex, and/or non-binary.

...

**B.** Housing decisions will be determined based on several factors as identified in DOC 420.140 Cell/Room Assignment.

1. If the arriving individual does not have a PREA Risk Assessment and DOC 02-384 Housing Protocol for Transgender, Intersex, and Non-binary Individuals on file, the individual will be evaluated by appropriate personnel and temporarily assigned to the least restrictive housing pending final outcome of the Multidisciplinary Team (MDT).

...

### VI. Housing and Programming Reviews

**A.** Housing and programming will be reviewed at RDC intake and prior to any transfer by the facility MDT of all individuals who identify as transgender, intersex, or non-binary. Reviews will be documented on DOC 02-384 Housing Protocol for Transgender, Intersex, and Non-binary Individuals and scanned into the designated restricted section of the individual's electronic imaging file.

1. Initial housing reviews will completed, approved, and submitted within 10 business days of disclosure of the individual as transgender, intersex, or non-binary. A Prison or Reentry Center MDT will document housing reviews and make a recommendation on DOC 02-384 Housing Protocol for Transgender, Intersex, and Non-binary Individuals. The form, a completed and signed DOC 02-420 Preferences Request, and all related documentation will be forwarded to the PREA Coordinator and Gender Responsive Administrator.

...

**B.** The PREA Coordinator will review housing protocol recommendations and forward all related documentation to the Gender Responsive Administrator for final review and approval.

**C.** If DOC 02-384 Housing Protocol for Transgender, Intersex, and Non-binary Individuals is approved by the Gender Responsive Administrator indicating transfer to another Prison/Reentry Center, the receiving facility will complete Part II of the form.

1. The receiving facility MDT will conduct an interview with the individual, arranged by the sending facility.

...

**D.** A confidential PREA hold will be entered in the individual's electronic file as soon as an individual identifies as transgender, intersex, or non-binary. This hold will remain in effect until the individual's release or their status as transgender, intersex, or non-binary has been revised.

**E.** The facility MDT will reassess placement and programming assignments every 6 months using DOC 02-384 Housing Review for Transgender, Intersex, and Non-binary Individuals to review any threats to the individual's safety.

...

F. Transgender, intersex, and non-binary individuals may appeal housing review decisions in writing to the:

1. Gender Responsive Administrator for decisions made based on facility recommendations, or
2. Appropriate Assistant Secretary/designee for decisions made by the Headquarters MDT.

**State Policy:** State of Washington Department of Corrections Policy No. 420.140, Prison/Reentry, revised Sept. 23, 2021.

B. Housing assignments will be made based on available information, including:

...

7. Risk assessment and housing assignment requirements per DOC 490.820 Prison Rape Elimination Act (PREA) Risk Assessments and Assignments and DOC 490.700 Transgender, Intersex, and/or Gender Non-Confirming Housing and Supervision.

**State Policy:** State of Washington Department of Corrections Policy No. 490.820, Prison Rape Elimination Act (PREA) Risk Assessments and Assignments, revised March 9, 2022.

## VI. Housing Assignments

...

E. Individuals who identify as lesbian, gay, bisexual, transgender, intersex, and non-binary may not be placed in dedicated facilities/areas within a facility.

1. Superintendents will ensure:
  - a. Dedicated placements do not occur,
  - b. Individuals are not groups together within a facility based solely on this status, and
  - c. Employees who make housing assignments are aware of this prohibition.
2. The PREA Compliance Manager/designee will conduct periodic reviews of the housing assignments of these individuals to ensure dedicated placements do not occur.

**Local King County Policy:** Seattle Police Department Manual 16.200 – Interaction with Transgender Individuals, effective May 7, 2019.

This policy applies to all employees and establishes guidelines for the appropriate treatment of transgender individuals who come into contact with the Seattle Police Department. Officers shall consider a person to be transgender if the person identifies themselves as transgender or, if upon reasonable belief that a person may be transgender, the officer asks and receives an affirmative response. Officers will use their own discretion whether or not to ask a person of their gender identity.

...

Officers will house transgender suspects/prisoners in SPD holding cells alone. If there are no individual holding cells available, a supervisor will make arrangements for the transgender suspect/prisoner to have a cell, be transported, or released.

...

When officers transport a transgender individual to the King County Jail or otherwise transfer custody to another law enforcement agency, the officers will verbally advise the receiving agency/officer that the individual is transgender.

**Local King County Policy:** Seattle Police Department Manual 11.010, Detainee Management, effective March 1, 2021.

Detainees will not be searched to determine their gender.



## West Virginia

**State Policy:** State of West Virginia Department of Corrections and Rehabilitation Policy Directive No. 430.00, Prison Rape Elimination Act (PREA) Compliance, effective Oct. 7, 2022.

I. The PREA screening assessments information shall be used to make decisions regarding housing, bed, work, education, and program assignments . . . The facility shall make individualized determinations about how to ensure the safety of each offender. (115.42 (a) (b)) (115.68)

. . .

L. All staff, volunteers, and contractors will communicate with, treat, and talk about any offender who is LGBTI, or perceived to be LGBTI, in a professional and respectful manner. Placement and programming assignments for each transgender or intersex offender shall be reassessed twice a year. Staff will take into consideration the facility population, staffing patterns, physical layouts and legal requirements. LGBTI offenders will not be placed in dedicated facilities or units solely based on such identification or status. A transgender or intersex offender's own views with respect to his or her own safety shall be given serious consideration. Transgender and intersex offenders shall be given the opportunity to shower separately from other offenders. (115.42 (d) (e) (f) (g))

**State Policy:** State of West Virginia Department of Corrections and Rehabilitation Policy Directive No. 411.00, Gender Nonconforming Inmates/Residents, dated Feb. 1, 2020.

II. Facility and housing assignments of transgender and intersex inmates/residents shall be made on a case-by-case basis.

A. Consideration shall be given to the inmate's/resident's health and safety as well as potential programming, management and security concerns. An inmate's/resident's own views regarding safety shall be given serious consideration.

B. Facility and housing assignments shall be reassessed at a minimum of every six (6) months to review any threats to safety experienced by the inmate/resident.

C. Placement may occur at any DCR Facility, in General Population, and in most cases a single cell is not necessary.

D. Inmates/residents who have completed sexual reassignment surgery prior to incarceration shall be placed in a facility after the Superintendent/designee consults with the Transgender Committee.

E. For the purposes of facility placement, self-inflicted genital mutilation does not constitute sexual reassignment surgery and does not qualify an inmate/resident for placement in a different facility.

F. Transgender and gender dysphoria inmates/residents shall not be placed in Restrictive Housing based on their gender identity alone, nor shall all gender nonconforming inmates/residents be housed together in housing units or facilities in an attempt to keep separate from other inmates/residents.

## Wisconsin

**State Policy:** Wisconsin Department of Corrections Executive Directive No. 72, Sexual Abuse and Sexual Harassment in Confinement (PREA), effective Jan. 11, 2016, date of approval Jan. 8, 2016.

### **E. Lesbian, Gay, Bisexual, Transgender and/or Intersex Offenders.**

1. Lesbian, Gay, Bisexual, Transgender and/or Intersex Offenders shall not be placed in dedicated facilities, wings or units solely on the basis of such identification or status.
2. When making facility, cell/unit housing and programmatic assignments for transgender or intersex offenders the DOC shall consider on a case-by-case basis whether a placement would ensure the offender's health and safety and whether the placement would present management or security problems, in addition to serious consideration of the offender's own views with respect to their own safety.
3. Placement and programming assignments for each transgender or intersex offender shall be reassessed at least twice each year to review any threats to the safety experienced by the offender.

**State Policy:** State of Wisconsin Department of Corrections, Division of Adult Institutions Policy and Procedures No. 500.70.27, Transgender Inmates, effective July 19, 2021.

### **II. Placement of Transgender and Intersex Inmates**

- A.** All sites are approved for transgender and intersex inmates except – Prairie du Chien Correctional Institution, Gordon Correctional Center, McNaughton Correctional Center, Chippewa Valley Correctional Treatment Facility, Flambeau Correctional Center and St. Croix Correctional Center.
- B.** Facility and housing assignments shall be made on a case-by-case basis, considering the inmate's health and safety as well as potential programming, management and security concerns. An inmate's own views regarding safety shall be given careful consideration.
- C.** Placement and programming assignments shall be reassessed a minimum of every six months at a reclassification hearing to review any threats to safety experienced by the inmate. The assigned OCS shall document in the WICS current offense description box: DAI Policy 500.70.27 applies to the management of this inmate with the requirement for classification review every six months.
- D.** When recommending transfer of a GD or transgender inmate, BOCM and/or the classification committee shall recommend a single approved GD or transgender site. Temporary sites may be used for transportation purposes.
- E.** Placement may occur at any approved site for transgender and intersex Inmates. For placements at minimum-security sites or correctional centers, PSU staff shall document on DOC-3474 the inmate does not require a single cell.
- ...
- H.** Inmates who have completed sexual reassignment surgery prior to incarceration shall be placed in a facility after consultation with the Transgender Committee. Placement shall be, in most cases, consistent with the reassignment treatment.
- I.** For the purposes of facility placement, self-inflicted genital mutilation does not constitute sexual reassignment surgery and does not qualify an inmate for placement in a different facility.
- J.** Transgender and GD inmates shall not be placed in RH on the basis of their gender identity.



## Wyoming

**State Policy:** Wyoming Department of Corrections Policy and Procedure No. 3.307, Management of Transgender or Intersex Inmates, Oct. 1, 2021.

**A. General Policy.** When deciding whether to assign a transgender or intersex offender to a facility for male or female offenders, and in making other housing and programming assignments, the WDOC considers on a case-by-case basis whether placement would ensure the offender's health and safety, and whether the placement would present management or security problems. The WDOC does not place lesbian, bisexual, transgender, gender-variant, or intersex offenders in dedicated facilities, or units solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or pod established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such offenders. (PREANS 115.42.g)

...

### IV. PROCEDURE

**A. Classification/Housing/Intake Procedure for transgender or intersex male or female inmates.**

**1.** In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether placement would present management or security problems.(PREANS 115.42.c)

**2.** If during the intake process an inmate identifies as transgender or intersex the TRC will determine the housing assignments. The facility housing manager shall ensure the TRC is developed within three (3) working days from the inmate's arrival and/or identification as transgender or intersex. The committee shall document the review and determination for housing.

**i.** The TRC shall review all of the inmate's records; this includes the inmate's PSI, records received from the county jail the inmate was housed at, necessary medical and mental health records and assessments, and any other pertinent records to assist in determining housing. An interview with the inmate to include asking the inmate on his or her own opinion of his or her vulnerability in male or female units. At no time shall identification as transgender or intersex be the sole factor in determining housing. (PREANS 115.42.e)

**ii.** If the TRC deems it necessary the inmate may be recommended for an individual session with a psychologist/psychiatrist to assist in determining appropriate housing.

...

**iv.** Placement and programming assignments for each transgender or intersex inmate shall be assessed at least twice a year by the TRC to review any threats to safety experienced by the inmate. (PREANS 115.42.d)

**v.** Classification proceedings and decisions, including custody designation and facility, cell assignment, and housing decisions, are not subject to appeal under the Inmate Communication and Grievance Procedure (WDOC Policy and Procedure #3.100).

**State Policy:** Wyoming Department of Corrections Policy and Procedure No. 3.302, Restrictive Housing, effective July 1, 2018.

**D. Policy Regarding LGBTI and Gender Non-Conforming Inmates.** Inmates who are LGBTI or whose appearance or manner does not conform to traditional gender expectations shall not be placed in restrictive housing solely on the basis of identification or status. (ACA-4-RH-0035)

**State Policy:** Wyoming Department of Corrections Policy and Procedure No. 3.402, Protection from Sexual Misconduct, effective May 15, 2021.

### **I. Transgender and Intersex Inmates**

1. In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether placement would present management or security problems.(PREANS 115.42.c)

2. Placement and programming assignments for each transgender or intersex inmate shall be assessed at least twice a year to review any threats to safety experienced by the inmate. (PREANS 115.42.d)

3. A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration. (PREANS 115.42.e)

...

5. The agency shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.(PREANS 115.42.g)

**State Policy:** Wyoming Department of Corrections Policy and Procedure No. 2.200, Inmate Housing Areas, Feb. 1, 2018.

**State Policy:** Wyoming Department of Corrections Policy and Procedure No. 4.000, Inmate Housing Under Interstate Compact, effective May 15, 2019.

**Local Johnson County Policy:** Johnson County Sheriff's Office, PREA Policy, 2022.

### **III. Use of Information Obtained from Screening [DOJ §115.42]**

- Detention deputies, in consultation with a supervisor, shall use information from the Initial Assessment, criminal history, behavioral observations, PREA Sexual Predator/Vulnerability Screening form, and all additional relevant information including their training and experience to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

...

- In deciding whether to assign a transgender or intersex inmate to a cell block for male or female inmates, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.

- Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate.
- A transgender or intersex inmate's own view with respect to his or her own safety shall be given serious consideration.
- . . .
- The Detention Center shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated cell blocks solely on the basis of such identification or status unless pursuant to a legal settlement or judgment.