

## Transgender and Intersex Detainees

### 1054.1 PURPOSE AND SCOPE

The purpose is to establish and implement policy and procedures that reinforce the Probation Department's commitment to ensure respectful and equitable treatment of all detainees, including detainees that are transgender or intersex, by creating a safe environment for all detainees, and ensuring that all detainees have equal access to all available services, care and treatment.

#### 1054.1.1 DEFINITIONS

Definitions related to this policy include:

**Lesbian, Gay, Bisexual, Transgender, Questioning, Intersex (LGBTQI)** - is a diversity of sexuality and gender identity-based cultures. It may be used to refer to anyone who is non-heterosexual or non-cisgender, instead of exclusively to people who are lesbian, gay, bisexual, or transgender. To recognize this inclusion, the letter Q is for those who identify as queer or are questioning their sexual identity. The letter I stands for "intersex" which is defined below.

**Transgender** - A detainee whose gender identity is different from their assigned sex at birth.

**Intersex** - A detainee whose sexual or reproductive anatomy, or chromosomal pattern, does not seem to fit typical definitions of male or female.

**Gender Non-Conforming** - A detainee whose appearance or manner does not conform to traditional masculine and feminine gender norms.

### 1054.2 AUTHORITY AND REFERENCES

- Board of State and Community Corrections Title 15 §1352.5;
- Department of Justice Standards on Prison Rape Elimination Act (PREA) 2003;
- Policy: Separation Policy;
- Policy: Searches.

### 1054.3 POLICY

Juvenile facility staff shall respect every detainee's gender identity, allowing them to dress and present themselves in a manner consistent with their gender identity. Housing decisions will be based upon what best meets the detainee's individual needs and promotes their safety and wellbeing. All detainees shall have fair and equal access to all available services, placement, care, treatment, and benefits. Juvenile facility staff shall ensure the safety and privacy of transgender and intersex detainees when using the restroom, showering, dressing, and undressing.

### 1054.4 HOUSING

Facility staff shall house detainees in the unit or room that best meets their individual needs, and promotes their safety and well-being. Staff may not automatically house detainees according to their external anatomy, and shall document the reasons for any decision to house detainees

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in a unit that does not match their gender identity by entering a detention contact in the Client Management System (CMS). In making a housing decision, staff shall consider the detainee's preferences, as well as any recommendations from the detainee's health or behavioral health provider.

A detainee's sexual orientation and/or gender identity is not an indicator of the likelihood of the detainee being sexually abusive towards others. Staff shall not consider a detainee's identification status as a reason to isolate the detainee or withhold programming options.

All transgender/intersex detainees may be provided a single room in order to ensure their privacy and safety for the following:

- (a) A room may allow the detainee the ability to dress and perform bodily functions without detainees of the opposite gender viewing them;
- (b) A room may reduce a transgender detainee's vulnerability to violence and harassment, avoid some other difficulties associated with sleeping in a dorm setting, and decrease the transgender detainee's privacy concerns.

All transgender and intersex detainees shall be given the opportunity to shower separately from other detainees. Privacy accommodations shall not prevent transgender/intersex detainees from full integration into daily programming.

Housing determination for transgender or intersex detainees shall consider whether the placement would ensure the detainee's health and safety, and whether the placement would present management or security problems.

Any detainee, including transgender and intersex detainee may be placed in protective custody as a last resort when less restrictive measures are inadequate to keep them safe, and then only until an alternative means of keeping all detainees safe can be arranged. Refer to Policy: Separation Policy.

### **1054.5 SEARCHES**

Prior to being searched, a transgender/intersex detainee may request either a male or female staff member to conduct the search. Whenever feasible, the facility shall respect the detainee's preference regarding the gender of the staff member who conducts any search of the detainee. A second staff member shall be present to observe the staff conducting the search. Staff shall not conduct physical searches of any detainee for the purpose of determining the detainee's anatomical sex. Refer to Policy: Searches.

### **1054.6 ADDRESSING TRANSGENDER/INTERSEX DETAINEES**

Facility staff shall respect every detainee's gender identity, and shall refer to the detainee by the detainee's preferred name and gender pronoun, regardless of the detainee's legal name. Facilities may prohibit the use of gang or slang names or names that otherwise compromise facility operations as determined by the facility manager(s) or designee, and shall document any decision made on this basis in the CMS.

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### **1054.7 CLOTHING**

Facility staff shall permit detainees to dress and present themselves in a manner consistent with their gender identity, and shall provide detainees with the institution's clothing and undergarments consistent with their gender identity.

### **1054.8 MEDICAL AND BEHAVIORAL HEALTH PROVIDERS**

Facility administrators shall ensure that transgender and intersex detainees have access to medical and behavioral health providers qualified to provide care and treatment to transgender and intersex detainees.

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