



## Multnomah County Sheriff's Office

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### CORRECTIONS DIVISION

#### SPECIAL ORDER

14-32

December 31, 2014

**SUBJECT:            TRANSGENDER BOOKING POLICY**

**EFFECTIVE:        IMMEDIATELY**

**CANCEL:            WHEN INCORPORATED INTO THE CORRECTIONS DIVISION  
OPERATIONAL PROCEDURES MANUAL AND POSTED TO  
THE SHERIFFNET**

#### **7.7.9            Policy**

The policy of the Multnomah County Corrections Division is to ensure the respectful, courteous and professional treatment of transgender inmates, as well as respect the sexual orientation or gender identity of any person in custody, while maintaining the safety, security and orderly operation of all correctional facilities.

#### **7.7.10          Purpose**

To provide guidelines for the appropriate accommodations of all inmates who identify as or have been determined to be transgender. This policy is intended to address the requirements as outlined in the Prison Rape Elimination Act (PREA) standards, which require zero tolerance for discrimination on the basis of sexual orientation or gender identity

### **7.7.11 Definitions**

- 1 Gender: The socially constructed roles, behaviors, activities and attributes that a given society typically or historically assigns to men or women.
- 2 Gender identity: Refers to a person's innate, deeply felt psychological identification as a man, woman or some other gender, which may or may not correspond to the sex assigned to them at birth (e.g., the sex listed on their birth certificate).
- 3 LGBTQI: An acronym that refers to lesbian, gay, bisexual, transgender, questioning and intersex individuals.
- 4 Management Plan: A plan constructed by a committee consisting of Corrections Health, Mental Health and security staff for an inmate that addresses, but is not limited to, the inmate's housing and management during custody.
- 5 Sexual Orientation: As defined in ORS 174.100; an individual's actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, regardless of whether the individual's gender identity, appearance, expression or behavior differs from that traditionally associated with the individual's sex at birth.
- 6 Strip Search: The visual inspection of a nude person to detect contraband or medical conditions. It includes visual examination of all body cavities, including the genitals and anus. The person is not touched in any manner during the search unless it is a forced search.
- 7 Transgender person: An umbrella term for people whose gender identity (i.e. internal sense of feeling male or female) and/or gender expression differs from the sex they were assigned at birth. This may include: transsexuals, cross-dressers, gender-queer and other gender non-conforming people. Transgender people may identify in a variety of ways, including: male, female, female to male (FTM), male to female (MTF), gender-queer or otherwise. A transgender identified person may or may not choose to alter their bodies hormonally and/or surgically.
- 8 Transgender Review Board: A board responsible for assessing and making recommendations as to housing, medical and mental health needs for transgender/gender-variant individuals. The Board consists of representatives from Corrections Health, Mental Health Team, Command Staff and Sergeants who will receive training in accordance with MCSO policy.

## 7.7.12 References and Ancillary Terms and Definitions

1. Prison Rape Elimination Act (PREA)/ ORS 162.405, 162.415
2. 7.7.6 Frisk/Pat Searches of Inmates
3. 9.0.4 Inmate Rights and Conditions of Confinement, Generally
4. 12.1.6 Classification Interviews
5. ORS 174.100
6. Asexual: A person who is not romantically or sexually attracted to any gender.
7. Bisexuality: Has romantic attraction, sexual attraction or sexual behavior toward both males and females. It may also be defined as encompassing romantic or sexual attraction to people of all gender identities or to a person irrespective of that person's biological sex or gender. A bisexual identity does not necessarily equate to equal sexual attraction to both sexes; commonly, people who have distinct but not exclusive sexual preferences for one sex over the other also identify themselves as bisexual.
8. Cross-dresser: A person who engages in gender non-conforming behavior, as adopting the gender expression of the opposite sex for the purpose of sexual or emotional gratification, but does not consider their gender identity different from their sex.
9. Gay: People who are sexually attracted to people of the same gender.
10. Gender Dysphoria or Gender Identity Disorder: Diagnosis used by psychologists and physicians to describe persons who experience significant discontent with the sex they were assigned at birth and/or the gender roles associated with that sex.
11. Gender expression: The ways in which an individual expresses their gender identity. This may be through clothing, behavior, mannerisms, speech patterns, social interaction or other characteristics. A person's gender expression does not always match their gender identity, particularly because of safety concerns for transgender individuals. Gender queer: Having a gender identity that is neither male nor female, is between or beyond genders, or is some combination of genders, in terms of expression and/or identity.
12. Gender role: Theoretical construct in the social sciences and humanities that refers to a set of social and behavioral norms that, within a specific culture, are widely considered to be socially appropriate for individuals of a specific sex. Socially accepted gender roles differ widely between different cultures.
13. Intersex: People who possess or develop physical sex characteristics that do not fit neatly into conventional medical definitions of male or female. This can include chromosomes, genitals, hormones, and more.

Intersex people have been referred to in the past as 'hermaphrodites.' Intersex is the preferred term.

14. Lesbian: Women who are sexually and emotionally attracted to women.
15. Non-conforming gender: A person's physical appearance and characteristics and/ or behaviors that do not conform to those typically associated with the person's sex at birth or traditional societal gender expectations.
16. Physical Sexual Characteristics: The presence and type of primary and secondary sexual characteristics (i.e., genitals, developed breasts, hair distribution) which are typically used to define and classify a person's sex as male or female.
17. Questioning: Refers to the active process in which a person explores his or her own sexual orientation and/or gender identity associated with a person's assigned at birth biological sex.
18. Transgender Female: A person whose birth sex was male but who understands herself to be, self-identifies as, and/or lives life as a female.
19. Transgender Male: A person whose birth sex was female but who understands himself to be, self-identifies as, and /or lives life as a male.

### **7.7.13 General Requirements**

1. MCSO has zero tolerance for any staff sexual misconduct or sexual harassment directed towards LGBTQI arrestees/inmates. MCSO has zero tolerance for derogatory terms used towards LGBTQI inmates. (Examples of derogatory terms are: she-male, he-she, it, tranny.) Staff shall prevent and report all incidents of harassment and/or sexual misconduct or assault in accordance Corrections Division Chapter 9 Inmate Rights.
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.
10. Transgender inmates shall have equal access to programmatic activities as non-LGBTQI inmates to include but not limited to the following;
  - A. Showering in single person showers;
  - B. Inmate Worker positions;
  - C. Grooming;
  - D. Recreation;
  - E. Inmate Programs; and,
  - F. Social/Contact Visitation

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

1. If questions are raised regarding an arrestee's gender during the initial booking process, the Intake Sergeant shall be notified that the arrestee is being processed.
2. If the arrestee identifies opposite of their expected gender identity, the sergeant shall ensure that the arrestee is searched by a deputy of the arrestee's identified gender.
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.
  5. In accordance with Corrections Division Operations Manual, Chapter 9, no LGBTQI inmate shall be subject to harassment or discrimination, and will be provided any and all inmate rights as outlined in the policy

#### **7.7.15 Admissions Corrections Health**

1. During the booking process, the Intake Nurse shall assess the inmate by conducting a Medical Entry Progress report and evaluation. This report will ask the inmate's gender identity and determine immediate and future medical needs if applicable.
2. Once determination of the inmate's gender identity is made, the Intake Nurse shall contact the Intake Sergeant to inform them of the arrestee's gender identity, for use in conducting a strip search.

#### **7.7.16 Classification Criteria**

1. Inmates identified as transgender shall be housed at MCIJ in 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; and,
  - 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.

#### **7.7.17 Admission Searches**

1. If determination of an arrestee's gender cannot be made during the initial booking process, a female Deputy shall perform the pat search. If

the arrestee's gender identity has been determined, a staff member of the same gender as that identified will conduct the search.

2. At no time shall a strip search be conducted solely for the purpose of determining an inmate's sex at birth.
3. LGBTQI individuals shall not be subject to more invasive searches than other inmates.
4. Requests to remove appearance related items such as adaptive devices, shall be done in accordance with Corrections Division Chapter 12.0.8 Acceptance of Medical Adaptive Devices at Booking. Clothing that conveys gender identity, wigs, and cosmetics shall be removed consistent with the requirements for the removal of similar items established for all arrestees/inmates.
5. Searches shall be conducted in a professional and respectful manner, and in the least intrusive method possible.

#### **7.7.18 Statement of Strip Search Preference Form**

1. Once an inmate's gender identity has been established, the Intake Sergeant shall complete the Statement of Strip Search Preference Form.
2. The statement of Strip Search Preference Form shall include the following;
  - A. Inmate's name of record;
  - B. eSWIS number; and,
  - C. Notification that strip searches will be conducted by staff members of the same gender as the arrestee's identified gender.
3. The form will be completed by the Intake Sergeant and signed by both the Classification Deputy and the Intake Sergeant after confirmation of gender has been determined.
4. The Intake Sergeant will discuss the form with the inmate in private, and determine the preferred gender to conduct a strip search. The strip search shall be conducted in accordance with the following;
  - A. The inmate shall be strip searched by a staff member(s) of the same gender identified in the Strip Search Preference Form completed by the Intake Sergeant;
  - B. The inmate shall be strip searched in the presence of two staff members. Whenever possible, one (1) of the staff members will be a supervisor; and,
  - C. The search will be conducted in private, away from other inmates.
5. The Intake Sergeant shall ensure the inmate signs the Strip Search Preference Form prior to a strip search being conducted.

### **7.7.19 Booking Documentation**

- 1 Upon completion of the booking process the Intake Sergeant shall notify the Shift Lieutenant/OIC of the booking and forward the following documentation to the Facility Commander:
  - A. Booking Custody report;
  - B. Strip Search Preference Form; and,
  - C. EZ Writer Report outlining the booking process, gender determination, housing assignment, views expressed by the inmate regarding their safety.
- 2 If the arrestee/inmate is going to be released on their own recognizance, information shall be documented in CIMS for future reference.
- 3 Upon receipt of the information, the Facility Commander will convene the Transgender Review Board.

### **7.7.20 Transgender Review Board**

1. The Transgender Review Board will consist of at least the following members;
  - A. Facility Commander, who will ensure all management plans are drafted and distributed;
  - B. Corrections Health Director, who will ensure both medical and mental health services are represented;
  - C. The agencies PREA Coordinator;
  - D. Corrections Sergeant appointed by the Facility Commander (the Corrections Sergeant may be a Sergeant who is assigned on duty when the Review Board convenes). The appointed sergeant will be the liaison for the inmate; and,
  - E. Classification/Facility Services Unit Supervisor, who will bring all documentation pertaining to the inmate.
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;
  - A. Confirming the Statement of Strip Search Preference Form, and continued gender preference;
  - B. Explaining the housing process;
  - C. How to contact the Liaison; and,
  - D. Any safety concerns regarding the inmate's custody.

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.
6. Information discussed by the Board shall be kept confidential except as necessary to implement the decisions of the Board.
7. The Board will develop a Management Plan for the inmate which outlines the following;
  - A. Housing assignment;
  - B. Searches;
  - C. Showering;
  - D. Grooming/Clothing;
  - E. Escorts;
  - F. Transports;
  - G. Access to programs and activities; and,
  - H. Liaison to the committee and inmate;
  - 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.
9. The inmate's case management plan shall immediately be reassessed due to a referral, request, incident of sexual abuse or physical abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abuse.
10. During the meeting a member will be appointed as the liaison for the inmate. The liaison will respond to questions/complaints/grievances of a transgender inmate related to gender identity and their safety.
11. The Transgender Review Board has the ultimate authority in regards to making any housing changes pertinent to a transgender inmate.
12. The Transgender Review Board shall collect data for further policy review and revision when necessary.

13. 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.

#### **7.7.21 Employee Training**

1. The Multnomah County Sheriff's Office Training Unit will be responsible for the development of transgender related training for all corrections staff who may come into contact with inmates.
2. Training content shall include but not be limited to;
  - A. MCSO zero tolerance policy for sexual harassment regarding LGBTQI; population, failure to report incidents involving transgender inmates, and sanctions for violation of policies and procedures;
  - B. Basic information about LGBTQI population;
  - C. Booking and housing policies and procedures;
  - D. How to communicate effectively and professionally with LGBTQI inmates in a respectful and non-discriminatory manner;
  - E. Confidentiality;
  - F. Conducting cross-gender pat searches and searches of transgender and intersex inmates in a professional and respectful manner, in the least intrusive manner possible, consistent with security needs;
  - G. Legal responsibilities; and,
  - H. Resources available to LGBTQI persons.
3. Continued training shall be provided bi-annually. All continued training may be completed in an online format.



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