



TRANSGENDER INMATES

POLICY.

It is the policy of the Deschutes County Sheriff's Office – Adult Jail (AJ) to ensure 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 security and orderly operation. The AJ will process transgender inmates in accordance with normal booking procedures.

PURPOSE.

The purpose of this policy is to give staff guidelines for booking, classifying, and appropriate accommodations of all inmates who identify, 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.

OREGON JAIL STANDARDS:

- B-211 Segregation During Admission
- C-104 Function of Classification
- C-106 Pre-classification
- C-109 Specific Classification Criteria

REFERENCES:

- ORS 174.100 Definitions
- Prison Rape Elimination Act (PREA)/ ORS 162.405, 162.415

DEFINITIONS.

Asexual. A person who is not romantically or sexually attracted to any gender.

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,

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people who have distinct, but not exclusive, sexual preferences for one sex over the other also identify themselves as bisexual.

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 than their sex.

Gay. People who are sexually attracted to people of the same gender.

Gender. The socially constructed roles, behaviors, activities and attributes that a given society typically or historically assigns to men or women.

Gender Dysphoria or Gender Identity Disorder. Diagnosis used by psychologists and physicians to describe people who experience significant discontent with the sex they were assigned at birth and/or the gender roles associated with that sex.

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 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).

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.

Gender Role. Theoretical construct in the social sciences and humanities that refers to a set of social behavioral norms that, within a specific culture, are widely considered socially appropriate for individuals of a specific sex. Socially accepted gender roles differ widely between different cultures.

Intersex. People who possess or develop physical sex characteristics that do not fit neatly into conventional medical definitions for 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.

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

LGBTQI. An acronym that refers to lesbian, gay, bisexual, transgender, questioning and intersex individuals.

Management Plan. A plan constructed by a Transgender Review Committee to address an inmate's housing, management or other needs during custody.

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.

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.

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.

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.

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.

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.

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 and is inconsistent with their genitalia and other anatomic sexual characteristics. 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. A transgender person may also be pre-operative and/or significantly committed to the transitional process.

Transgender Review Committee. A committee responsible for assessing and making recommendations as to housing, medical, and mental health needs for transgender/gender variety individuals. The committee consists of representatives from the Medical Unit, Behavioral Health Unit and supervisory staff.

PROCEDURES.

SECTION A: GENERAL GUIDELINES

A-1. The AJ has zero tolerance for any staff sexual misconduct or sexual harassment directed towards LGBTQI arrestees/inmates. The AJ 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 an effort to avoid confusion, and provide consistency from staff, an LGBTQI inmate's last name should be used when possible.

- A-2.** When discussing an arrestee's/inmate's sexual orientation or gender identity, for the purpose of making placement and custody decisions, staff must recognize the sensitive nature of the topic and potential repercussions for the inmates. Appropriate staff sharing will be conducted privately and professionally. Sharing this information with other inmates is inappropriate and prohibited.
- A-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.
- A-4.** If the arrestee/inmate discloses their sexual orientation or gender identity to staff without prompting, or a person is identified as potentially LGBTQI as defined above, the shift supervisor and the medical staff will be immediately notified.
- A-5.** Staff shall not search, or physically examine a transgender-identified arrestee/inmate for the sole purpose of determining the inmate's sex at birth.
- A-6.** Upon identification of a transgender inmate, staff shall conduct searches in accordance with the inmate's identified gender.
- A-7.** Inmates may not be disciplined for refusing to answer, or for not disclosing complete information in response to screening questions regarding gender identification.
- A-8.** Transgender inmates will be processed in accordance with normal booking procedures. However, transgender inmates will be segregated from all other inmates in a single cell until a management plan has been established. 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.
- A-9.** Transgender inmates shall have equal access to programmatic activities as non-LGBTQI inmates to include, but not limited to the following:
 - 1. Showering in a single person shower
 - 2. Inmate Worker positions
 - 3. Grooming
 - 4. Recreation
 - 5. Inmate Programs
 - 6. Visitation

SECTION B: BOOKING AND INTAKE

- B-1.** Verification of the inmate's identification will be established through a review of a valid driver's license or valid identification card. If identification is still in question:
- a. Corrections deputies will run a check through Law Enforcement Data Systems (LEDS).
 - b. The AFIS System may be used to determine an inmate's identity.
- B-2.** If questions are raised regarding an arrestee's gender during the initial booking process, the shift supervisor shall be notified the arrestee is being processed. When determining whether an inmate identifies 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 with the shift supervisor.
 - c. The arresting/transporting agency has alerted the AJ staff to the arrestee's transgender/gender identity;
 - d. Prior booking records/medical records;
 - e. Identification carried by the person identifies their gender, or conflicting gender markers on identification.
- B-3.** Once the LGBTQI status is determined, the shift supervisor will consult with the arrestee, then with medical and/or mental health staff to develop a management plan for the inmate until the Transgender Review Committee can make a more long-term plan.

SECTION C: BOOKING FRISK/CLOTHED SEARCHES

- C-1.** If the arrestee identifies opposite of their expected gender identity, the shift supervisor shall ensure that the arrestee is searched by a deputy of the arrestee's identified gender.
- C-2.** If determination of an arrestee's gender cannot be made during the initial booking process, a female deputy shall perform the frisk/clothed search. If the arrestee's gender identity has been determined, a staff member of the same gender as that identified will conduct the search.
- C-3.** At no time shall an unclothed search be conducted solely for the purpose of determining an inmate's sex at birth.
- C-4.** LGBTQI individuals shall not be subject to more invasive searches than other inmates.
- C-5.** Requests to remove appearance related items such as adaptive devices or health care items, and 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 in accordance with [Policy CD-8-7 Inmate Searches](#).

- C-6.** Searches shall be conducted in a professional and respectful manner, and in the least intrusive method possible.

SECTION D: MEDICAL CRITERIA

- D-1.** A facility nurse will complete the *Intake Medical Screening Form No. 501* and take vital signs for the arrestee. In the absence of a facility nurse, the booking deputy will complete the Intake Medical Screening Form and take vital signs.
- D-2.** The facility nurse will ask the inmate's gender identity and determine immediate and future medical needs if applicable. The facility nurse will attempt to get a detailed medical history, a physical evaluation, and a brief history of mental health concerns from the inmate to assist in determining an appropriate management plan.
- D-3.** Once determination of the inmate's gender identity is made, the facility nurse shall contact the shift supervisor to inform them of the arrestee's gender identity for use in conducting the unclothed search.

SECTION E: STATEMENT OF UNCLOTHED SEARCH PREFERENCE FOR TRANSGENDER INMATES

- E-1.** Once an inmate's gender identity has been established, the shift supervisor shall complete the *Statement of Unclothed Search Preference For Transgender Inmate Form No. 476*.
- E-2.** The shift supervisor will discuss the form with the inmate in private, away from other inmates and with a witnessing deputy, and determine the preferred gender to conduct the unclothed search. The *Statement of Unclothed Search Preference Form No. 476* shall include the following:
- a. Inmate's name
 - b. Booking Date and Booking Number
 - c. Election/preference to be searched by a male or female deputy, explanation that the search preference will be respected unless the situation is an emergency.
 - d. Signatures of the witnessing deputy and shift supervisor after confirmation of gender has been determined.
- E-3.** After completion of the booking process, and once reasonable release options are exhausted, the unclothed search before lodging shall be conducted in accordance with the following:
1. The unclothed search of the inmate shall be completed by a staff member(s) of the same gender identified in the *Statement of Unclothed Search Preference for Transgender Inmate Form No. 476*.
 2. The unclothed search will be completed in the presence of two staff members. Whenever possible, one (1) of the staff members will be a supervisor.

3. The search will be conducted in private, away from other inmates in accordance with [Policy CD-8-7 Inmate Searches](#).
4. In the event a deputy reasonably suspects a transgender inmate may possess contraband on their person that cannot be obtained through a frisk, or clothed search, a deputy of the same gender as the inmate's identified gender will perform an unclothed search.

E-4. The shift supervisor will ensure the inmate signs the *Statement of Unclothed Search Preference for Transgender Inmate Form No. 476* prior to conducting an unclothed search, unless exigent circumstances exist.

SECTION F: CLASSIFICATION CRITERIA

F-1. Inmates identified as transgender shall be housed in the Medical Unit for up to 72 hours, excluding weekends and holidays, while the Transgender Review Committee 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.

F-2. The Transgender Review Committee and classification staff will apply criteria consistent with existing policies relative to:

- a. Behavior (past or current behavior while in custody).
- b. Charges (nature of charges related to risk of escape or need for protective custody).
- c. Special needs (characteristics that potentially make the inmate vulnerable in normal inmate population, physical or psychological needs identified by medical/behavioral health staff).

F-3. Consistent with non-LGBTQI inmates, transgender inmates will request re-classification by submitting an Inmate Classification Appeal Request Form.

SECTION G: DOCUMENTATION

G-1. Medical staff will determine the inmate's transgender status and document the preferred gender identity of the inmate in the JMS attachments and in the inmate's medical health record.

G-2. The booking deputy and/or shift supervisor will write an Incident Report documenting the booking process, gender determination, housing assignment, views expressed by the inmate regarding their safety, any contraband found during a search, and any other relevant information gathered during the booking process. The Incident Report, Facility Admission Report, and the *Statement of Unclothed Search Preference for Transgender Inmate Form No. 476* will be submitted through the chain of command to the Corrections Captain.

- G-3.** Upon receipt of the information, the Corrections Captain will convene a Transgender Review Committee.
- G-4.** If the arrestee/inmate is going to be released on their own recognizance or to a responsible party, information shall be documented in JMS for future reference.
- G-5.** Deputies performing a frisk, clothed, or unclothed search will document the search in the jail management system (JMS).

SECTION H: TRANSGENDER REVIEW COMMITTEE

- H-1.** The Transgender Review Committee should consist of at least:
 - 1. A shift supervisor
 - 2. The Administrative Lieutenant
 - 3. Corrections Captain
 - 4. Facility Nurse or Facility Provider
 - 5. Behavioral Health Specialist

When possible, the Committee will also include the PREA Coordinator and Classification Staff.

- H-2.** The Committee shall meet to consider the case of each inmate who is identified as transgender within 72 hours, excluding holidays and weekends, from the time the inmate was booked into custody.
- H-3.** Prior to meeting, a shift supervisor shall meet with the inmate to discuss the purpose of the Transgender Review Committee and to explain the following:
 - a. Confirming the *Statement of Unclothed Search Preference for Transgender Inmate Form No. 476*, and continued gender preference,
 - b. The housing process,
 - c. How to contact a deputy, their liaison, Medical and Behavioral Health, and
 - d. Any safety concerns regarding the inmate's custody.
- H-4.** The Transgender Review Committee shall discuss the specifics of the transgender inmate's case to determine the most appropriate housing option(s).
- H-5.** The Transgender Review Committee shall be given access to only the clinical information necessary to make a determination regarding the safe housing of the inmate.
- H-6.** Information discussed by the board shall be kept confidential except as necessary to implement the decisions of the Committee and carry out the management plan.

- H-7.** The Committee will develop a management plan for the inmate which outlines at least the following:
- a. Housing Assignment
 - b. Searches
 - c. Showering
 - d. Grooming/Clothing
 - e. Escorts
 - f. Transports
 - g. Access to programs and activities
 - h. Liaison to the committee and inmate
- H-8.** When developing the management plan, the Committee shall:
1. Take into consideration preferences and requests made by the inmate. Such requests from the inmate shall be considered as part of the Committee's discussions, but shall not be the only determining factors,
 2. Consider the physical and psychological findings provided by medical and behavioral health staff, and
 3. The safety and security issues as they relate to inmate and staff, as well as the operations of the facility.
- H-9.** The Committee shall conduct reviews every 30 days to ensure transgender inmates remain appropriately housed.
- H-10.** The inmate's case management plan shall immediately be reassessed due to 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.
- H-11.** During the meeting, a member will be appointed as the liaison for the inmate. The liaison will respond to questions/complaints/grievances of the transgender inmate related to gender identity and their safety. The inmate will be notified who their liaison is.
- H-12.** The Transgender Review Committee has the ultimate authority in regards to making any housing changes pertinent to a transgender inmate.

FORMS USED:

- Incident Report (JMS)
- Facility Admission Report (JMS)
- *Intake Medical Screening Form No. 501*
- *Statement of Unclothed Search Preference for Transgender Inmate Form No. 476*
- *Inmate Classification Appeal Request Form*