

# APPLICABILITY PRISON/REENTRY/FIELD

FACILITY/SPANISH MANUALS

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NUMBER **DOC 490.700** 

## **POLICY**

TITLE

TRANSGENDER, INTERSEX, AND/OR NON-BINARY INDIVIDUALS

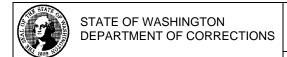
REVIEW	/REVISION	HISTORY:
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Effective: 2/13/20 Revised: 3/9/22 Revised: 7/17/23 Revised: 8/17/23

**Department of Corrections** 

### **SUMMARY OF REVISION/REVIEW:**

Policy statement IV., Directive I.C., and I.D Adjusted language for clarification II.A Added clarifying language	
APPROVED:	
Signature on file	8/16/23
CHERYL STRANGE, Secretary	Date Signed



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#### **REFERENCES:**

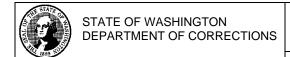
DOC 100.100 is hereby incorporated into this policy; <a href="RCW 9A.44.160-170">RCW 42.56</a>; <a href="RCW 9A.44.160-170">RCW 42.56</a>; <a href="RCW 9A.44.160-170">RCW 42.56</a>; <a href="RCW 9A.44.160-170">RCW 42.56</a>; <a href="RCW 72.09.225">RCW 72.09.225</a>; <a href="DOC 100.500">DOC 100.500</a> <a href="Non-Discrimination for Individuals">Non-Discrimination for Individuals</a>; <a href="DOC 320.255">DOC 320.255</a> <a href="Restrictive">Restrictive</a></a> <a href="Housing: DOC 420.310</a> <a href="Search: DOC 420.310">Searches of Incarcerated Individuals</a>; <a href="DOC 420.390">DOC 420.390</a> <a href="Arrest and Search: DOC 440.050</a> <a href="State-Issued Items">State-Issued Items</a>; <a href="DOC 880.100">DOC 420.390</a> <a href="Arrest and Search: DOC 440.050</a> <a href="State-Issued Items">State-Issued Items</a>; <a href="DOC 880.100">DOC 420.390</a> <a href="Arrest and Arrest and Search: DOC 440.050</a> <a href="State-Issued Items">State-Issued Items</a>; <a href="DOC 880.100">DOC 880.100</a> <a href="Corrections Training and Development">Corrections Training and Development</a>; <a href="Market 42 U.S.C. 1997">Market 42 U.S.C. 1997</a>; <a href="Guidelines for Healthcare of Transgender Individuals">Gorrectional Management of Transgender</a>, <a href="Interest">Interest</a>, <a href="market 42 U.S.C. 1997">Arrest and Search: Doc Health Plan</a></a></a>

### **POLICY:**

- I. The Department has established procedures to ensure equitable treatment of transgender, intersex, and/or non-binary individuals when determining housing, classification, programming, and supervision.
- II. Drug testing will be completed per DOC 420.380 Drug/Alcohol Testing.
- III. Searches will be conducted per DOC 420.310 Searches of Incarcerated Individuals. Individuals under community supervision will be searched per DOC 420.390 Arrest and Search.
- IV. Gender-affirming basic state-issued items will be issued per DOC 440.050 State-Issued Items.

### **DIRECTIVE:**

- I. Responsibilities
  - A. Appointing Authorities will ensure processes are in place for the management of transgender, intersex, and/or non-binary individuals.
  - B. All employees/contract staff/volunteers will address individuals by their preferred pronoun or their last name per DOC 100.500 Non-Discrimination for Individuals.
  - C. Incarcerated transgender, intersex, and/or non-binary individuals will receive medical/mental health care per the Washington DOC Health Plan and Guidelines for Healthcare of Transgender Individuals.
  - D. The Director of Prison Rape Elimination Act (PREA) Services will maintain a record in a secure imaging system of incarcerated individuals under the



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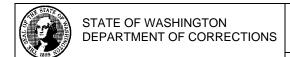
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Department's jurisdiction who identify as transgender and/or non-binary or are intersex.

- E. Employees/contract staff will refer to the Employee Manual for the Identification, Treatment, and Correctional Management of Transgender, Intersex, and Non-binary Individuals for detailed guidance for transgender, intersex, and/or non-binary individuals.
- II. Disclosure of Information
  - A. An individual's sexual orientation, gender expression/transition status, intersex status, or gender identity will be maintained as confidential and will only be disclosed within the Department on a need-to-know basis and/or as voluntarily requested by the individual on DOC 02-420 Preferences Request.
  - B. Employees/contract staff/volunteers that become aware of a new disclosure that an individual identifies as transgender and/or non-binary or is intersex will report the information to the Superintendent/Reentry Center Manager (RCM)/designee.
    - If an individual discloses to a medical, mental health, and/or substance use disorder practitioner, consent will be obtained on DOC 14-172 Substance Abuse Recovery Unit Compound Release of Confidential Information before disclosure.
    - 2. The PREA Specialist will be notified of any new disclosures and will ensure DOC 02-420 Preferences Request is completed by the individual within 72 hours.
    - 3. Individuals will not be searched or physically examined for the sole purpose of determining the individual's genital status.
      - If the individual's genital status is unknown, it will be determined by health care providers during conversations with the individual and by reviewing medical records.
        - 1) If necessary, a health care provider will conduct a broader medical examination in private with the individual's consent.
    - 4. The Superintendent/RCM may submit a gender-affirming housing request if there are any documented safety or security concerns with an individual's current housing.



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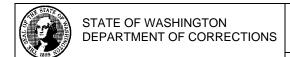
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- C. A confidential PREA hold will be entered in the individual's electronic file as soon as an individual identifies as transgender, intersex, or non-binary. This hold will remain in effect until the individual's release or their status as transgender, intersex, or non-binary has been revised.
- III. Facility Multidisciplinary Team (MDT)
  - A. Each Prison and Reentry Center will establish and maintain an MDT Review Committee. The committee will:
    - 1. Ensure all individuals under Department jurisdiction have equal access to programs and services.
    - 2. Convene within 15 days if an individual discloses transgender, intersex, and/or non-binary identity at any time during incarceration and it has not been previously documented.
    - 3. Gather all associated documentation and review housing and programming assignments to make recommendations based on objective safety protocols and consideration of the individual's desired housing assignment.
    - 4. Ensure local management recommendations are submitted to Headquarters MDT within 15 business days.

### B. In Prisons:

- 1. The MDT will be chaired by the Associate Superintendent of Programs in a Level 3 or higher facility or the Correctional Program Manager in a Level 2 facility. The MDT will include, but not be limited to:
  - a. The Correctional Program Manager
  - b. The Captain
  - c. A medical practitioner/provider
  - d. A mental health practitioner/provider
  - e. PREA Specialist
  - f. The assigned case manager or, if unavailable, the applicable Correctional Unit Supervisor (CUS)
- 2. Before the MDT meets, the following will meet with the individual in a location where confidentiality can be maintained to discuss the housing review and protocols and determine a recommendation based on the individual's needs (e.g., medical and mental health, programming):



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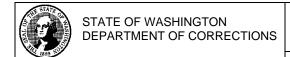
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- a. The assigned case manager
- b. A medical provider
- c. A mental health provider
- C. In Reentry Centers, the MDT will consist of the:
  - Assigned case manager
  - 2. RCM
  - Reentry Center Administrator
- D. The MDT will meet in person or virtually to discuss the case and determine its recommendation. The MDT's notes and decision will be documented on DOC 02-422 Transgender, Intersex, and Non-binary Housing Multi-Disciplinary Team.
- E. The individual's own views about personal safety will be considered when making recommendations.

### IV. Headquarters MDT

- A. The Headquarters MDT will be chaired by a designated Deputy Assistant Secretary for Prisons and consist of the:
  - 1. Appointing Authority/designee from the proposed receiving facility
  - 2. Chief Medical Officer/designee
  - Director of Mental Health
  - 4. Chief of Psychiatry
  - 5. Senior Director of Comprehensive Case Management/designee
  - 6. Director of Security and Emergency Management
  - 7. Director of PREA Services
  - 8. Others as identified on a case-by-case basis
- B. The Headquarters MDT will:
  - 1. Review and develop best practices for the care, custody, programing needs, and supervision of transgender, intersex, and non-binary individuals.
  - 2. Meet as scheduled and deemed necessary by the MDT chair to review, determine, and approve housing placement, community supervision, and programming assignment recommendations. Prior to the meeting:
    - a. Each member will be prepared to discuss the best housing for the individual according to each member's findings.



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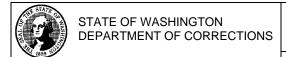
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- b. The Transgender Settlement Administrator will gather all relevant information (e.g., forms, individual's and/or third-party written statements) from the facility MDT for the Headquarters MDT to review and consider during the meeting.
- 3. Document decisions on DOC 02-422 Transgender, Intersex, and Non-binary Housing Multi-Disciplinary Team.
- C. The designated Deputy Assistant Secretary for Prisons will forward all related documentation to the Deputy Secretary/designee for final decision within 15 business days, unless additional information is necessary.
  - 1. Employees will attempt to arrange an out-of-state placement at a female facility when the determining reason for the denial of a gender-affirming housing request is due to a keep separate at the female facility.
- V. Housing and Programming Reviews
  - A. Initial housing reviews will be completed, approved, and submitted within 15 business days of disclosure of the individual as transgender, intersex, or non-binary.
    - 1. The facility MDT will document housing reviews and make a recommendation on DOC 02-384 Housing Protocol for Transgender, Intersex, and Non-binary Individuals, which will be forwarded with the signed DOC 02-420 Preferences Request and all related documentation to the Director of PREA Services and designated Deputy Assistant Secretary for Prisons.
      - a. For community violators who disclose, the receiving facility will conduct the review.
    - 2. Local Facility Risk Management Team (FRMT) processes will be suspended until the housing review has been approved.
  - B. The designated Deputy Assistant Secretary for Prisons will review housing protocol recommendations with the Headquarters MDT to determine final recommendations and forward all related documentation to the Deputy Secretary/designee for review and approval.
    - 1. If DOC 02-384 Housing Protocol for Transgender, Intersex, and Non-binary Individuals is approved by the Deputy Secretary/designee



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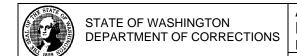
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indicating transfer to another Prison/Reentry Center, the receiving facility will complete Part II of the form.

- 2. If placement within the facility has not been approved by the Deputy Secretary/designee before the individual arrives at the facility, the individual will be placed in optional housing (e.g., restrictive housing, inpatient unit) until the Deputy Secretary/designee makes a final housing decision.
  - Placement in restrictive housing will be used as care and a. separation and not as a punitive measure. Placement will adhere to expectations in DOC 320.255 Restrictive Housing and be reviewed every 30 days by the PREA Compliance Manager.
    - 1) Any exceptions will be evaluated on a case-by-case basis by the Mission Housing Administrator and the Gender Affirming Program Administrator, Gender Affirming Medical Specialist, and mental health team.
- C. The facility MDT will reassess housing and programming assignments at least every 6 months or as needed using DOC 02-385 Housing Review for Transgender, Intersex, and Non-binary Individuals for each individual who identifies as transgender and/or non-binary or is intersex.
  - 1. Community Corrections employees will provide input regarding this information for community supervision violators.
  - 2. Classification recommendations will be updated during the review.
- 3. Reviews will include an assessment to ensure there are no threats to the individual's safety.
- VI. Preferences and Housing Placement Requests
  - A. At any time, an individual may voluntarily submit DOC 02-420 Preferences Request to their case manager designating their preferred name, pronoun(s), gender to conduct searches/urinalysis, and gender identity, and to request gender-affirming state-issued garments and/or placement in gender-affirming housing.
  - B. If an individual requests to be transferred to a gender-affirming facility, the case manager will make a referral for the facility cultural awareness course facilitated by a Gender Affirming Mental Health Specialist (GAMHS) and/or Gender



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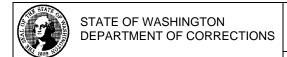
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Affirming Program Administrator (GAPA) and will include meetings with a mental health employee and an employee from the gender-affirming facility.

- 1. An employee will meet with the individual within 5 business days to review their request and enroll the individual in the next available course.
- 2. The individual may directly kite the GAPA to request placement in the course.
- C. After successful completion of the course, the individual will complete the Gender-Affirming Housing Request section on DOC 02-420 Preferences Request.
- D. The Associate Superintendent/Correctional Program Manager will complete a review of risk factors on DOC 02-423 Gender-Affirming Housing Review and email to the Psychologist 4 or Psychology Associate in stand-alone Level 2 facility to initiate the Health Services review.
  - 1. The completed form will be returned to the case manager within 14 days unless additional time is needed to complete necessary assessments (i.e., Static 99, PCL-R, HCR-20, or forensic assessment).
  - 2. The case manager will forward the form to the facility MDT within 5 days of receipt.
- E. The facility MDT will make a recommendation on DOC 02-384 Housing Protocol for Transgender, Intersex, and Non-binary Individuals, which will be forwarded with the completed DOC 02-420 Preferences Request and DOC 02-423 Gender-Affirming Housing Review to the designated Deputy Assistant Secretary for Prisons within 5 business days.
  - The Headquarters MDT will review all documentation and make a recommendation within 15 days to the Deputy Secretary who will make the final determination.
- F. If an individual's request for gender-affirming housing is denied, the individual may submit a subsequent request at the next classification review.
- G. Individuals placed in a gender-affirming facility may be transferred to another facility or returned to the originally assigned facility due to documented, objective safety and security concerns.



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A. Individuals may appeal housing decisions in writing to the following.

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- 1. Appropriate Deputy Assistant Secretary/designee for decisions made based on facility recommendations, or
- Secretary/designee for decisions made by the Headquarters MDT.
- B. Responses to appeals will be made within 15 business days.

### VIII. Training

- A. Appointing Authorities or their designees will manage resources to ensure employees, contract staff, and volunteers receive all required training per DOC 880.100 Corrections Training and Development.
- B. The Training and Development Unit will consult with the Deputy Assistant Secretary for Women's Prisons to develop or update annual training material regarding transgender, intersex, and/or non-binary individuals for all employees, contract staff, and volunteers. Additional training will be provided as appropriate.

### **DEFINITIONS:**

The following words/terms are important to this policy and are defined in the glossary section of the Policy Manual: Gender, Gender Expression, Gender Identity, Gender-Affirming, Intersex, Non-binary, Transgender. Other words/terms appearing in this policy may also be defined in the glossary.

### **ATTACHMENTS:**

None

### **DOC FORMS:**

DOC 02-384 Housing Protocol for Transgender, Intersex, and Non-binary Individuals

DOC 02-385 Housing Review for Transgender, Intersex, and Non-binary Individuals

DOC 02-420 Preferences Request

DOC 02-422 Transgender, Intersex, and Non-binary Housing Multi-Disciplinary Team

DOC 02-423 Gender-Affirming Housing Review

DOC 14-172 Substance Abuse Recovery Unit Compound Release of Confidential Information