POLLICY

REVIEV/REVISION HISTORY:

Effective: 2/13/20
Revised: 3/9/22

SUMMARY OF REVISION/REVIEW:

Major changes to include title, updated terminology, and person-centered language throughout. Read carefully!

APPROVED:

Signature on file

CHERYL STRANGE, Secretary
Department of Corrections

Date Signed
REFERENCES:

DOC 100.100 is hereby incorporated into this policy; RCW 9A.44.160-170; RCW 42.56; RCW 72.09.225; DOC 320.255 Restrictive Housing; DOC 400.280 Legal Name Change; DOC 420.140 Cell/Room Assignment; DOC 420.310 Searches of Offenders; DOC 420.325 Searches and Contraband for Work/Training Release; DOC 420.380 Drug/Alcohol Testing; DOC 420.390 Arrest and Search; DOC 440.050 State-Issued Items; 42 U.S.C. 1997; Evaluation and Management of Hormonal Treatment of Gender Dysphoria/Transgender Identification Protocol; Gender Dysphoria Protocol and GD-CRC; Sexual Assault Support and Information Line; Washington DOC Health Plan

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.

DIRECTIVE:

I. Responsibilities

A. All employees/contract staff/volunteers will address transgender, intersex, and/or non-binary individuals by their preferred pronoun (e.g., s/he or they) or their last name. If preference is unknown, the individual will be asked their preference.

1. An individual’s preferred pronoun and name will be documented on DOC 02-420 Preferences Request.

2. The individual’s preferred pronoun will be used in all written communications (e.g., chronological events, behavior observation entries, incident reports, infractions, correspondence).

   a. A court order name or gender change is not required to honor identified pronoun and name requests.

   b. Legal name changes will be processed and consistent with DOC 400.280 Legal Name Change.

B. Incarcerated transgender, intersex, and/or non-binary individuals will receive medical/mental health care per the Washington DOC Health Plan, Gender Dysphoria Protocol and GD-CRC, and Evaluation and Management of Hormonal Treatment of Gender Dysphoria/Transgender Identification Protocol.
C. The PREA Coordinator will maintain a record of transgender, intersex, and/or non-binary individuals in a secure imaging system.

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 on a need to know basis.

B. Employees/contract staff/volunteers that become aware that an individual identifies as transgender, intersex, or non-binary will report the information confidentially to the Superintendent/Community Corrections Supervisor (CCS).

   1. If an individual discloses to a medical, mental health, and/or substance use disorder practitioner, DOC 14-172 Substance Abuse Recovery Unit Compound Release of Confidential Information will be completed.

III. Intake Screening

A. DOC 02-420 Preferences Request will be completed if an individual identifies as transgender, intersex, and/or non-binary.

   1. Case managers will document the information in the individual’s electronic file and DOC 20-155 Intake/Pre-Sentence Report Information Sheet, if applicable.

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).

      a. In Prisons, an individual who is at high risk for sexual victimization will be housed separately only if there is no available alternative means of separation from likely abusers.

         1) Placement in general population is permitted with approval of the applicable Deputy Assistant Secretary/Gender Responsive Administrator.
POLICY

TRANSGENDER, INTERSEX, AND/OR NON-BINARY HOUSING AND SUPERVISION

a) It must be documented in writing as a statement or on DOC 02-420 Preferences Request signed by the individual that they feel safe to remain in general population.

b. In Reentry Centers, the individual will be housed in a single person room or a room with an individual(s) assessed as “No Risk”.

c. Individuals in transit through a Reception Diagnostic Center (RDC) will be asked by the sending facility if they feel safe in general population while at the RDC, and ensure it is documented on DOC 02-420 Preferences Request.

1) If the individual does not feel safe, housing will be assigned to the least restrictive alternative available pending transfer to the assigned facility.

2) A referral to mental health will be made and/or follow-up will occur if necessary.

C. Newly received transgender, intersex, and/or non-binary individuals will be provided a copy of the Sexual Assault Support and Information Line brochure during intake.

IV. Facility MDT

A. Each Prison and Reentry Center will have an MDT Review Committee. The committee will:

1. Ensure all individuals under Department supervision have equal access to programs and services.

2. Convene within 10 days if an individual discloses transgender, intersex, and/or non-binary identity at any time during incarceration.

3. Review housing and programming assignments and make recommendations.

4. Ensure local management decisions are properly executed in a timely manner.

B. In Prisons:
1. The MDT will be chaired by the PREA Compliance Manager/Specialist and will include, but not be limited to:
   a. The Captain at Level 3 or higher facilities or Lieutenant at a Level 2 stand-alone facility,
   b. The Correctional Program Manager,
   c. A medical practitioner/provider,
   d. A mental health practitioner/provider, and
   e. 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:
   a. The assigned case manager,
   b. A medical representative, if available onsite, and
   c. A mental health representative, if available onsite.

C. In Reentry Centers, the MDT will consist of the:
   1. Assigned case manager,
   2. CCS, and
   3. Reentry Center Administrator/designee.

D. The MDT will meet in person or by phone to discuss the case and determine its recommendation. The MDT’s decision will be documented on DOC 02-422 Transgender, Intersex, and Non-binary Housing Multi-Disciplinary Team.

E. MDT notes and decisions will be documented by Headquarters personnel in the Health Services section of the individual’s electronic file.

F. The individual’s personal views about the individual’s safety will be considered when making recommendations.

V. Headquarters MDT

A. The Headquarters MDT will be chaired by the Gender Responsive Administrator and consist of the:
   1. Appointing Authority/designee from the facility where the individual is/will be assigned,
   2. Chief Medical Officer,
   3. Director of Mental Health,
4. Chief of Psychiatry,
5. Facilities Security Manager,
6. PREA Coordinator, and
7. Others as identified on a case-by-case basis.

B. The Headquarters MDT will:

1. Review and develop best practices for the care, custody, and supervision of transgender, intersex, and non-binary individuals.
2. Meet as necessary to review and approve housing placement, community supervision, and programming assignment recommendations.
3. Document decisions on DOC 02-385 Housing Review for Transgender, Intersex, and Non-binary Individuals and in the Care Review Committee section of the individual’s electronic file.

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 be 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.

2. For community violators, Community Corrections employees will make the recommendation to the receiving facility.

3. Local Facility Risk Management Team (FRMT) processes will be suspended until the housing review has been approved.

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. The interview may be conducted telephonically or in person, as applicable.

2. If placement within the facility has not been approved by the Gender Responsive Administrator before the individual arrives at the facility, the individual will be housed as follows:

   a. In Prison, the individual will be housed in the infirmary or Extended Observation Area until the Gender Responsive Administrator makes a final housing decision.

      1) Exceptions to infirmary housing are permitted with approval from the Gender Responsive Administrator. Requests must be accompanied by a written statement from the individual that the individual feels safe remaining in general population.

      2) If the assigned facility’s infirmary is full, the individual will be transferred to another facility’s infirmary. The final housing decision will be based on recommendations from the local review committee.

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 02-385 Housing Review for Transgender, Intersex, and Non-binary Individuals to review any threats to the individual’s safety.

   1. Community Corrections employees will provide input regarding this information for community supervision violators.

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.

VII. Security Processes Based on Individual Needs

A. Transgender, intersex, and/or non-binary individuals may shower separately if requested by the individual or deemed necessary due to safety and security concerns.

1. Facilities will develop local procedures to allow transgender, intersex, and/or non-binary individuals the opportunity to shower and dress/undress separately from other individuals. This may include individual shower stalls, separate shower times, or other procedures based on facility design.

2. Individuals may report verbally or in writing housing/showering issues or concerns to the Superintendent/CCS/designee.

3. In Prisons, the Superintendent/designee will notify the applicable CUS, Unit Sergeant, and affected Unit Correctional Officers regarding any special shower arrangements.

B. Incarcerated individuals who identify as transgender, intersex, or non-binary individuals may request alternative undergarments within allowances established per DOC 440.050 State-Issued Items.

1. Individuals will not be permitted to have both male and female undergarments.

2. For individuals in restrictive housing, allowances will be consistent with DOC 320.255 Restrictive Housing. Any exceptions will be evaluated on a case-by-case basis by the Mission Housing Administrator.

C. Identified transgender, intersex, and non-binary individuals will be allowed to maintain their appearance in a way that is consistent with their identified gender.

VIII. Drug Testing
A. Drug testing will be completed per DOC 420.380 Drug/Alcohol Testing. The individual’s preference of the gender of the employee collecting the sample will be documented on the individual’s DOC 02-420 Preferences Request.

B. If unable to accommodate identified gender preferences, a mouth swab test will be conducted.

IX. Searches

A. Searches will be conducted per DOC 420.310 Searches of Offenders or DOC 420.325 Searches and Contraband for Work/Training Release. Individuals under community supervision will be searched per DOC 420.390 Arrest and Search.

B. Search preferences will be documented on the individual’s DOC 02-420 Preferences Request.

1. Searches will be conducted in accordance with the stated preference unless circumstances do not allow for the preference to be implemented during a pat or strip search.

   a. If unable to accommodate the request in Prisons and Reentry Centers, the Shift Commander/Duty Officer will consider appropriate alternatives.

      1) When a pat/strip search is not conducted according to the DOC 02-420 Preferences Request, an Incident Management Reporting System (IMRS) report will be completed.

   b. If unable to accommodate the request in the community, the employee will notify the CCS/designee and document the pat search in the individual's electronic file.

C. Employees/contract staff will conduct searches in a sensitive and respectful manner, and in the least intrusive manner possible.

D. Facilities will develop procedures to conduct strip searches for transgender, intersex, and non-binary individuals out of view of other individuals when possible.

E. Employees/contract staff will not search or physically examine a transgender, intersex, or non-binary individual 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, by
reviewing medical records, or, if necessary, as part of a broader medical examination conducted in private by a health care practitioner.

X. Training

A. The Training and Development Unit will consult with the Gender Responsive Administrator to develop annual training material for all employees/contract staff regarding transgender, intersex, and/or non-binary individuals. 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 Identity, Gender Expression, Transgender, Non-binary, Intersex, Sexual Orientation. 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 14-172 Substance Abuse Recovery Unit Compound Release of Confidential Information
DOC 20-155 Intake/Pre-Sentence Report Information Sheet