



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY
PRISON/WORK RELEASE/FIELD
OFFENDER/SPANISH MANUALS

EFFECTIVE DATE
2/13/20

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NUMBER
DOC 490.700

POLICY

TITLE
**TRANSGENDER, INTERSEX, AND/OR GENDER NON-
CONFORMING HOUSING AND SUPERVISION**

REVIEW/REVISION HISTORY:

Effective: 2/13/20

SUMMARY OF REVISION/REVIEW:

New policy. Read carefully!


APPROVED:

Signature on file

STEPHEN SINCLAIR, Secretary
Department of Corrections

1/15/20

Date Signed


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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 Offender Legal Name Change](#); [DOC 420.140 Cell/Room Assignment](#); [DOC 420.310 Searches of Offenders](#); [DOC 420.325 Searches and Contraband for Work Release](#); [DOC 420.380 Drug/Alcohol Testing](#); [DOC 420.390 Arrest and Search](#); [DOC 440.050 State Issued Clothing/Linen](#); [DOC 490.800 Prison Risk Elimination Act \(PREA\) Prevention and Reporting](#); [DOC 490.820 Prison Risk Elimination Act \(PREA\) Risk Assessments and Assignments](#); [42 U.S.C. 1997](#); [Washington DOC Health Plan](#); [Evaluation and Management of Hormonal Treatment of Gender Dysphoria/Transgender Identification Protocol](#); [Gender Dysphoria Protocol and GD-CRC](#); [Sexual Assault Support and Information Line](#)

POLICY:

- I. The Department has established procedures to ensure equitable treatment of transgender, intersex, and/or gender non-conforming individuals when determining housing, classification, programming, and supervision.
- II. The following definitions are being provided to help with implementation of this policy. Definitions may be updated when necessary to reflect language changes as they may occur within the broader stakeholder community.
 - A. **Gender** – Gender is the social construct used to classify a person as a man, woman, both, or neither. Gender encompasses all relational aspects of social identity, psychological identity and human behavior. Gender includes a person’s gender identity and gender expression.
 - B. **Gender Identity** – An individual’s sense of being either male, female, both, or neither. This may be different from what is traditionally associated with the individual’s assigned sex at birth.
 - C. **Gender Expression** – Gender related traits that may or may not be consistent with those traits typically associated with a person’s assigned sex at birth. External manifestations of gender, expressed through one’s name, pronouns, clothing, haircut, behavior, voice, or body characteristics.
 - D. **Transgender (Individual)** – An umbrella term for persons whose gender identity, gender expression, or behavior does not conform to that typically associated with the sex they were assigned at birth.
 - E. **Gender Non-Conforming** – A person whose gender identity or gender expression does not conform to socially defined male or female gender norms.

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- F. **Nonbinary** (Individual) – Nonbinary is an umbrella term for people with gender identities that fall somewhere outside of the traditional conceptions of strictly either female or male. People with nonbinary gender identities may or may not use more specific terms to describe their genders, such as agender, genderqueer, gender fluid, two spirit, bigender, pangender, gender nonconforming, or gender variant.
- G. **Intersex** – Intersex individuals are born with sex characteristics (including genitals, gonads and/or chromosome patterns) that do not fit typical binary notions of male or female bodies. Intersex is an umbrella term used to describe a wide range of natural bodily variations. Some intersex characteristics are identified at birth, while other people may not discover they have intersex traits until puberty or later in life. Some chromosomal intersex variations may not be physically apparent at all. Being intersex relates to biological sex characteristics and is distinct from a person’s sexual orientation or gender identity. Thus, intersex individuals may identify their gender in a variety of ways, just like non-intersex people.
- H. **Sexual Orientation** – Describes sexual attraction only and is not directly related to gender identity. The sexual orientation of transgender people should be defined by the individual. It is often described based on the lived gender; for example, a transgender woman attracted to other women may identify as a lesbian, and a transgender man attracted to other men may identify as a gay man.

DIRECTIVE:

- I. Responsibilities
 - A. Appointing Authorities will ensure processes are in place for the management of transgender, intersex, and gender non-conforming individuals.
 - B. All employees/contract staff/volunteers will address a transgender, intersex, and/or gender non-conforming individual 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 and behavior observation entries, incident reports, infractions, correspondence).



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- 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 Offender Legal Name Change.
- C. Incarcerated transgender, intersex, and/or gender non-conforming 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.
- D. The Statewide PREA Coordinator will maintain a record of transgender, intersex, and/or gender non-conforming 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 gender non-conforming 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 gender non-conforming.
 - 1. Case managers will document the information in the individual’s electronic file, as well as on the applicable form at the time of intake/pre-sentence investigation:
 - a. DOC 05-116 Work/Training Release Intake Information, or
 - b. DOC 20-155 Intake/Pre-Sentence Report Information Sheet.
- B. Housing decisions will be determined based on several factors as identified in DOC 420.140 Cell/Room Assignment.



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1. If the arriving individual does not have a PRA Risk Assessment (PRA) and DOC 02-384 Housing Protocol for Transgender, Intersex, and Gender Non-Conforming 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 designated Deputy Director.
 - 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 Work/Training Release, the individual will be housed in a single person room or a room with an individual(s) assessed as “No Risk” per DOC 490.820 Prison Rape Elimination Act (PREA) Risk Assessments and Assignments.
 - 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 gender non-conforming individuals will be provided a copy of the Sexual Assault Support and Information Line brochure during intake.

IV. Facility/Field Office MDT

- A. Each facility/Field Office will have a MDT Review Committee. The committee will:



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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 gender non-conforming identity at any time during their incarceration.
3. Review housing and programming assignments and make recommendations per the Housing and Programming Reviews section of this policy.
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 representative from medical,
 - d. A representative from mental health, 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 Work/Training Releases, the MDT will consist of the:

1. Assigned case manager,
2. CCS, and
3. Work/Training Release Administrator/designee.

D. In Field Offices, the MDT will consist of:

1. A Field Administrator,

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2. The assigned case manager,
3. The CCS, and
4. The medical/mental health Duty Officer, nurse from the Nurse Desk at Headquarters, or designee.

E. The MDT will meet in person or by phone to discuss the case and determine its recommendation.

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

G. The individual's personal views about the individual's safety will be considered when making recommendations.

V. Headquarters MDT

A. The Headquarters MDT will consist of:


1. A chair designated by the Deputy Director,
2. The Appointing Authority/designee from the facility where the individual is/will be assigned,
3. The Chief Medical Officer,
4. The Director of Mental Health,
5. The Chief of Psychiatry,
6. The Security Operations Program Manager, and
7. The PREA Coordinator.

B. The Headquarters MDT will:

1. Review and develop best practices for the care, custody, and supervision of transgender, intersex, and gender non-conforming 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 Gender Non-Conforming 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,

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intersex, or gender non-conforming. Reviews will be documented on DOC 02-384 Housing Protocol for Transgender, Intersex, and Gender Non-Conforming 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 of transgender, intersex, or Prison or Work/Training Release MDT will document housing reviews and make a recommendation on DOC 02-384 Housing Protocol for Transgender, Intersex, and Gender Non-Conforming Individuals. The form, a completed and signed DOC 02-420 Preferences Request, and all related documentation will be forwarded to the PREA Coordinator and designated Deputy Director.
 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 designated Deputy Director for final review and approval.
- C. If DOC 02-384 Housing Protocol for Transgender, Intersex, and Gender Non-Conforming Individuals is approved by the designated Deputy Director indicating transfer to another facility/work release, the receiving facility will complete Part II of the form.
1. The receiving Prison or Work/Training Release MDT will conduct an interview with the individual, arranged by the sending facility. The interview may be conducted telephonically or in person, as applicable.
- D. A confidential PREA hold will be entered in the individual's electronic file as soon as an individual identifies as transgender, intersex, or gender non-conforming. This hold will remain in effect until the individual's release or their status as transgender, intersex, or gender non-conforming 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 Gender Non-Conforming Individuals to review any threats to the individual's safety.



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

F. Transgender, intersex and gender non-conforming individuals may appeal housing review decisions in writing to the:

1. Designated Deputy Director 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 gender non-conforming 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 gender non-conforming 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 gender non-conforming individuals may request alternative undergarments within allowances established per DOC 440.050 State Issued Clothing/Linen.

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.

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- C. Identified transgender, intersex, and gender non-conforming 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. In 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 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 Work/Training Releases, 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.

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- D. Facilities will develop procedures to conduct strip searches for transgender, intersex, and gender non-conforming individuals out of view of other individuals when possible.
- E. Employees/contract staff will not search or physically examine a transgender, intersex or gender non-conforming 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 designated Deputy Director to develop annual training material for all employees/contract staff regarding transgender, intersex, and/or gender non-conforming individuals. Additional training will be provided as appropriate.

DEFINITIONS:

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

ATTACHMENTS:

None

DOC FORMS:

- [DOC 02-384 Housing Protocol for Transgender, Intersex, and Gender Non-Conforming Individuals](#)
- [DOC 02-385 Housing Review for Transgender, Intersex, and Gender Non-Conforming Individuals](#)
- [DOC 02-420 Preferences Request](#)
- [DOC 05-116 Work/Training Release Intake Information](#)
- [DOC 14-172 Substance Abuse Recovery Unit Compound Release of Confidential Information](#)
- [DOC 20-155 Intake/Pre-Sentence Report Information Sheet](#)