



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
PRISONS DIVISION
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To: All Staff

From: Rob Herzog, Assistant Secretary, Prisons Division [Signature on file]
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Danielle Armbruster, Assistant Secretary, Reentry Division [Signature on file]

Subject: **DOC Policy 490.700 Transgender, Intersex, and Gender Non-Conforming Housing and Supervision Pre-Implementation Communication**

To echo Secretary Sinclair's sentiments, the Prisons, CCD, and Reentry Divisions model daily their commitment to valuing the diversity of our workforce and the populations we serve. This memo is to provide you with additional background as to how we arrived at today, reinforce the good work being done across our divisions, and outline steps being taken to move us forward.

Historically it has been common practice to manage incarcerated/formerly incarcerated individuals in a firm, fair, consistent basis. Now we recognize the need to engage individuals within our system on a more comprehensive one-on-one basis. This extends beyond our current interactions as it pertains to safety and security, medical, mental health, classification, and supervision. It is imperative we provide guidance, assistance and direction to all in accessing the necessary services and receiving the level of care required.

In several case reviews completed thus far by a Headquarters Multi-Disciplinary Team (MDT) specific to the federal Prison Rape Elimination Act (PREA) standards and to transgender/intersex/non-conforming gender housing protocols, this is not an appropriate generality. While most transgender individuals are incarcerated according to gender assigned at birth, in rare cases, alternative housing should be a consideration.

The Airway Heights Corrections Center (AHCC) Pilot

AHCC has successfully piloted the housing assignment of a transgender person who was at-birth female. This person is well into their transition process and now identifies as male. While each transgender case is unique, transitioning is a process some individuals go through to begin living as the gender in which they identify, rather than the gender assigned at birth. This process may include hormone therapy, gender affirming surgery and other medical procedures.

DOC based the decision to place this individual at AHCC on many factors, including but not limited to: assessment of the individual's mental health and medical needs; individual appearance; and overall consideration for the individual's safety. While other states have successfully housed transgender persons in prisons opposite of the gender assigned at birth, this housing assignment was the first of its kind in Washington state. We made this decision thoughtfully and carefully, informed by numerous stakeholders, including the Attorney General's

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Office, DOC staff, community advisors and case law. This individual has now successfully transitioned from AHCC to the Monroe Correctional Complex (MCC) Minimum Security Unit (MSU), and Twin Rivers Unit (TRU).

New draft policy on transgender, intersex and/or gender non-conforming individuals

Through the excellent work AHCC staff accomplished as part of this pilot, and more recently through work at the Washington Corrections Center for Women (WCCW) and MCC, the agency created a multi divisional agency wide policy workgroup. DOC now has draft policy language (490.700 Transgender, Intersex, and/or Gender Non-Conforming Housing and Supervision) for all staff and incarcerated/formerly incarcerated individuals. DOC has also updated the incarcerated individual property policy and alternative property matrix. Previous adjustments to available items have been messaged and sent out to staff as we worked towards this day.

As with all incarcerated/formerly incarcerated individuals, effective and professional communication is crucial in managing behavior and developing mutual respect. Washington DOC operates under a proud tradition of providing individuals with dignity and respect in all interactions. We have absolute confidence in staff's ability to provide a safe and humane rehabilitative environment.

Logistics of the new policy

Logistically and operationally moving forward, it is important for all employees to be equipped with the necessary information and training to better understand how to engage, interact with and initiate the routine security processes. This to ensure the safety of staff and incarcerated/formerly incarcerated individuals, while maintaining a safe and secure environment for all involved.

Pronoun Preference

We encourage employees to refer to each other and incarcerated/formerly incarcerated persons using appropriate pronouns (he/him/Mr., she/her, Ms., they/them/their). For incarcerated individuals, gender neutral terms may also be used such as incarcerated individual + last name, or simply last name.

Searches and urinalysis testing

For the most part, the incarcerated/formerly incarcerated individual will be subject to pat searches, strip searches (except those on supervision) and urinalysis testing in a manner similar to other individuals. The difference with this population moving forward is engaging the individual on their preference of staff gender conducting these duties when appropriate and necessary for safety and security purposes. While there are some minor differences, basic processes remain the same:

- **Pat Searches:** Routine pat searches will be conducted by both male and female employees. The pat search procedure and order of events remain the same, and will be

conducted randomly when a legitimate penological need exists and at movement/transfer points predetermined in the Prisons Policy/Facility Operational Memorandum 420.310 Searches of Offenders. For Reentry Division/Work Release this will be DOC #420.325 Searches and Contraband for Work Release. For CCD division this will be DOC Field Policy #380.200 Community Supervision of Offenders.

- **Strip Searches:**

Prisons- Strip searches will be conducted by employees, in a private area according to DOC 420.310 Searches of Offenders. Strip searches will also be completed with one employee observing the other employee as the searching employee conducts the search process. After assignment and delivery to a permanent housing placement, strip searches of incarcerated transgender individuals will ordinarily be conducted by male staff in facilities that are generally designated to house male inmates, and by female staff in facilities that are generally designated to house female inmates. An incarcerated individual may request approval from the Multi-Disciplinary Team (MDT) via the housing protocol, DOC 02-420 Preferences Request to have strip searches conducted by custody staff/staff of the other gender. Only employees who volunteer will conduct strip searches of the opposite gender. Facilities will create and maintain a list of employees who volunteer to conduct the searches and requests will be accommodated when staff availability and circumstances allow. The strip procedure and order of events will be conducted according to the search process.

Work Release- Only trained employees will be authorized with Supervisor/Duty Officer approval to conduct strip searches when exigent circumstances exist.

- **Urinalysis Testing:** Drug testing will be conducted in accordance with DOC 420.380 Drug/Alcohol Testing. Testing will occur primarily by means of the oral fluid test. Oral swab testing is capable of confirming drug use within a 12 hour period, if more extensive testing is required, employees will conduct a urine test and the incarcerated individual will be permitted to sit during the collection process.

Moving Forward

The Training and Development Unit (TDU) has developed staff training, which we will provide at CORE/NEO/In-Service and as needed. Information about incarcerated individuals will be added to the Statewide Handbook, Facility NEO, and Incarcerated Individual Health Care Plan. Information for employees who identify as transgender, intersex, gender non-conforming will be incorporated into DOC Policy #810.005 Diversity/Inclusion/Non-Discrimination.

We appreciate your continued efforts and professionalism in how we treat each other, how we engage and manage such a diverse population, and how we operate safe and humane business practices in all aspects of the agency.