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<p>POLICY AND ADMINISTRATIVE PROCEDURE Manual of Policies and Procedures</p>				

<p>Title</p> <p>TRANSGENDER AND INTERSEX OFFENDERS</p>

Legal References (includes but is not limited to)	Related Policies/Procedures (includes but is not limited to)	Other References (includes but is not limited to)
IC 11-8-2-5(a)(8) IC 11-8-2-9 IC 11-10-1-1 <i>et seq.</i> IC 11-10-2-1 <i>et seq.</i> IC 11-10-3-1 <i>et seq.</i> IC 11-11-6-1 IC 16-21-8-1.5 IC 35-42-4-1 IC 35-42-4-2 IC 35-42-4-8 IC 35-44.1 IC 35-45-4-5 United States Department of Justice National Standards to Prevent, Detect, and Respond to Prison Rape Final Rule	00-01-103 02-01-107 00-02-301 02-04-101 00-04-201 03-01-101 01-02-101 03-02-101 01-03-103 03-02-103 01-04-101 03-02-104 01-04-104 03-03-101 01-04-106 04-03-103 01-05-101 HCSD 2.30 (Adult) HCSD 2.30 (Juvenile) Health Services Sexual Assault Manual	ACA Standards: ACI: 4-4281-1 thru 4-4281-8 JTS: 3-JTS-3D-06-1 thru 3-JTS-3D-10 CO: 2-CO-3C-01, 2-CO-4F-01 ALDF: 3-ADLF-3E-08, 3-ALDF-4B-02-1, 3-ALDF-4F-0

I. PURPOSE:

The purpose of this policy and administrative procedure is to provide guidelines for the Department to meet the federal Prison Rape Elimination Act of 2003 (PREA) standards, and to address the appropriate programming, safety, security, and health needs of transgender and intersex offenders.

II. POLICY STATEMENT:

The Department of Correction shall receive, evaluate, house, and provide secure and humane custody of all persons committed to, or held by the Department. An offender's

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biological sex and gender identity are recognized as factors in determining whether the offender is likely to become a victim of abuse in a Department facility and shall be considered in applicable decision processes regarding the offender. The Department shall screen offenders to help identify potential aggressors and victims in accordance with Policy and Administrative Procedure 02-01-115, "Sexual Abuse Prevention."

III. DEFINITIONS:

For the purpose of this policy and administrative procedure, the following definitions are presented:

- A. **GENDER:** The male or female division of a species, especially as differentiated by social and cultural roles and behavior.
- B. **GENDER DYSPHORIA:** A mental health diagnosis of a strong and persistent cross-gender identification. It is manifested by a stated desire to be the opposite sex and persistent discomfort with his/her own biologically assigned sex. Not all transgender offenders will have a diagnosis of gender dysphoria.
- C. **GENDER IDENTITY:** A person's internal, deeply felt sense of being male or female, regardless of the person's sex at birth.
- D. **GENDER NONCONFORMING:** A person whose appearance or manner does not conform to traditional societal gender expectations.
- E. **INTERSEX:** A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development. An intersex diagnosis does not necessarily mean the offender identifies as transgender.
- F. **IRIS:** IDOC Records Management System. The electronic storage system used by the Department for the storing and maintenance of offender records.
- G. **LGBTI:** Lesbian, Gay, Bisexual, Transgender, Intersex
- H. **OFFENDER:** An adult committed to a department of correction (federal, state, or local) and housed or supervised in a facility either operated by the department of correction or with which the department of correction has a contract, including an adult or juvenile under parole supervision; under probation supervision following a commitment to a department of correction; in a minimum security assignment, including an assignment to a community transition program.

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- I. PRISON RAPE ELIMINATION ACT (PREA): The federal law addressing sexual violence in prison, jails, and other correctional facilities. Under PREA, the National Prison Rape Elimination Commission was created with the responsibility for establishing standards for the prevention, detection, response, and monitoring of sexual abuse and violence within correctional systems.
 - J. TRANSGENDER: A person whose gender identity (i.e., internal sense of feeling male of female) is different from the person’s assigned sex at birth.
- IV. INTAKE:

This section is applicable to all incoming offenders, committed or otherwise, ordered to the Department. While it is intended primarily for use at the designated Intake facilities, this section shall be applied to offenders who arrive from outside agencies at other Department facilities as Parole Violators or returnees from the community.

A. Reception Screening

In accordance with Health Care Services Directive 2.03A, “Reception Screening,” prior to the offender’s intake nursing assessment, the offender shall be asked to complete State Form 45999, “Offender Health History.”

If the offender self-identifies as transgender, the offender shall be referred to Health Services for further evaluation. When an offender self-identifies as a gender other than that assigned at birth and the offender’s genital status is unknown, the status shall be determined during the medical intake reception screening process by reviewing available medical records or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner during the Intake Health Appraisal (IHA).

An offender who self-identifies as transgender or is diagnosed as intersex shall be evaluated in accordance with Health Care Services Directive 3.01A, “Health Services for Transgender Offenders.” The facility PREA Compliance Manager shall be notified of all offenders identified as transgender or intersex.

B. PREA Compliance Manager

Upon receiving notification that an offender has been determined to be transgender or diagnosed as intersex, the PREA Compliance Manager shall place the offender on the facility’s tracking mechanism for LGBTI offenders.

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The PREA Compliance Manager shall review the offender’s SVAT and ensure a new Sexual Violence Assessment Tool (SVAT) is completed upon any new placement on the tracking mechanism and/or any new identification of transgender/intersex offender.

The PREA Compliance Manager shall ensure an initial placement and programming assessment with subsequent reassessments are conducted every six (6) months in accordance with Section XI of Policy and Administrative Procedure 02-01-115, “Sexual Abuse Prevention.”

V. OFFENDERS DIAGNOSED OR SELF-IDENTIFYING AFTER THE RECEPTION PROCESS:

An offender who self-identifies as transgender or is diagnosed as intersex after completing the reception process shall be referred to Health Services and evaluated in accordance with Health Care Services Directive 3.01A, “Health Services for Transgender Offenders Medical and Mental Health staff shall complete State Form 56492, “Transgender Evaluation” and forward a copy to the facility PREA Compliance Manager.

The offender shall be placed on the facility PREA Compliance Manager’s tracking mechanism for LGBTI offenders and ensure an initial placement and programming assessment, with subsequent reassessments, are conducted every six (6) months in accordance with Policy and Administrative Procedure 02-01-115, “Sexual Abuse Prevention.”

VI. HOUSING ASSESSMENTS:

After the facility PREA Compliance Manager receives the completed State Form 56492, “Transgender Evaluation,” from the facility HSA, the PREA Compliance Manager shall convene the facility PREA Committee to complete State Form 56615, “Transgender/Intersex Placement Review” The PREA Committee shall consider the following information to complete State Form 56615:

- A. The offender’s own views of where he/she feels safe;
- B. Medical and Mental Health assessment;
- C. Security Threat Group (STG) affiliation;
- D. Criminal history – sex or violent offense;
- E. Conduct history – sex or violent offense;
- F. PREA flag status;
- G. Gender expression – gender non-conforming;

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- H. Policy and Administrative Procedure 01-04-101, “Adult Offender Classification;”
- I. Security level; and,
- J. Any other factors impacting safety and security.

The PREA Committee shall make a recommendation on State Form 56615 for the placement of the offender based on all information reviewed. The PREA Compliance Manager shall forward the completed State Form 56615, last completed SVAT and State Form 56492, “Transgender Evaluation” to the Executive Director of PREA.

The Executive Director of PREA shall convene a committee consisting of, but not limited to:

- A. The Executive Director of PREA;
- B. The Chief Medical Officer;
- C. The Executive Directors of Adult Facilities;
- D. The Executive Director of the Division of Youth Services;
- E. The Executive Director of Classification; and,
- F. The Director of Policy Development and Accreditation;

to discuss and determine the offender’s placement. Serious consideration shall be given to the facility’s assessment recorded on State Form 56492. The findings of this committee shall be documented and a recommendation forwarded to the office of the Deputy Commissioner of Operations for review and decision.

VII. HOUSING ASSIGNMENT:

Following the Deputy Commissioner of Operation’s decision on the recommendation, it shall be forwarded to the Executive Director of Classification, who shall notify the facility’s Warden and cause the Deputy Commissioner of Operation’s decision to be effected. The completed State Form 56492 and State Form 56615 shall be filed in the offender’s medical record, in the confidential section of the offender’s packet, and scanned into IRIS.

Transgender and intersex offenders may not be assigned to gender-specific facilities based solely on their external genital anatomy. While determining housing placement, the Department shall consider physical layout and offender privacy issues when determining location. In deciding whether to assign a transgender or intersex offender to a facility for male or female offenders, and in making other housing and programming assignments, the Department shall consider, on a case-by-case basis, whether a placement would ensure the offender’s health, safety, and security; and whether the placement would present management or other safety or security concerns. Serious consideration shall be given to

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such an offender’s own views with respect to his or her own safety. Facilities shall not place transgender or intersex offenders in dedicated buildings, units, or ranges solely on the basis of such identified status.

The Division of Classification, in consultation with the Department’s Executive Staff, including the Chief Medical Officer, shall ensure transgender and intersex offenders are housed in a manner consistent with their medical and mental health needs, sentencing level, and in accordance with Policy and Administrative Procedure 01-04-101.

VIII. APPLICABILITY:

This policy and administrative procedure is applicable to all facilities housing adult offenders.

signature on file
Robert E. Carter, Jr.
Commissioner

Date