

DATE:	MARCH 11, 2022
NUMBER:	R.13
SUBJECT:	TRANSGENDER, INTERSEX AND NON-BINARY INCARCERATED PERSONS
RELATED SECTIONS:	I.47 , I.52 , L.1 , L.11 , J.3 , R.1 , R.3 , R.11 , 4030 P.C., PREA

PURPOSE

To ensure decisions regarding the searching, housing, programming, and in-custody services such as clothing, commissary and toiletries are applied in a manner consistent with an incarcerated person's declared gender identity.

POLICY

It is the policy of the San Diego County Sheriff's Department to receive, evaluate, house, and provide secure, safe and humane custody of all persons, including transgender, intersex and non-binary which are committed or held for confinement by the Sheriff until their lawful and appropriate release or transfer to another authority. During intake, all individuals who identify as transgender, intersex or non-binary will be asked about their housing and search preferences. Staff shall record these preferences on a Voluntary Gender Identity Statement of Preference (J-350) form.

PROCEDURE

I. DEFINITIONS

Transgender – A person whose gender identity (internal sense of feeling male or female) differs from their sex at birth.

Intersex – A condition in which a person is born with external genitalia, internal reproductive organs, chromosome patterns and/or an endocrine system that does not fit typical definitions of male or female.

LGBTQ+ – Acronym used to include all those who have diverse sexual orientations and/or gender identities. The acronym includes those who identify as lesbian, gay, bisexual, transgender, queer and/or questioning, and the "+" includes all others within the spectrum.

Gender identity – Distinct from sexual orientation and refers to a person's internal, deeply felt sense of being male, female or non-binary.

Non-Binary – Term used by some people who experience their gender identity and or gender expression as falling outside the categories of man and woman. They may self-identify as falling somewhere in between man and woman or, they may define it as wholly different for these terms.

II. IDENTIFICATION OF TRANSGENDER, INTERSEX AND NON-BINARY INDIVIDUALS

- A. Upon identifying an individual as transgender, intersex or non-binary, based on their response to the gender identity intake screening question, medical staff will immediately notify the Jail Population Management Unit (JPMU). JPMU will respond immediately to conduct an initial assessment with the individual prior to them continuing the intake process (see sections III and IV for details).
1. After the initial assessment is complete, the individual will be kept separate from other incarcerated persons for their safety during the intake process. The JPMU deputy will alert intake staff (e.g., body scanner and/or intake deputy(s)) to the individual's gender identity (e.g., TGF for female, TGM for male, TGX for gender non-binary/other). JPMU will also inform the intake staff of the individual's search preference, FSS (female strip search), MSS (male strip search) or NSP (no strip search preference). The JPMU deputy will notate this information along with the name and ARJIS of the deputy(s) they spoke with.
 2. Once the classification follow up has been completed and an individualized housing assignment has been determined, the JPMU deputy will complete the classification documentation in JIMS. The incarcerated person may be placed in a temporary holding cell according to their individualized housing assignment, to continue the booking process, or pending an escort to housing. If a facility transfer is required, such transfer will be made as soon as possible after the final housing assignment has been determined.
 3. Transgender, intersex and non-binary incarcerated persons who do not require a housing assessment by JPMU (e.g., Book and Release, 853.6 PC, Conditional Custody Program), will be kept separate from other incarcerated persons for their safety until released from custody.
- B. If at any time a staff member suspects an incarcerated person may be transgender, intersex or non-binary, they will immediately separate the incarcerated person and contact JPMU for a resolution.

III. SEARCHES OF TRANSGENDER, INTERSEX OR NON-BINARY INDIVIDUALS

- A. Incarcerated persons who identify as transgender, intersex or non-binary shall not be subject to a strip search or body scan prior to being interviewed by JPMU, unless exigent circumstances exist.
- B. Staff shall not search or physically examine an individual for the sole purpose of determining genital status. If the individual's genital status is unknown, it may be determined during conversations with them, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
- C. JPMU staff will conduct an interview with the incarcerated person to determine the appropriate gender of the staff to conduct the search. During the interview, JPMU staff will provide the incarcerated person with a J-350 form to document their gender identity, gender search and housing preference.

- D. The J-350 form will be placed in the incarcerated person's custody record and a Jail Information Management System (JIMS) housing modifier will be entered to identify the incarcerated person's strip search preference.
1. If they prefer male deputies to conduct the pat-down or strip search, the code MSS will be utilized.
 2. If they prefer female deputies to conduct the pat-down or strip search, the code FSS will be utilized.
 3. If the incarcerated person does not have a search preference, the code NSP will be utilized. Transgender, intersex or non-binary individuals who express no preference on the J-350 form as to whom will conduct searches of their person, will be told by JPMU staff that searches of their person will be conducted by staff that is of the same gender as the incarcerated person's assigned housing status.
- E. All searches of incarcerated persons who have been identified as transgender, intersex, or non-binary will be conducted by staff member(s) in accordance with the individual's documented search preference found in JIMS (FSS, MSS, NSP). All strip and visual body cavity searches shall be conducted in an area of privacy so the search cannot be observed by persons not participating in the search. Persons are considered to be participating in the search if their official duties relative to search procedures require them to be in the area or present at the time the search is conducted. This does not preclude deputies of either gender from assisting each other during violent confrontations or when personal safety of staff is threatened.
- F. During exigent circumstances, if a deputy of the appropriate gender (based on the incarcerated person's stated preference) is not reasonably available, a deputy of the opposite gender may conduct a pat-down search. The pat-down search will be documented in the incarcerated person's history utilizing the drop down "PDS-Pat Down Search" in JIMS (refer to Detention Policy and Procedure I.52 for further details).

IV. HOUSING AND PROGRAMMING ASSIGNMENTS

- A. JPMU staff will be consulted to determine individualized housing assignments for all transgender, intersex or non-binary individuals in custody. JPMU staff will use the information obtained from the J-350 form along with other factors, such as the individual's safety, the safety of other incarcerated persons and the safety of staff to determine the most suitable housing assignment. An individual's own views with respect to their safety shall be given serious consideration. A hazard and instruction will be added to document the incarcerated person's stated gender identity in JIMS (e.g., TGF for female, TGM for male, TGX for gender non-binary/other). The hazard informs staff of the incarcerated person's gender identity. The incarcerated person's gender identity may differ from their assigned housing status.
- B. Transgender, intersex or non-binary individuals that do not specify a housing preference on the J-350 form will receive housing assignments consistent with their biological sex.
- C. Incarcerated persons shall not be denied access to programs or services they would otherwise be eligible for based on their sexual orientation and/or gender identity.

- D. In deciding whether to assign a transgender, intersex or non-binary individual to a facility for male or female incarcerated persons, and in making other housing and programming assignments, the department shall consider, on a case-by-case basis, whether the placement would ensure the incarcerated person's health and safety and whether the placement would present a security risk to them.
- E. Transgender, intersex or non-binary individuals can be housed in dorm style or cell housing. One of the following options will apply when assigning a transgender, intersex or non-binary individual to cell housing:
1. Single cell housing without a cellmate.
 2. JIMS Operation Status Board (Area Status) will be changed to "JPMU- JPMU Override Do Not Change" for additional beds in the cell. This will notify staff of the bed(s) that are out of service and require approval from JPMU.
 3. Other transgender, intersex or non-binary cellmate(s).
 4. Non-transgender, intersex or non-binary cellmate(s) will require approval from JPMU and will be documented in an JIMS Status Report (ISR).
- F. Incarcerated persons at high risk for sexual victimization shall not be placed in involuntary separation housing unless an assessment of all available alternatives has been made and a determination has been made that there are no available alternative means of separation from likely abusers. If a facility cannot conduct an assessment immediately, the facility may hold the incarcerated person in involuntary separation housing for less than twenty-four (24) hours until the assessment is completed. JPMU supervisors will be notified and will provide direction in determining the most suitable housing option.
- JPMU staff will be consulted if an involuntary separation housing assignment is necessary. The JPMU deputy shall clearly document the basis for the concern for the incarcerated person's safety and the reason why no alternative means of separation can be arranged. All incarcerated persons housed in Administrative Separation will be subject to weekly reviews as described in Detention Policy and Procedure J.3.
- G. In conjunction with existing parameters, the custody level of transgender, intersex and non-binary individuals shall be reassessed when, necessary, due to a referral, request, an incident of sexual abuse, or receipt of additional information that increases their risk of sexual victimization or abusiveness. Housing and programming assignments for each transgender, intersex or non-binary incarcerated person shall be reassessed at least twice each year to review any threats to safety experienced by the individual.

V. DOCUMENTATION

All initial classification housing assignment decisions will be documented in an ISR, regardless of the housing decision (e.g. male or female facility, general population or protective custody). The ISR will detail the incarcerated person's gender identity, gender search preference, housing preference and their own views with respect to their safety. The ISR will state the final gender housing assignment as determined by JPMU.

VI. HYGIENE, COMMISSARY AND CLOTHING

- A. Transgender, intersex or non-binary individuals shall be given the opportunity to shower separately from other incarcerated persons. This may be accomplished either through physical separation (e.g., separate shower stalls) or by scheduling time (e.g., allowing them to shower before or after others). In any event, facilities will adopt Green Sheet procedures that will afford transgender, intersex or non-binary individuals the opportunity to disrobe, shower and dress apart from other incarcerated persons.
- B. Transgender, intersex or non-binary individuals will be given jail-issued clothing that matches their gender identity (e.g. female undergarments for a transgender female or male undergarments for a transgender male), upon request.
- C. Transgender, intersex or non-binary individuals will be allowed to order available commissary items in accordance with their gender identity.