



INTERNAL MANAGEMENT POLICY & PROCEDURE

Applicability: Adult Operation Only JUVENILE Operations Only DEPARTMENT-WIDE

IMPP #: 10-143D

PAGE #: 1 of 4

PROGRAMS AND SERVICES: Transgender and Intersex Offender Placement

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Approved By: , Secretary

Next Scheduled Review: July 2024

POLICY

It is the policy of the Kansas Department of Corrections to provide a safe and secure environment for all offenders. An offender's biological sex and gender identity are recognized as factors in determining whether the offender is likely to become a victim of abuse in a correctional setting and must be considered in applicable decision-making processes regarding the offender. The Department screens offenders to help identify potential aggressors and victims in accordance with IMPP 10-139D.

DEFINITIONS

Gender: The male or female division of a species, especially as differentiated by social and cultural roles and behavior.

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.

Gender Identity: A person's internal, deeply felt sense of being male or female, regardless of the person's sex at birth.

Intersex: A medical diagnosis for a person whose sexual or reproductive anatomy does not seem to fit typical definitions of male or female.

PREA: Prison Rape Elimination Act of 2003, codified at 42 U.S.C. 15601, *et seq.*, an act signed into law with the goal of preventing, detecting, and responding to sexual abuse occurring in confinement facilities.

PREA Accommodation Committee (PAC): Committee comprised of the Classification Director, Director of Behavioral Health, Director of Medical Services, Deputy Secretary of Facilities Management, PREA Coordinator, and Reception and Diagnostic Unit (RDU) Administrators (El Dorado Correctional Facility [EDCF] and Topeka Correctional Facility [TCF]).

Transgender: A person whose gender identity (i.e. internal sense of feeling male or female) is different from the person's assigned sex at birth.

PROCEDURES

I. Related Policies

- A. The procedures set out in IMPP 10-139D PROGRAMS AND SERVICES: Screening for Sexual Victimization and Abusiveness must be followed when screening offenders to identify potential aggressors and victims.

II. Facility Placement

- A. Transgender and Intersex offenders must not be assigned to gender-specific facilities based solely on their external genitalia. While determining facility placement, the Department must consider physical layout and offender privacy issues.
 - 1. 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 must consider, on a case-by-case basis, whether placement would ensure the offender's health, safety, and security; and whether the placement would present management or other safety or security concerns.
 - 2. During the interview process to assess any safety concerns, serious consideration must be given to an offender's own views with respect to his or her own safety.
 - a. Documentation of the interviews must indicate the offender's view as being one of the following:
 - (1) The offender has no safety, placement or programming concerns at this time.
 - (2) The offender expressed concerns with housing and programming needs or expressed safety concerns.
 - (3) The offender refused to participate in the interview, instead all available information was reviewed and either:
 - (a) There are no apparent programming or safety issues evident, or
 - (b) There are some programming and safety issues to be considered.

III. Intake Screening / Risk Assessment

- A. If an offender self-identifies as transgender or intersex during the intake assessment for Risk of Sexual Victimization and Abusiveness (SVA), the offender must be referred to Medical and Behavioral Health for further evaluation.
 - 1. Medical and Behavioral Health staff must complete the Transgender Evaluation Form (Attachment A) and forward a copy to the PREA Coordinator.
- B. No search or physical exam may be conducted by a non-medical person to determine an offender's genital status.
 - 1. When an offender self-identifies as a gender other than that assigned at birth, and the offender's genital status is unknown, the status must be determined using the medical intake assessment 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 Assessment.
- C. Upon receipt of the completed Transgender Evaluation Form from the facility, the PREA Coordinator must convene the PREA Accommodation Committee (PAC) to complete the Transgender/Intersex Placement Review.

1. The PAC must consider the following information:
 - a. The offender's own views of where he/she feels safe;
 - b. Medical and Behavioral Health Assessments;
 - c. Security Threat Group (STG) affiliation;
 - d. Criminal history – sex or violent offense;
 - e. Disciplinary Conviction history – sex or violent offense
 - f. Internal Classification (SVA score)
 - g. Custody Classification; and,
 - h. Any other factors impacting safety and security.
2. The PAC must make a recommendation on the Transgender/Intersex Placement Review for the placement of the offender based upon all information reviewed.
3. The PREA Coordinator must forward the completed Transgender/Intersex Placement Review, Transgender Evaluation and latest Sexual Victimization and Abusiveness Assessment to the Secretary of Corrections/designee for final determination and placement decision.

IV. Housing Assignment

- A. Following the Secretary's decision on the recommendation, it must be forwarded to the Classification Director, who must notify the facility of the decision.
 1. The completed Transgender Evaluation and Transgender/Intersex Placement Review must be filed in the offender's medical record and scanned into the Offender's Record in Docuware.
- B. Facilities must not place transgender or intersex offenders in dedicated buildings, units or wings solely on the basis of such identified status.
 1. A transgender or intersex offender must be given the opportunity to shower separately from other offenders.
 - a. This offer and their refusal or acceptance of separate shower times must be documented in a case note.

V. Post Intake

- A. An offender who self-identifies as transgender or is diagnosed as intersex after completing the initial reception process or anytime throughout their incarceration, must be referred to Medical and Behavioral Health Services for further evaluation.
 1. Medical and Behavioral Health staff must complete the Transgender Evaluation Form and forward a copy to the facility PREA Compliance Manager (PCM). The PCM must notify the PREA Coordinator.
 2. The PREA Coordinator must review the offender's Sexual Victimization and Abusiveness Assessment (SVA) to determine if the offender was identified as transgender or intersex during the initial assessment and if not, must convene the PAC to complete the Transgender/Intersex Placement Review within 72 hours.

VI. Reassessments

- A. For each transgender or intersex offender, the re-assessment must be completed at least twice per calendar year (January and July) to review the appropriateness of placement and programming assignments and to assess any threats to safety experienced by the offender. (28 C.F.R. §§ 115.42 and 115.342).
 - 1. During the bi-annual assessments, offenders will be interviewed regarding their views on their placement and programming assignments as well as any threats to safety.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedures are not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS

None.

REFERENCES

42 U.S.C. 15601, *et seq.*,
28 C.F.R. §§ 115.5, 115.41, 115.42, 115.341, 115.342
IMPPs 10-103D, 10-139D, 12-103D
General Health Services Policy & Procedure PG.02.02 Guidelines for Identification, Treatment and Correctional Management of Inmates Diagnosed with Gender Dysphoria.

HISTORY

None.

ATTACHMENTS

Attachments	Title of Attachments	Page Total
A	Transgender Evaluation Form	2 pages
B	Transgender/Intersex Placement Review	2 pages

TRANSGENDER EVALUATION

Name of Offender		DOC Number	Date (month, day, year)
Facility	Housing Unit	Birth Assigned Gender	Self-Identified Gender

MENTAL HEALTH EVALUATION
Is there evidence of a strong and persistent cross-gender identification, which is the desire to be, or the insistence that one is, of the other gender? This cross-gender identification must not merely be a desire for any perceived cultural advantages of being the other gender.
Is there evidence of persistent discomfort about one's assigned gender or a sense of inappropriateness in the gender role of that gender?
In the opinion of the Behavioral Health Practitioner, are there any characteristics, mannerisms, gestures, or verbal cues that possibly would identify this offender as transgender and at risk for sexual victimization?

MEDICAL EVALUATION
Does the offender verbalize the offender's gender identification as different from the assigned birth gender?
Does the offender provide a history of taking cross-sex hormones or having undergone sex reassignment surgery? Name of Treating Prescriber?
Do the breast areas present surgical scars?
Is there a normally shaped vulva and vagina present in a birth assigned female or is there evidence of a surgical alteration of the female genitalia?
Is there a normally shaped penis and scrotum with testicular tissue present in a birth-assigned male or is there evidence of a surgical alteration of the male genitalia?
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Is there any suggestion of an adverse reaction to cross-sex hormone treatments such as ascites, edema, hirsutism, breast or testicular atrophy?
Diagnosis of Gender Dysphoria: <input type="checkbox"/> Yes <input type="checkbox"/> No

TREATMENT SUMMARY		
Signature of Behavioral Health Practitioner	Printed Name of Behavioral Health Practitioner	Date (month, day, year)
Signature of Medical Provider	Printed Name of Medical Provider	Date (month, day, year)

TRANSGENDER / INTERSEX PLACEMENT REVIEW

Name of offender	DOC Number	Date (month, day, year)
Facility	Internal Classification (SVA)	

Classification Information	
Custody Classification	Earliest Possible Release Date (month, day, year)
Security Threat Group (STG) Affiliation <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, group if known
Medical/Behavioral Health Diagnosis of Gender Dysphoria <input type="checkbox"/> Yes <input type="checkbox"/> No	Sexual Victimization Abusiveness Assessment (SVA) <input type="checkbox"/> KA <input type="checkbox"/> AP <input type="checkbox"/> UN <input type="checkbox"/> VP <input type="checkbox"/> VI
Offender's statement of facility preference <input type="checkbox"/> Male Facility <input type="checkbox"/> Female Facility	Transgender Evaluation <input type="checkbox"/> Yes <input type="checkbox"/> No
PREA Committee recommendation: <input type="checkbox"/> Male Facility <input type="checkbox"/> Female Facility	
Comments:	

Central Office Review / Documentation		
Comments:		
Central Office recommendation: <input type="checkbox"/> Male Facility <input type="checkbox"/> Female Facility		
Signature	Printed Name	Date (month, day, year)
Signature	Printed Name	Date (month, day, year)
Signature	Printed Name	Date (month, day, year)
Signature	Printed Name	Date (month, day, year)

Secretary of Corrections Approval	
Facility Placement Decision: <input type="checkbox"/> Male Facility <input type="checkbox"/> Female Facility	
Signature	Date (month, day, year)

SUMMARY

Criminal History Information			
Case Number	Description	Sexual	Violent
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>

Disciplinary Conviction History			
Conviction Information (KAR # and Type)	Date of Hearing	Sexual	Violent
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
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		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>

Any other factors impacting the Offender's Health / Safety or Management / Security

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