

I. **PURPOSE**

To provide guidance for staff in an effort to safeguard and meet the needs of transgender and gender non-conforming inmates.

II. **POLICY**

It is the policy of the Fairfax County Sheriff's Office that:

- A. Individuals shall not be discriminated against on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, gender expression, ethnicity, age, marital status, or any other legally protected characteristic.
- B. Transgender or gender non-conforming inmates shall be provided an opportunity to participate in services, programs, and all other privileges routinely provided to all inmates housed in the Fairfax County Adult Detention Center.
- C. All efforts shall be made to process and classify all individuals safely and appropriately while in our custody.
- D. Male and female inmates shall be housed separately.
- E. Male inmates shall be classified as such if they have male genitals.
- F. Female inmates shall be classified as such if they have female genitals.

III. **DEFINITIONS**

Transgender – Individuals whose gender identity (i.e., internal sense of feeling male or female) is different from the sex assigned to them at birth.

Gender Non-Conforming – Individuals whose appearance or manner does not conform to traditional societal gender expectations. Gender non-conforming individuals may or may not identify as male, female, or transgender.

Intersex – A medical condition in which a person is born with external genitalia, internal reproductive organs, chromosome patterns, and/or an endocrine system that is not considered "standard," for either male or female.

Sexual Orientation – A person's physical and emotional attraction to people of the same and/or other gender. Straight, gay, and bisexual are some ways to describe sexual orientation. It is important to note that sexual orientation is distinct from gender identity and expression. Transgender individuals can be straight, gay, lesbian, or bisexual.

Gender Identity – An individual's internal sense of being male or female, or something not defined by traditional definitions of male or female.

Gender Expression – An individual's external and social characteristics and behaviors (such as appearance, dress, mannerisms, speech, and social interactions) that may be perceived as masculine or feminine.

IV. PROCEDURE

A. Intake Process

1. Staff shall follow the guidelines in this standard operating procedure when determining the appropriate manner to accept an individual into custody and/or the Adult Detention Center (ADC). The following circumstance shall be considered based on an individual's gender identity and genitalia when:
 - a. An inmate indicates they are transgendered or gender non-conforming at any time during their custody;
 - b. An inmate's gender identity, appearance, overt expression, or behavior differs from their birth sex or genitalia; or
 - c. A gender designation made by any public entity, government agency or law enforcement agency indicates the inmate is transgendered or gender non-conforming.
2. During the initial intake, if an inmate's gender-related expression, identity, appearance, or behavior differs from their biological sex, the on duty supervisory staff shall be notified and present, to ensure that the inmate is appropriately searched and processed. Additionally, staff shall:
 - a. Review commitment documents or other legal identification available for gender assignment or any other documentation that identifies the inmate as transgender, or gender non-conforming.
 - b. If, after reviewing available documentation and questioning of the individual, staff still cannot determine the inmate's biological sex, the staff shall then ask the inmate for verification of the sex of the genitalia. Staff shall attempt to conduct this inquiry privately and in a professional manner to preserve confidentiality in order to avoid subjecting the individual to abuse or ridicule.
 - c. If the individual's genital status cannot be determined, and/or the inmate refuses to cooperate, the supervisor shall send a referral to the medical section in order for medical staff to be aware that the inmate's genital status has not yet been determined. If the inmate's genital status is determined during the routine physical exam, medical staff shall inform Classification of the determination. Any inmate refusing to receive a physical examination will be housed in the least restrictive housing location to ensure safety until a designated location is determined by the Institutional Classification Committee (ICC).
 - d. All intake documentation shall include the inmate's birth and/or legal name or the name the inmate has been booked under by the arresting agency.
 - e. Inmates shall be called by their last names without reference to gender specific identifiers such as Mr., Mrs., Miss, Ma'am, Sir or other gender specific terms used in addressing a person.

B. Intake Housing

1. After completion of the initial intake process, an inmate identified as transgender or gender non-conforming shall be afforded the opportunity to request and receive an isolated housing location. The inmate can then be housed in a single cell in the Receiving Unit, consistent with the gender identified at intake. They shall remain in their assigned cell until they can be fully classified.
2. Transgender and gender non-conforming inmates shall be provided standard jail attire and privileges consistent with the gender of their housing assignment. Inmates under hormone therapy with secondary sexual characteristics, such as breasts, may be provided appropriate undergarments, such as a bra, when clinically indicated by appropriate medical staff.

C. Classification Process

1. The classification of transgender and gender non-conforming inmates shall follow procedures outlined in [SOP 608 – Classification Intake](#).
2. During the classification interview, staff shall only ask questions related to sexual identity, gender identity or gender expression for making intake and housing assignments. Questions related to sexual identity, gender identity, or gender expression shall be asked in a private setting and in a respectful manner to preserve confidentiality, human dignity and to avoid subjecting the transgender or gender non-conforming inmate to abuse, humiliation or ridicule.
3. All transgender and gender non-conforming inmates shall be classified and assigned housing based on their safety/security needs, housing availability, and genitalia (to include potential vulnerability, if assigned to general population).
4. As part of the housing assessment for vulnerability, the Classification Intake Deputy shall make a recommendation to the Institutional Classification Committee (ICC) as to the transgender or gender non-conforming inmate's housing assignment after review of all of the inmate's records and assessments. The Classification Intake Deputy shall ask the inmate his or her own opinion of his or her vulnerability in the general jail population of the male or female units. This information shall be taken into consideration by the ICC in determining the proper housing assignment. A written decision by the ICC shall be forwarded to the Chief, Classification and Records Branch for approval and shall be maintained in the inmate's file.
5. The housing assessment shall address whether the inmate will be housed in the general population or single cell housing of the gender consistent with their genitalia. If the Chief, Classification and Records Branch's opinion differs from the recommendation of the ICC, the Chief, Classification and Records Branch shall justify the assignment in writing. Transgender and gender non-conforming inmates have the same right to appeal housing assignments as all inmates.
6. If it is decided the inmate can be housed in the general population, the inmate shall be transferred to the general population as determined by the ICC. If it is determined the inmate requires protective custody, he or she shall be placed in applicable housing.

**FAIRFAX COUNTY SHERIFF'S OFFICE
STANDARD OPERATING PROCEDURE**

**SOP NUMBER: 606
SUBJECT: TRANSGENDER AND GENDER
NON- CONFORMING INMATES**

7. A transgender or gender non-conforming inmate may be housed on administrative segregation when there is reason to believe the inmate presents a heightened risk to him/herself or to others or where the inmate fears he or she will be vulnerable to victimization in any other housing setting. This assignment shall be only for the period during which the heightened risk and/or fear exists.
 8. Transgender or gender non-conforming inmates who were receiving hormone treatment and therapy at the time of their incarceration shall be referred to an appropriate medical doctor for further evaluation.
- D. Searches of Transgender or Gender Non-Conforming Inmates
1. All searches of transgender or gender non-conforming inmates shall be conducted in a manner consistent with established policy outlined in [SOP 512 - Inmate Searches](#). If there is uncertainty by a deputy as to a classified inmate's gender, the following criteria shall be followed:
 - a. If the inmate is housed with the female population, the inmate shall be searched by female staff only.
 - b. If the inmate is housed with the male population, the inmate shall be searched by male staff only.



**STACEY A. KINCAID
SHERIFF**

**09/24/18
EFFECTIVE DATE**

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