

LGBTQI YOUTH: INTAKE, HOUSING, AND PREA CONSIDERATIONS

- AUTHORITY:** 28 CFR Part 115, National Standards to Prevent, Detect and Respond to Prison Rape Final Standards, Prison Rape Elimination Act of 2003
Title 15 Minimum Standards for Juvenile Facilities 1350.5 and 1352.5
- RESCINDS:** Procedure Manual Item 3-5-003, dated 08/18/23
- FORMS:** Sexual Orientation, Gender Identity
and Expression Questionnaire (SOGIE) (Attachment)
- PURPOSE:** To establish a uniform procedure with respect to housing, classifications, searches, privacy, and interactions with LGBTQI youth detained in Juvenile Hall. To ensure Probation staff interact with LGBTQI youth in an equitable, respectful and unbiased manner. It will also ensure compliance with the Prison Rape Elimination Act of 2003 and its National Standards to Prevent, Detect, and Respond to Prison Rape (PREA Standards).

I. GENERAL INFORMATION

- A. The facility administrator shall develop and implement written policies and procedures to reduce the risk of sexual abuse by or upon youth. The policy shall require facility staff to assess each youth within 72 hours of admission based on the following information:**
- 1. Prior sexual victimization or abusiveness;**
 - 2. Gender nonconforming appearance or manner; or identification as lesbian, gay or bisexual, transgender, queer or intersex, and whether the youth may, therefore, be vulnerable to sexual abuse;**
 - 3. Current charges and offense history;**
 - 4. Age;**
 - 5. Level of emotional and cognitive development;**
 - 6. Physical size and stature;**
 - 7. Mental illness or mental disabilities;**
 - 8. Intellectual or developmental disabilities;**
 - 9. Physical disabilities;**
 - 10. The youth's perception of vulnerability; and,**

11. Any other specific information about the individual youth that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other youth.
 - B. Staff shall ascertain this information through conversations with the youth during the admittance process, medical and behavioral health screenings; during classification assessments; and by reviewing court records, case files, facility behavioral records, and other relevant documentation from the youth's files.
 - C. The facility administrator shall implement appropriate controls on the dissemination of information within the facility relative to responses received pursuant to this assessment in order to ensure that sensitive information is not exploited to the youth's detriment by staff or other youth.
 - D. The facility administrator shall develop written policies and procedures ensuring respectful and equitable treatment of transgender and intersex youth. The policies shall provide that:
 1. Facility staff shall respect every youth's gender identity and shall refer to the youth by the youth's preferred name and gender pronoun, regardless of the youth's legal name. Facilities may prohibit the use of gang or slang names or names that otherwise compromise facility operations as determined by the facility manager or designee and shall document any decision made on this basis.
 2. Facility staff shall permit youth to dress and present themselves in a manner consistent with their gender identity and shall provide youth with the institution's clothing and undergarments consistent with their gender identity.
 3. Facility staff shall house youth in the unit or room that best meets their individual needs and promotes their safety and well-being. Staff may not automatically house youth according to their external anatomy and shall document the reasons for any decision to house youth in a unit that does not match their gender identity. In making a housing decision, staff shall consider the youth's preferences, as well as any recommendations from the youth's health or behavioral health provider.
 4. Facility administrators shall ensure that transgender and intersex youth have access to medical and behavioral health providers qualified to provide care and treatment to transgender and intersex youth.
 5. Consistent with the facility's reasonable and necessary security considerations and physical plant, facility staff shall make every effort to ensure the safety and privacy of transgender and intersex youth when the youth are using the bathroom or shower or dressing or undressing.
 - E. Facility staff shall not conduct physical searches of any youth for the purpose of determining the youth's anatomical sex. Whenever feasible, the

facility shall respect the youth's preference regarding the gender of the staff member who conducts any search of the youth.

F. Definitions

1. Gender Identity: a person's sense of identification with either the male or female self-being, some combination of male or female, or either male or female.
2. Gender Expression: the manner in which a person expresses their gender as expressed through clothing, appearance, behavior, speech, etc.
3. Gender Nonconforming: a youth whose appearance or manner does not conform to traditional masculine and feminine gender norms.
4. Gender Fluidity: a gender identity that can vary over time. A gender fluid person may at any time identify as male, female, neutrois, any other non-binary identity, or some combination of identities. Their gender can also vary at random or vary in response to different circumstances. Gender fluid people may also identify as multi-gender, non-binary, and/or transgender.
5. Intersex: a youth whose sexual or reproductive anatomy or chromosomal pattern does not fit typical definitions of male or female.
6. Sexual Orientation: A person's emotional, romantic, and sexual attraction for members of the same, opposite, or both genders.
7. Transgender: a youth whose gender identity does not correspond with their anatomical sex. This may be different from the youth's assigned sex at birth.
8. Cisgender: means a person whose gender identity corresponds to the gender they were assigned at birth.
9. LGBTQI: is a diversity of sexuality and gender identity-based cultures. It may be used to refer to anyone who is non-heterosexual or non-cisgender, instead of exclusively to people who are lesbian, gay, bisexual, or transgender. To recognize this inclusion, the letter Q is for those who identify as "queer" or are questioning their sexual identity. The letter I stands for "intersex," which is defined above.

II. PROCEDURE

A. Intake

1. As required by Title 15 Section 1350.5 and detailed in PMI 3-5-001 Juvenile Hall Intake, all youth will be screened to reduce the risk of sexual abuse by or upon youth within 72 hours of admission. Staff will assess each youth's risk or vulnerability to experience abuse because of their gender nonconforming appearance or manner; identification as lesbian, gay or bisexual, transgender, queer or intersex, and whether the youth may, therefore, be vulnerable to sexual abuse.

2. In order to complete the screening, staff will use the Prison Rape Elimination Act (PREA) assessment found in the Institutional Case Management System (ICMS) (ICMS → Institution → PREA Assessment). Once completed, the assessment will be uploaded and searchable in the PREA Assessment screen in ICMS.
3. Conversations about a youth's gender identity or expression will be held in a private space in response to the sensitive nature of the topic.
4. All questions shall be asked in a respectful and unbiased manner. The information gathered will be accessible to staff responsible for ensuring a safe environment or providing supportive casework and resources to the youth.
5. **Every youth will complete the Sexual, Gender Identity and Expression Questionnaire (SOGIE) (see attachment) within 72 hours of intake during the orientation process.** The completed form will be scanned and uploaded to the youth's profile in ICMS and accessed via documents.
6. A youth may not be disciplined for any refusal or nondisclosure during screening or for later disclosing an information regarding gender identity, sexual orientation, or intersex condition.

B. Housing Determinations

1. Housing Policy

Please refer to PMI 3-5-006 Youth Housing Classification at Juvenile Hall regarding housing considerations.

C. Medical and Behavioral Health Services

1. Youth identified as LGBTQI will receive all medical and behavioral health services offered to all youth.
2. Facility administrators shall ensure that transgender and intersex youth have access to medical and behavioral health providers qualified to provide care and treatment to transgender and intersex youth. The Court Evaluation and Guidance Unit (CEGU) staff are specifically trained to provide services and identify additional services that would be beneficial to the youth.

D. Programming

Regardless of housing assignment, all LGBTQI youth must be permitted to participate in all recreation, programming, and other activities available to other youth in custody.

E. Privacy

1. All LGBTQI youth, regardless of housing, shall be allowed to shower, perform bodily functions, and change clothing without nonmedical staff of a different gender than the youth's gender identity, viewing their breasts,

buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine room checks.

2. Transgender and intersex youth shall be given the opportunity to shower and use the bathroom separately from other youth.

F. Name and Pronouns

1. As required by Title 15 Section 1352.5 and detailed in PMI 3-5-001 Juvenile Hall Intake, staff shall respect every youth's gender identity. Staff shall refer to transgender or unisex youth by the youth's preferred name and gender pronoun, regardless of the youth's legal name.
2. Staff may not use gang or slang names that otherwise compromise facility operations. Exceptions must be approved by facility management and documented in the youth's institutional file.
3. A youth's legal name shall still be used for formal documents including documents submitted to the court and the youth's case file.

G. Clothing-Transgender and Intersex Youth

1. As required by Title 15 Section 1352.5 and detailed in PMI 3-5-001 Juvenile Hall Intake, transgender and intersex youth shall be permitted to dress and present themselves in a manner consistent with their gender identity. Staff shall provide transgender and intersex youth with the institutions' clothing and undergarments consistent with their gender identity.

H. Searches

1. Please refer to PMI 3-7-002 Personal Searches and Control of Contraband and PMI 3-5-001 Juvenile Hall Intake for specifics regarding searches of transgender and intersex youth.

I. Discrimination and Harassment

Staff and contract provider employees, interns, and volunteers are prohibited from engaging in any form of discrimination or harassment against transgender youth in custody, including discrimination or harassment based on actual or perceived gender identity or expression or based on association with an LGBTQI youth.

J. Training

1. Staff will be trained to ask culturally appropriate and respectful questions, to treat LGBTQI youth respectfully.
2. Training on LGBTQI issues shall be incorporated throughout all staff trainings. Staff shall receive training specifically on LGBTQI issues along with "refresher" trainings as needed.

REFERENCES:

Procedures:	1-4-123	Prevention, Detection, Reporting and Response to Incidents of Sexual Abuse, Harassment and Misconduct in Juvenile Facilities (PREA)
	3-4-003	Non-Discrimination and Zero Tolerance Guidelines
	3-5-001	Juvenile Hall Intake
	3-5-005	Juvenile Facility Assessment
	3-7-002	Personal Searches and Control of Contraband

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APPROVED BY:

Sexual Orientation, Gender Identity and Expression Questionnaire (SOGIE)
To be filled out by youth or a staff member with input from the youth

The following are a set of questions about identity that we ask everyone to better understand and support youth. Any response you provide is acceptable, normal and healthy. You have the right to answer or refuse the questions below. Only probation and detention staff will have access to your responses, which will be used to ensure you have access to supportive services if you need or want them. We will not disclose any of these answers to your family unless you give us permission.

Name _____ DOB: _____

L # _____

Transgender: MTF _____ FTM _____

Race: _____

Ethnicity: _____

Name Preference:

Pronoun Preference (He/She/Ze/Zir/They): _____ Other: _____

Housing Preference: Male Unit _____ Female Unit _____ No preference _____

Search Preference: Gender nonconforming youth may request a male or female staff member conduct (pat and strip) searches as necessary.

Circle One. I prefer to be searched by a: **Male** **Female** staff member.

Clothing Preference: Male _____ Female _____

Shower Preference: Alone _____ No Preference _____

School Preference: Male _____ Female _____ No Preference _____

Restroom Preference: In-room _____ No Preference _____

Urine Testing:

Youth will be tested by same sex as selected for searches.

1) What was your sex assigned at birth? (Circle One)

- Male
- Female
- Intersex (*if you were born with a mix or variation of male and female anatomy*)
- Decline to answer

2) What is your gender? (Circle **ALL** that apply)

- Girl/woman
- Boy/man
- Transgender (*if your gender is different now than it was when you were born*)
- Genderqueer/Non-Binary (*if you don't identify with being just one gender*)
- Two-spirit (*indigenous term used by some Indigenous/First Nation communities that describes individuals with both male and female energy*)
- Write in your own response _____
- I don't know
- Decline to answer

3) What is your gender expression? (Circle **ALL** that apply)

(Gender expression describes how you dress, behave and carry yourself)

- Masculine
- Feminine
- Non-Binary (elements of both masculine and feminine expressions)
- Two-spirit (*indigenous term used by some Indigenous/First Nation communities that describes individuals with both male and female energy*)
- Write in your own response _____
- I don't know
- Decline to answer

4) *What is your sexual orientation?*

*(Sexual orientation means who you are romantically and physically attracted to. This is how you **identify yourself**)*

Select the term that best describes you:

- Heterosexual/straight
- Lesbian
- Gay
- Bisexual *(if you are attracted to both boys/men and girls/women)*
- Questioning *(if you aren't quite sure if you are attracted to boys/men, girls/women, both, neither, or another gender)*
- Queer *(an umbrella term used by some members of the LGBT community)*
- Asexual *(if you are not attracted to any sex or gender)*
- Two-spirit *(Indigenous/First Nation term that describes individuals who are members of the LGBT community)*
- Pansexual *(if you are attracted to many genders or do not consider gender when dating someone)*
- Write in your own response _____
- I don't know
- Decline to answer

5) *Who are you attracted to? (Circle **ALL** that apply)*

- Girls/women
- Boys/men
- Transgender People/Two-spirit People
- Write in your own response _____
- I don't know
- Decline to answer

6) Which of the following best fits your current situation. (Circle **ALL** that apply)

- My immediate family knows about my orientation/gender identity.
- My immediate family does NOT know about my orientation/gender identity.
- You are free to use my chosen name and pronoun when speaking with my family members.
- You are NOT free to use my chosen name and pronoun when speaking with my family members (use my birth name and sex).
- I want my sexual orientation and/or gender identity to remain confidential (only authorized staff can be told).
- Decline to answer.

Comments:

For Staff

In your opinion, does the youth's gender expression match the societal expectations for the sex they were assigned at birth?

- Yes
- No

Completed by: _____
(Please Print)

Date/Time: _____