

**Oakland County Sheriff's Office
POLICIES & PROCEDURES #392**



SUBJECT: Custody Guidelines for LGBTI and Gender Nonconforming Inmates		NUMBER: 392
EFFECTIVE DATE: 1/3/2024 REVIEW DATE: N/A		MACP STANDARDS IMPACTED:
REPLACES AND RESCINDS: Policy & Procedures #266 dated May 29,2014	DISTRIBUTION: A, B, D, E	NUMBER OF PAGES: 5

This order replaces and rescinds all previously issued orders, procedures, rules and regulations, notices and/or practices in conflict with this General Order.

I. POLICY

It is the policy of the Oakland County Sheriff's Office to treat all lesbian, gay, bisexual, transgender, intersex (LGBTI) and gender nonconforming person with fairness, dignity, and respect. LGBTI and gender nonconforming inmates shall be afforded the same rights as all inmates. **The Oakland County Sheriff's Office has zero tolerance for discrimination.**

II. DEFINITIONS

Gender Nonconforming: The term gender nonconforming is used to describe a person whose gender expression is outside of societal assumptions for how men and women are expected to behave and appear.

Intersex: An intersex person is born with external genitalia, internal reproductive organs, chromosome patters, or endocrine systems that do not fit typical definitions of male or female. These characteristics may neither be exclusively male nor female. Due to their unique bodies, an intersex person may be vulnerable to abuse and harassment in a jail setting, even if they do not identify as lesbian, gay, bisexual, or transgender.

Transgender: A transgender person has a gender identity that is different from his or her assigned sex at birth. A transgender woman is a person whose birth sex is male but who understands herself to be female and desires to live her life as a female; a transgender man is a person whose birth sex is female but who understands himself to be male and desires to live life as a male. This does not require that the person has changed their biological or hormonal characteristics.

III. PROCEDURE

A. Intake and Identification Procedures for Transgender Inmates or When Gender Identity is Uncertain

1. Identifying and Booking Transgender Inmates or When Gender Identify is Uncertain:
 - a. Inmates will be booked in accordance with their current identification (driver's license, state, or picture ID) and self-reported information.

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- b. When the self-reported information conflicts with the picture ID, or if the inmate's gender is otherwise uncertain, the conflict will be noted in the inmate's computer file and the supervising Sergeant shall be notified. Classification will be contacted for clearance of the inmate to be placed in a clinic cell until additional information can be obtained by Program Services to determine gender identity and housing. The following factors shall be considered.
 - i. Inmate appearance and behavior, and whether it matches the gender indicated on the inmate's government-issued identification.
 - ii. Self-reporting from the inmate.
 - iii. Inmate's past history, if known.
 - iv. Any information from the transporting/arresting agency.
 - v. Any other documentation that may be available.
2. AFIS Information: If the inmate's AFIS information indicates that the inmate is a different gender or name than currently identified, the inmate will remain booked under the current identification, and an AKA will be entered in AFIS.
3. Statement of Preference Form: Inmates who identify as transgender or any inmate that expressed concerns about safety, name, pronoun, housing, and search preferences due to their LGBTI or gender nonconforming status will be provided a Statement of Preference form for voluntary completion. The form will be saved in the inmate's file and the preferences will be honored to the fullest extent possible.
4. Appearance Related Items: Restrictions on the wearing of appearance-related items (wigs, undergarments or other clothing items, make-up, etc.) for LGBTI and gender nonconforming inmates will be consistent with facility guidelines for all other inmates, and will not be removed unless the items present a safety or security risk.

B. Searches

1. Custody Searches (pat downs) will be conducted in accordance with the Custody Searches of Inmates Policy and Procedure.
2. Strip Searches will be conducted in accordance with General Order Strip and Body Cavity Searches. If the inmate is transgender or if the inmate has expressed search preferences due to LGBTI or gender nonconforming status, the search will be conducted by a deputy of the preferred gender indicated on the inmate's Statement of Preference form.
 - a. If the inmate has not yet completed the Statement of Preference Form or did not indicate a preference on the form, the deputy will communicate with the inmate to establish the inmate's preferred gender of the deputy who will search the inmate. The deputy shall ensure documentation of that communication in the inmate's computer file.

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- b. If the inmate does not indicate a preference for the search or the deputy is unclear what the inmate's preference is (for example, the inmate gives inconsistent or conflicting preferences), then the deputy will notify a Sergeant and a deputy of the inmate's current gender identity will conduct the search. For example, a biological female inmate that identifies as a male will be searched by a male deputy unless the inmate has expressed a preference for a female deputy after being given the opportunity to do so.

IV. RISK ASSESSMENT, CLASSIFICATION, AND HOUSING

- A. Risk Assessment Screening All inmates will be screened by Classification within 72 hours of arrival to assess their risk for sexual victimization or abuse. The screening shall consider:
 1. Whether the inmate has a mental, physical, or developmental disability.
 2. The age of the inmate.
 3. The physical build of the inmate.
 4. Whether the inmate has previously been incarcerated.
 5. Whether the inmate's criminal history is exclusively nonviolent.
 6. Whether the inmate has prior convictions for sex offenses.
 7. Whether the inmate is or is perceived to be LGBTI or gender nonconforming.
 8. Whether the inmate has previously experienced sexual victimization.
 9. The inmate's own perception of vulnerability.
 - a. Inmates may not be disciplined for refusing to answer, or for not disclosing complete information, in response to questions asked about whether the inmate has a mental, physical, or developmental disability, whether the inmate is or is perceived to be LGBTI or gender nonconforming, whether the inmate has previously experienced sexual victimization, or the inmate's own perception of vulnerability.
 - b. Risk Assessment screening shall occur as discreetly as possible and out of earshot from other inmates.
- B. Risk Reassessment An inmate's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness.
- C. Housing of Transgender and Other Vulnerable Inmates before Risk Assessment, Classification Interview, and Health Appraisal. Transgender and other vulnerable inmates will be placed in protective custody in the clinic until a risk assessment and classification interview occurs and a housing placement determination is made. In all cases, as with any other inmate, a classification interview will be conducted within 72 hours of admission, a health appraisal will be conducted within 14 days of admission, and a referral made to a program services caseworker, if appropriate.
- D. Housing of Transgender and Other Vulnerable Inmates after Risk Assessment and Classification Interview Once all information is available, an appropriate housing placement determination will be made consistent with existing practice that affords the inmate the least restrictive environment necessary to ensure safety and provide the inmate with equal access to facility services. Housing placement determinations shall be made on a case by case basis and shall not be an automatic continuation of protective custody status. Continued placement in protective custody status is permitted if an assessment of

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all available alternatives have been made and a determination has been made that there is no available alternative means of separation from likely abusers. Transgender and other vulnerable inmates may opt-in to protective custody if they are fearful for their own safety.

- E. Equal Access for Transgender and Other Vulnerable Inmates in Protective Custody Placement: Inmates placed in protective custody because they are transgender or otherwise at a high risk for sexual victimization shall have equal access to programs, privileges, education, visitation, legal counsel, work opportunities, and recreation available to all other inmates to the fullest extent possible.
- F. Documentation and Review of Protective Custody Placement Every 30 Days: If a transgender or other vulnerable inmate has not opted in to protective custody, but is nonetheless placed in protective custody, the staff member making the determination shall clearly document in the inmate's computer file: (1) the basis for the safety concerns for the inmate's safety and (2) the reason why no alternative means of separation can be arranged at this time. The inmate shall be assigned to protective custody only until an alternative means of separation from likely abusers can be arranged. At a minimum, the protective custody status shall be reviewed every 30 days to determine whether there is a continuing need for separation from the general population.
- G. Classification as "Sex Offenders": An LGBTI or gender nonconforming inmate shall not be classified or otherwise treated as a sex offender solely because of their LGBTI or gender nonconforming status.

V. EQUAL TREATMENT AND RESPECTFUL INTERACTION WITH LGBTI AND GENDER NONCONFORMING INMATES

- A. LGBTI and gender nonconforming inmates will receive the same right afforded to all inmates including access to the courts, legal counsel, and law library; access to health care; access to the grievance procedure; access to practice religious beliefs and provisions for sanitary housing conditions and personal hygiene.
- B. Medical treatment of LGBTI and gender nonconforming inmates will be handled in accordance with the jail clinic medical provider's guidelines.
- C. LGBTI and gender nonconforming inmates shall not be subject to abuse, corporal punishment, harassment, injury, property damage or unnecessary force of staff.
- D. LGBTI and gender nonconforming inmates shall be treated in a fair, humane, and equitable manner and no discrimination will be tolerated.
- E. LGBTI and gender nonconforming inmates shall be addressed by staff in a respectful manner.
- F. LGBTI and gender nonconforming inmates shall not be searched solely for the purpose of establishing gender.
- G. Staff shall not harass, ridicule, coerce or attempt to change an inmate's sexual orientation or gender identity.

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VI. TRAINING

- A. All jail staff shall receive annual training on how to communicate and interact effectively and professionally with LGBTI and gender nonconforming inmates.



ISSUED BY: Sheriff Michael J. Bouchard

Attachment



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Sheriff's Office**

STATEMENT OF PREFERENCES

(This form is to be used when booking transgender inmates or any inmate that expresses concerns about safety or name, pronoun, or search preference(s) due to their LGBTI or gender nonconforming status. Completion of this form by the inmate if voluntary.)

To be completed by staff:

1. Inmate Name: _____
2. Inmate Number: _____

To be completed by inmate:

1. Biological gender (e.g., male/female): _____
2. Current gender identity (e.g., male/female): _____
3. Preferred name: _____
4. While in custody at the Oakland County Jail, if a strip search is required, I would prefer to be searched by a deputy of the gender indicated below. I understand that my preference will be respected unless the situation is an emergency or there is no one of that gender available and failure to conduct the search would be a safety or security risk.

Female: _____ Male: _____ No Preference: _____

INMATE'S SIGNATURE

INMATE #

DATE

WITNESSING DEPUTY'S SIGNATURE

BADGE #

DATE

Copy – to inmate
Original – place in inmate booking file