Model Policy for Transgender, Gender Nonconforming, and Intersex Inmates

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**Purpose**

The purpose of this document is to provide the policy that this Agency follows in order to meet state and federal requirements, American Correctional Association (ACA) Standards, National Correctional Care Health Commission (NCCHC) Standards, Prison Rape Elimination Act (PREA), and other state and local standards, statutes, regulations, guidelines, directives, or requirements that facilitate a reduction of discrimination against transgender, gender nonconforming, and intersex persons. This policy provides for the appropriate treatment, safety, security, and medical needs of transgender, gender nonconforming, and intersex (TGI) inmates.

**Definitions and Acronyms**

*Agency*—The prison or correctional institution adopting these policies.

*Asexual*—A person who is not usually romantically or sexually attracted to any gender.

*Binary gender or sex*—The idea that gender and sex are either male or female exclusively. Some TGI inmates will hold a binary, mutually exclusive concept of sex and gender, while others will hold the idea that sex and gender are not limited to just two classifications but can span a wide range of identities and physical characteristics.

*Bisexual*—A person who is romantically or sexually attracted to more than one gender. Some persons use the terms “pansexual” or occasionally “omnisexual” to more strongly convey that there are more than two genders.

*Carry Documentation*—A card defining the preferred name and gender of TGI inmates (Appendix A).

*CD*—See crossdresser.

*Cisgender*—A person whose gender identity or expression is the same as their sex assigned at birth.

*Contractor*—An entity or person who provides services on a one-time or recurring basis pursuant to a contractual agreement with the Agency.

*Crossdresser*—Term used to describe cross-gender dressing. The term is sometimes considered derogatory, but usage varies. Some use the abbreviation “CD.” It is the policy of this Agency to avoid use of the term “crossdresser” and the abbreviation “CD” as these can be offensive to some TGI persons. An exception to avoiding use of the term may be made if it is a preferred term used by a TGI inmate to self-identify.

*Disclose*—Revealing private or personal information about one’s health, identity, or orientation. Disclosure can greatly increase an inmate’s vulnerability to harm. Agency staff will respect the trust placed in them by inmates who disclose, and honor that trust by conveying disclosed status and other sensitive information only on a need-to-know basis.
**Exigent circumstances**—Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of the Agency or its Contractors.

**FTM**—See transman.

**Gay**—Commonly refers to men typically attracted romantically and sexually to men; can also refer to women attracted romantically and sexually to women (see also “lesbian”). Transmen attracted to men also generally should be considered gay.

**Gender**—The social construct used to classify a person as a man, woman, both, or neither.

**Gender Dysphoria (see also gender identity disorder)**—A diagnosis recognized by the American Psychiatric Association as a health condition indicated by a difference between an individual’s expressed or experienced gender and the gender typically associated with genitalia. Not all transgender and gender nonconforming persons experience gender dysphoria, nor are they required to have a diagnosis in order to address body conformity issues through medical intervention. Stigma and economic factors may play a role in avoiding a diagnosis, and may influence one to seek unlicensed medical intervention to address body conformity issues. Intersex persons may or may not experience or have a diagnosis of gender dysphoria. Some intersex persons may also identify as transgender.

**Gender Expression**—The collection of ways one conveys gender identity to others, including appearance, behavior, dress, speech, and mannerisms. Gender expression may be the same as or different from the sex one was assigned at birth. Regardless of gender identity, people can exhibit a range of feminine or masculine expressions.

**Gender Identity**—An individual’s internal, personal sense of their own gender. Gender identity may be the same as or different from the sex they were assigned at birth.

**Gender Identity Disorder (see also gender dysphoria)**—A diagnosis formerly recognized by the American Psychiatric Association as a health condition indicated by a difference between an individual’s expressed or experienced gender and the gender typically associated with genitalia. The term should no longer be used in diagnosis, but many people may still use it as a general term related to a clinical diagnosis of being transgender. The current clinical term that is generally associated with transgender identity is “gender dysphoria,” and it is the policy of this Agency to use “gender dysphoria” when referring to a clinical diagnosis.

**Gender Nonconforming**—Individuals who display gender traits that are not stereotypically associated with their birth-assigned sex. Gender nonconforming individuals may identify as male, female, transgender, trans, genderqueer, androgynous, agender, and other gender descriptors.

**Gender “norms”**—The expectations associated with “masculine” or “feminine” conduct, based on how society commonly believes males and females should behave. Gender norms can also include identity as cisgender.
GRACE Board—Gender Recognition, Assessment, and Classification Board, responsible for assessing and making recommendations as to housing, medical, and mental health needs for transgender, gender nonconforming, and intersex inmates. The GRACE Board is comprised of responsible individuals representing units involved in classification, housing, general inmate services, medical health and mental health services, and prison administration.

GRACE Board Report—A report documenting decisions made for each inmate identified or possibly identified as a TGI person during any stage of interaction with the Agency (Appendix C). The report will provide, but will not be limited to, the following: date and time of arrest, gender classification at booking, reason for classification, whether the inmate confirmed the classification, date and time medical staff were notified, temporary housing location (men’s unit, women’s unit, other unit, or administrative segregation), date and time of GRACE Board meeting, and recommendations of the GRACE Board (including classification, long-term housing assignment, medical health service access, mental health service access, and vulnerabilities noted).

GRACE Community Liaison—A person or organization designated to review GRACE Board Reports for issues that need to be addressed. The GRACE Community Liaison will be a member of the TGI community, will work closely with the TGI community in a professional capacity, or will be an organization with a mission statement specifically identifying work with the TGI community among its purposes.

Health Insurance Portability and Accountability Act (HIPAA)—A federal law that, in part, defines the lawful use and disclosure by a third party of an individual’s health information.

Hermaphrodite—See intersex. This term may be somewhat derogatory for some inmates, so it is the policy of this Agency to use “intersex” or terms describing specific conditions (such as androgen insensitivity or congenital adrenal hyperplasia) instead.

Heterosexual—Sexual or romantic attraction between genders traditionally considered “opposite.” A relationship between a transman and a woman would generally be considered heterosexual. Relationships involving persons of genders outside binary “male” and “female” identities may or may not be considered heterosexual or homosexual.

HIPAA—See Health Insurance Portability and Accountability Act.

Homosexual—Sexual or romantic attraction between persons of the same gender.

Intersex—A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Lesbian—A woman attracted romantically and sexually to women. Transwomen attracted to women would generally be considered lesbian.
Medical practitioner—A health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. Under PREA, a “qualified medical practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims (see also 28 CFR § 115.5).

Mental health practitioner—A mental health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice. Under PREA, a “qualified mental health practitioner” refers to such a professional who has also successfully completed specialized training for treating sexual abuse victims (see also 28 CFR § 115.5).

MTF—See transwoman.

Need-to-know—Restriction on personal information that limits the distribution of that information to only those who must access it to make a determination or decision.

Omnisexual—See bisexual.

Pansexual—See bisexual.

Pat or Frisk Search—Search of an inmate’s clothed person, including the frisking of the body, the examination of pockets and any hand-carried items (such as legal papers, prayer books, etc.), shoes, and head covering. “Frisking” is defined as running the hands rapidly over the body in an attempt to locate a hidden item in or under the clothing.

PREA—See Prison Rape Elimination Act.

Preferred name—The name a transgender person adopts that conforms to their gender identity. In some cases the person may not want to, is not able to, or cannot afford to change their legal name to their preferred name, so a preferred name may differ from one’s legal name.

Preferred pronouns—The pronouns (masculine, feminine, or neutral) that a transgender person adopts that conform to their gender identity.


Questioning—Active process in which a person explores his or her sexual orientation or gender identity and questions the cultural assumptions that they are heterosexual or gender conforming.

Sex—The physical anatomy and underlying chromosomal and hormonal biology that determines whether someone is biologically male, female, or intersex. As there are many aspects of biology that determine one’s sex, and many if not most people have characteristics of both sexes
constituting the traditional binary concept of sex, the word “sex” is less useful as a definite biological term and, like “gender,” reflects culturally defined understandings of social roles. In this document, the word “gender” is used to refer to both biological and social characteristics.

**Sexual orientation**—Romantic or physical attraction to members of the same or different gender or genders.

**Strip Search**—A visual search in which the inmate is required to remove all clothing, and to expose the genitalia, breasts, and other parts of the body. A strip search may include a visual inspection of body cavities.

**TGI**—Transgender, gender nonconforming, or intersex.

**Tranny**—Often a highly derogatory slang word for a transgender person, although sometimes reclaimed as a term of empowerment. Use by non-transgender persons should be avoided.

**Trans**—Short form of transgender or transsexual that has developed a meaning of it’s own more broad than either of these terms. Sometimes written as “trans*” to express an all-encompassing meaning that can include gender nonconforming identities as well.

**Transgender**—Transgender is a broad term used to describe people whose gender identity or expression differs from their sex assigned at birth. The term does not indicate whether or not a person has taken or wishes to take medical steps to increase body conformity with their identified gender.

**Transition**—A general term used to refer to a process many transgender persons undertake to align aspects of their life with their gender identity. Transition can refer to a complex process that involves disclosing one’s gender identity to family, friends, coworkers, and others in one’s contacts; changing one’s name and gender marker on legal documentation; mental health counseling; and medical interventions. Medical intervention can include both licensed and unlicensed practitioners administering hormone therapy, dispensing medications, conducting body contouring and shaping procedures, and providing surgeries. Transition can be limited and in part defined by legal and financial restrictions as well as healthcare access.

**Transman**—A transgender or gender nonconforming person who identifies as a man. Some may also refer to a transman as a female-to-male or FTM person. A transman may identify simply as a man.

**Transphobia**—An attitude or behavior predicated in the assumption that biological sex and gender are binary and synonymous, resulting in the marginalization of TGI individuals at personal, familial, and societal levels.

**Transsexual**—An older term that currently appears to be being replaced with “transgender” but is still used by some to distinguish identity. “Transgender” and “transsexual” may be used interchangeably by some people, or they may have distinctly different meanings. Typically, when used to define a difference from a transgender person, “transsexual” may be used to describe
someone who holds a binary concept of sex and gender and may be more focused on issues of body conformity with their self-identified gender as male or female. Persons who identify as transgender may or may not hold a binary concept of sex and gender. For the purposes of this policy, “transgender” is intended to include persons who identify as transsexual.

_Transvestite_—Typically used as a derogatory term to describe cross-gender dressing. See also crossdresser.

_Transwoman_—A transgender or gender nonconforming person who identifies as a woman. Some may also refer to a transwoman as a male-to-female or MTF person. A transwoman may identify simply as a woman.

_World Professional Association for Transgender Health (WPATH)_—Organization that creates standards for the health care and concerns of transgender persons.

_WPATH_—See World Professional Association for Transgender Health.

**Policy Statement**

**General Policy**

It is the policy of this Agency to receive, evaluate, house, and provide secure, safe, and humane custody of all persons, including transgender, gender nonconforming, and intersex (TGI) inmates, who are lawfully committed or held for confinement by the Agency until their lawful and appropriate release or transfer to another authority. While in custody, while housed, or when receiving services in any division of the Agency, TGI persons can expect nondiscriminatory treatment with respect regardless of where their physical attributes, gender identity, and gender expression fall within the very diverse array of characteristics that comprise persons in TGI communities.

**Nondiscrimination**

Neither Agency nor Contractor staff shall discriminate against any TGI person in access to any facility or program, or in providing any service.

Neither Agency nor Contractor staff shall subject any TGI person to verbal or physical harassment or create a hostile environment.

**Respectful Treatment**

Agency and Contractor staff shall address TGI persons using preferred names and pronouns. If the person is an inmate, the pronouns will be indicated on the Statement of Preference Form (Appendix B). Preferred names and pronouns shall be used regardless of whether or not the person has completed a legal name change, and regardless of whether the gender marker listed on identity documents has been changed.

Use of an inmate’s preferred name and pronouns by all Agency and Contractor staff is critical to the dignity of the inmate. By diligently following this practice, respect for and willingness to
cooperate with Agency and Contractor personnel will increase on the part of the transgender or
gender nonconforming inmate.

Inmates will be called by their last names without reference to gender-specific identifiers such as
Mr., Ms., Ma’am, or Sir. Instead, the gender neutral term “Inmate” shall be used with their last
name while incarcerated, and the term “Resident” may be used with their last name in a halfway
house or other reintroduction housing program. This is to be used with all inmates and shall not
specifically identify TGI inmates.

**Diversity Within the Community**

While TGI persons are certainly distinct from other populations, it is essential to also acknowledge
that there can be a great amount of diversity within these groups as well. Diversity exists in how
one identifies their gender and the labels they prefer to use, who they are attracted to for sexual or
romantic relationships (and these are not always the same), and how they express their gender.

Additionally, TGI persons can vary greatly in how they experience the need for body conformity
with their identified gender. Some may be comfortable or prefer limited or no body modification,
whereas some may feel they cannot be a fully participating member of society without body
conformity that includes genital surgeries.

This Agency and its Contractors recognize that all persons have the right to respect, safety, and
healthcare regardless of their gender identity and orientation.

**Arrest and Booking**

**Pre-Booking**

The Agency shall work with Contractors and community partners to identify candidates for
justice system diversion and place these candidates with social workers before booking. In many
cases, TGI persons are involved in underground economies because they see no other options for
survival. Arresting officers should be involved in diversion programs so that qualifying TGI
persons are moved to case managers and can avoid, or avoid extending, their arrest record in.

**Asking Questions Indicating Vulnerability**

TGI persons will be booked and processed according to the same procedures used for all inmates,
regardless of whether they are being held for the Agency or another entity that contracts with the
Agency for this service. To be equitable to all, care must be taken that questions about
vulnerability—whether it is related to sexual orientation, gender identity, intersex conditions, or
other factors that could pose a risk for the inmate’s health and safety—are asked in a way that
maintains the privacy of the inmate, does not increase risk through the inadvertent disclosure tp
others present without a need to know, and encourages the inmate to disclose information in
private that will help the Agency take measures to address potential risks.

The Agency will take steps to assure the following issues are addressed in an effort to convey to
the inmate that they can safely disclose their gender identity, sexual orientation, or health
(intersex) status (28 CFR § 115.41).
• The booking staff will not discourage disclosure through language or mannerisms.
• The booking staff will ask only the minimum questions related to TGI status needed to determine vulnerability for initial classification.
• The questions will be asked in a manner that does not disclose that status to other inmates or staff nearby who do not have a need to know.
• The language used will be respectful and appropriate to the inmate’s vocabulary and understanding.
• The booking staff will inquire about prior experience of abuse or assault, and inmate’s sense of vulnerability.

If the booking staff believes the inmate may be avoiding disclosure of TGI status, staff will indicate appropriately their impression along with the inmate’s denial of TGI status. Booking staff will have the option to notify the health services department if a health screening might encourage disclosure (see the Health Services section).

**Classification**

During booking, an initial assessment will be made as to whether a person being booked is a TGI person, and an initial gender assignment will be made for placing the person in gender-specific housing and services. The initial classification will consider what gender-segregated space and services will best ensure the health and safety of the inmate, and whether the inmate is at risk of victimization or abusiveness, in addition to whether a placement might present management or security problems (28 CFR § 115.41).

The following shall be considered as indications that a person is or may be transgender, gender nonconforming, or intersex:

• The person self-reports a gender different from that indicated on documentation or identification. If there is doubt or a question concerning the validity of the self report, the officer making the observation shall consult a supervisor and, if necessary, contact the health services department for a health screening.
• The person’s appearance or behavior does not match what one would typically expect for a person with the gender indicated on the person’s arrest or transportation paperwork or identification.
• The arresting officer, transporting entity, or reporting person or organization has alerted the Agency that the prisoner is or may be a TGI person.
• The person’s past history with the Agency as a TGI person, if known.
• Agency officer discretion.

For all TGI inmates, classification staff shall document the choices and reasons regarding housing assignment, and will note any safety precautions that should be exercised by staff.

During booking, an inmate who identifies as a TGI person shall be allowed to specify that a representative of the LGBT or allied community, another person known by the inmate, or a department volunteer be present at the meeting of the GRACE Board during the discussion of the inmate’s case. The person specified by the inmate should be knowledgeable about the personal
life of the inmate with regard to their identity and status as a TGI person, or generally knowledgeable about issues surrounding TGI persons.

**Carry Documentation**
During booking, the booking officer will complete carry documentation (Appendix A) in the form of a card the inmate carries with them to confirm their gender identity and preferred name. The carry documentation will include the following information: search preference, preferred name, preferred pronoun, booking number, booking name, inmate signature, supervisor signature, and date.

The carry documentation will be updated any time there is a change to any of the information documented therein.

**Statement of Preference Form**
During booking, all inmates will complete a Statement of Preference Form (Appendix B). The Statement of Preference Form will include an inmate’s preferred name and pronoun, and preference for male, female, or both officers for searches. The search preferences shall be followed in all cases except in exigent circumstances.

**Health Services Notification**
If during booking the inmate discloses that they are a TGI person or the booking staff believes the inmate may be a TGI person, the booking staff will notify the health services department and schedule a health screening.

Health services notification will be done discretely and in a manner that does not disclose to anyone without a need to know the inmate’s disclosed or suspected TGI status. See the Health Services section for more about health screenings during booking.

**Searches**

**General Guide**
All searches of TGI inmates will be done by two officers of the gender or genders requested by the inmate and documented in the Statement of Preference Form (Appendix B). Exception to this rule is made only in exigent circumstances.

If the inmate has not specified a preference or refuses to complete the Statement of Preference Form, then the search will be done by officers of the same gender as the TGI inmate’s presentation (for example, a transwoman will be searched by female officers, and a transman will be searched by male officers). If the gender presentation of a TGI inmate who has not specified a search preference is not clearly masculine or feminine, the inmate will be searched by one female and one male officer.
The Agency shall not assume that a TGI inmate’s search preference will align with their presentation. Regardless of gender identity, gender nonconformity, or intersex condition, the TGI inmate shall be given an opportunity to indicate a search preference by female, male, or both.

TGI inmates shall be allowed to change their search preference on the Statement of Preference Form upon request, at the time of a reassessment following a report or incident of sexual or physical abuse, or at any automatic reassessment of their classification.

No search shall be performed for the sole purpose of determining an inmate’s genitalia or determining gender.

If transgender supervisors or officers are available to conduct the search, a transgender supervisor or officer may conduct any search appropriate to their gender identity.

**Strip Searches**

Neither the Agency nor its contractors shall conduct cross-gender strip searches or cross-gender visual body cavity searches except in exigent circumstances or when performed by a medical practitioner (28 CFR § 115.15).

When a strip search is required for a TGI inmate, the search will be conducted by an officer and overseen by a supervisor, both of whom shall be the gender requested by the inmate and documented in the Statement of Preference Form (Appendix B).

If the inmate has not specified a preference or refuses to complete the Statement of Preference Form, then the search will be done by a supervisor and an officer of the same gender as the TGI inmate’s presentation (for example, a transwoman will be searched by a female supervisor and officer, and a transman will be searched by a male supervisor and officer). If the gender presentation of a TGI inmate who has not specified a search preference is not clearly masculine or feminine, the inmate will be searched by a medical practitioner with the assistance as needed of a supervisor and officer, one of whom shall be male and one of whom shall be female.

The Agency shall not assume that a TGI inmate’s search preference will align with their presentation. Regardless of gender identity, gender nonconformity, or intersex condition, the TGI inmate shall be given an opportunity to indicate a search preference by female, male, or both.

Strip searches shall not be performed as a punitive measure.

Strip searches shall not be done for the sole purpose of observing the inmate’s genitalia or determining gender (28 CFR § 115.15).

Because of the intimate nature of a strip search, special attention should be made to provide inmates with as much privacy as possible. A strip search conducted in a private booth in a larger public room provides privacy for the inmate and limits the chances of abuse by the search officers.
Gender Recognition, Assessment, and Classification Board (GRACE Board)

Organization and Purpose

The Agency shall organize a review and recommendations board—known as the Gender Recognition, Assessment, and Classification (GRACE) Board—for the purpose of making recommendations about and reviewing gender classification, housing placement, medical health, mental health, and other services access for TGI inmates.

The GRACE Board shall be made up of representatives from departments responsible for inmate classification, housing, health services, and inmate programs.

Initial Assessment

When an inmate is identified as being or potentially being a TGI person, the GRACE Board will meet to make recommendations about the gender classification, housing placement, medical health, mental health, and other services access for the inmate.

The initial assessment shall take place within 72 hours, excluding weekends and holidays. The initial assessment shall take place within 144 hours including weekends and holidays.

The GRACE Board shall consider, at a minimum, the following information to determine what will be the best for the inmate’s health and safety (28 CFR § 115.341–115.342).

- Age, physical size and stature, and any physical disabilities.
- Statements made by the inmate regarding their gender, and declarations made on the Statement of Preference Form (Appendix B).
- Level of emotional and cognitive development, mental illness or mental disabilities, and intellectual or developmental disabilities.
- Other medical and psychological factors that may contribute to the inmate’s safety or vulnerability, as determined by interview or examination by medical and mental health services staff, including assessments concerning the inmate’s ability to exercise appropriate judgement in assessing their safety and security while incarcerated.
- The findings of a health screening undertaken during or following the booking process, if such a screening was conducted.
- The findings of a medical examination (described as a “broader medical examination” in 28 CFR § 115.15).
- The inmate’s own perception of vulnerability. Serious consideration will be given to statements made by the inmate regarding health, safety, whether they feel they may be harmed because of the way they look or act, past experience of harassment and violence, past incarceration, and their own perception of their risk of violence in the prison or accessing inmate services.
- The inmate shall be asked if they prefer to be housed in a men’s ward, a women’s ward, in a separate vulnerable persons ward, or in a solitary unit, as appropriate to the facility.
- Prior sexual victimization by others or abusiveness toward others.
- Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other inmates or prison personnel.
- Any other considerations pertinent to the inmate’s health and safety, and problems with management and security personnel.
- Information reported by the arresting officer, transporting entity, or noted during booking.
- Current charges and offense history.
- The inmate’s adjustment to being incarcerated.
- The GRACE Board will not consider TGI status to be an indicator of likelihood of being sexually abusive.
- The GRACE Board will not recommend placement solely on the basis of genitalia.

When asked about preference in housing, the inmate shall be asked appropriate questions to determine their level of understanding of the risk of harm versus risk of discomfort. For example, a transman who has undergone no genital surgery may prefer to be housed with women to limit risk of harm, but would need to consider the level of discomfort or humiliation such a housing placement might entail (that is, they could feel that a transman being housed with women means they are considered a woman). If there is a separate housing option specifically for TGI inmates, that option should be discussed with the inmate.

If an inmate’s gender cannot be determined and no health screening or medical examination has been conducted, the GRACE Board may request a health screening or medical examination.

The GRACE Board may request consultation with an identified member of the LGBT or allied community who is knowledgeable with the issues surrounding TGI persons to assist in development of recommendations. The community member shall be granted access to the inmate for an interview in an environment as private as reasonable, considering the security and safety of both the inmate and the community member.

The inmate may request that a representative of the LGBT or allied community, another person known by the inmate, or a department volunteer be present at the meeting of the GRACE Board during the discussion of the inmate’s case. The person specified by the inmate should be knowledgeable about the personal life of the inmate with regard to their identity and status as a TGI person, or generally knowledgeable about issues surrounding TGI persons.

If the GRACE Board requests consultation, or the TGI inmate requests involvement by an outside entity or person, the inmate may be asked to waive the time limits set in this section (these shall be waived for a total of no more that 30 days). If the inmate refuses to waive the time limits, reasonable efforts will be made to consult with a community member or arrange for the participation of the requested community member within the time constraints specified. To exercise the option for consultation or involvement by an outside entity or person, the inmate may also be asked to waive HIPPA privacy rules regarding release of information to that entity or person.

The GRACE Board will attempt to reach a consensus on decisions, but in some cases it may need to rely on a majority vote. If a vote is taken, the status of the inmate will automatically be reassessed in three months.

The GRACE Board will provide its recommendations for classification to the Agency housing, services, programs, classification, and health services divisions.
Inmates who have not been classified with a TGI status may request a review of their status by the GRACE Board.

Inmates shall not be disciplined for refusing to answer or for not disclosing complete information in response to questions asked concerning their status as a TGI person (28 CFR § 115.41).

The GRACE Board and Agency shall take appropriate steps to control the dissemination of any responses to questions asked concerning the TGI status of an inmate to ensure that sensitive information is not exploited to the inmate’s detriment by staff or other inmates (28 CFR § 115.41).

If the GRACE Board at any time determines that the inmate has experienced sexual victimization in either an Agency facility or in the community, the inmate will be offered a follow-up meeting with a medical or mental health practitioner within 14 days of learning of that information (28 CFR § 115.81).

The GRACE Board shall issue a GRACE Board Report of its assessment (Appendix C) no later than 14 calendar days to the GRACE Community Liaison for review. The GRACE Community Liaison will provide a response to the GRACE Board indicating it concurs or does not concur within 14 calendar days of receipt of the GRACE Board Report. Upon request by the GRACE Community Liaison, the GRACE Board will reassess its recommendations within 30 calendar days of the receipt of the GRACE Community Liaison request to review the recommendations.

Subsequent Assessment and Reassessment

The procedures outlined in the GRACE Board: Initial Assessment section apply for both new inmates and for review, subsequent assessment, and reassessment of inmates for determining the appropriate gender classification, housing placement, medical health, mental health, and other services access for TGI inmates.

Within a time period not to exceed 30 days from the TGI inmate’s arrival, the GRACE Board will reassess the inmate’s risk of victimization or abusiveness based upon any additional, relevant information received by the Agency since the intake screening (28 CFR § 115.41).

The classification and housing and services access of all TGI inmates shall be reassessed at least twice each year to review any threats to safety experienced by the inmate (28 CFR § 115.42).

TGI inmates shall be allowed to request a review of their status at any time.

The GRACE Board shall automatically reassess the classification and placement of a TGI inmate following a report or incident of sexual or physical abuse.

Inmates not identified as TGI persons shall be allowed to request a review of their status at any time.
Housing

Temporary Housing
The Agency shall prioritize the physical safety and emotional well-being of inmates in making decisions about temporary housing. For TGI inmates, this means not automatically placing them in isolation, and not automatically placing them in segregated special populations units. If the TGI inmate prefers isolation or segregation in a special populations unit, that preference should be seriously considered (28 CFR § 115.42 – 28 CFR § 115.43).

If the safety and security of the TGI inmate can be assured, the TGI inmate initially shall be housed in a general population ward with other inmates who identify with the same gender as that of the TGI inmate. One option to be considered is placement in a general population cell with another TGI inmate of the same gender identity, as long as doing so does not adversely affect the safety or security of the TGI inmates, and the TGI inmates agree to this housing placement. If the safety and security of the TGI inmate cannot be reasonably assured, the TGI inmate may be housed in administrative segregation or another separate location.

If the TGI inmate is housed in administrative segregation or another location separate from the general population, the inmate shall be fully informed in writing of the reason for the placement and that they are being housed separately not as punishment and only until Agency staff can determine where their permanent housing assignment will be. The inmate shall also be given a date by which they can expect to be moved to their permanent housing assignment.

Housing Placement
The GRACE Board shall provide recommendations to the classification and housing placement of each TGI inmate. A decision on housing placement shall be made by the Agency Chief of Housing. The Agency Chief of Housing shall seriously consider the recommendations of the GRACE Board in making a determination of housing placement. In making a determination for housing placement in a male ward, a female ward, or elsewhere, the Agency Chief of Housing shall consider on a case-by-case basis whether a placement would ensure the inmate’s health and safety, and whether the placement would present management or security problems (28 CFR § 115.42).

Housing placement shall not be determined solely by an inmate’s gender assigned at birth, identity documents, or genitalia. Housing placement assignments shall be made to maximize the health and safety of the TGI inmate.

Housing assignments for TGI inmates shall be reassessed at least twice per year to consider changed circumstances such as incidents of abuse or changes in the inmate’s appearance or medical treatment (28 CFR § 115.42).

TGI inmates shall have the right to request that their housing assignment be reassessed.
Administrative Segregation and Other Separate Housing
TGI inmates who are placed in administrative segregation or another location separate from the general population for the safety and security of the TGI inmate shall be fully informed of the reason for placement in that segregated housing, and shall be provided a date by which time arrangements will be made to move them back to the general population.

TGI inmates placed in administrative segregation or another location separate from the general population shall be allowed to request that they remain housed in administrative segregation or another location separate from the general population.

TGI inmates in administrative segregation or another location separate from the general population shall have the right to request that their housing assignment be reassessed.

If a TGI inmate is assigned to housing that is not in the general population, the TGI inmate shall have the same access to services and programs as any other inmate in the Agency facilities.

Privacy and Confidentiality

Right to Privacy
TGI inmates shall be able to shower, perform bodily functions, and change clothing without non-medical staff of a different gender viewing their breasts, buttocks, or genitalia except in exigent circumstances (28 CFR § 115.15.).

Incidental Viewing
When entering a location, including an inmate housing unit, where staff of one gender might view the breasts, buttocks, or genitalia of an inmate of a different gender, the staff shall announce their presence upon entering, except in exigent circumstances (28 CFR § 115.15.).

Confidentiality
The Agency shall recognize the sensitivity of the information they are requesting related to sexual orientation and gender identity, and dissemination of such sensitive information shall be undertaken strictly on a need-to-know basis.

If an inmate discloses their previously unknown TGI status to staff without prompting, staff shall have ready instructions about how to handle that information. The guidance shall include to whom such information should be reported, general instructions concerning to whom they should and should not disclose the information, how to respond to the inmate appropriately, and how to refer the disclosing inmate for counseling or other services, as appropriate.

Questions related to an inmate’s gender identity or gender expression shall only be asked when necessary for ensuring proper classification, housing, and medical treatment; questions related to an inmate’s gender identity or gender expression shall only be asked to protect the inmate’s health, safety, and human dignity, and should avoid subjecting the inmate to abuse, humiliation, ridicule, or assault.
**Health Services**

**Health Screening**
A health screening requested during booking shall take place within 72 hours, excluding weekends and holidays. A health screening requested during booking shall take place within 144 hours including weekends and holidays.

If the inmate is believed to possibly be a TGI person, a medical practitioner will screen the individual for health conditions and issues that may affect their vulnerability, and in doing so will encourage disclosure of TGI status in a setting that is private or as private as possible, without stigmatizing someone who is not a TGI person.

If the inmate discloses TGI status, a medical practitioner will discuss current medications the inmate may be taking, as well as other medical needs the inmate may have related to their TGI status. If needed, a subsequent appointment with health services shall be set so the inmate can begin or continue appropriate medically necessary treatment. Disruption of hormone therapy shall be kept to a minimum.

No medical practitioner shall conduct any screening for the sole purpose of determining what genitalia an inmate has, but genital configuration may be discovered through conversation, review of medical records, and a broader medical examination (28 CFR § 115.15 and 28 CFR § 115.115).

All TGI inmates shall have access to the same necessary medical and mental health care services as other inmates. Each TGI inmate shall receive an initial medical assessment by a medical practitioner with experience in transgender or intersex conditions, as appropriate to the individual inmate, and subsequent comprehensive screening and care as indicated by the health assessment.

The health services staff shall not determine housing for TGI inmates except in cases where there is a medical need to house the inmate in a medical ward. If there is a threat to the safety of the TGI inmate, temporary placement in a medical ward may be considered an option to placement in administrative segregation. Any TGI inmate placed in a medical ward for their protection shall be fully informed of the reason for placement in the medical ward, and shall be provided a date by which time arrangements will be made to move them to a more permanent housing arrangement.

**Access to Healthcare**

**Initial Assessment**
The initial assessment will include a basic health assessment and discussion with the inmate about their medical history and current medications.

With inmate concurrence, health services staff may contact medical practitioners the inmate was seeing outside the Agency.
Since TGI persons may be more vulnerable to certain health concerns related to substance abuse, self harm, and mental health conditions, medical staff shall evaluate them for concerns in these areas. The initial assessment should include mental health screening to better identify past trauma and other problems.

**Intersex Inmates**

Intersex conditions vary greatly, and some may require surgical correction, some ongoing treatment, and some no medical treatment.

Intersex inmates should be evaluated for existing conditions, and medication for ongoing medically necessary treatment shall be continued, with disruption kept to a minimum.

**Gender Nonconforming Inmates**

Typically, medical conditions do not specifically accompany gender nonconforming identities. Some gender nonconforming inmates may be intersex or may identify as transgender.

**Transgender**

Inmates who are transgender are likely to have some sort of ongoing healthcare needs. Assessment should include

- Whether they were taking hormones prior to arrest.
- Whether they have had body modification procedures, and the types of procedures (body conforming fillers and implants from licensed or unlicensed practitioners, free filler injection, surgery by licensed practitioners, surgery by unlicensed practitioners, and other modifications).

Being able to commence and continue hormone therapy is a crucial medical need for many transgender persons. That this is a medical necessity is supported by the American Medical Association, the American Psychological Association, and many other professional organizations. Hormone therapy is considered medically necessary for those who meet WPATH guidelines (see the Mental Health Services section, below). Transgender inmates shall be allowed to continue or begin hormone therapy.

Other body conformity needs are also considered medically necessary. Transgender inmates should have the same access to medically necessary care as any other inmate. The Agency shall not restrict access to healthcare procedures for transgender persons if those same procedures are available to non-transgender persons.

Medically necessary continuing care items, such as stints for transwomen who have had genital surgery, will be issued to help insure the inmate may maintain their self care.

**Mental Health Services**

TGI inmates shall undergo a mental health screening to identify concerns related to self harm and vulnerabilities that may affect their health and safety while in prison.
Those TGI inmates who may have substance abuse, self harm, and mental health conditions shall be evaluated for past trauma and other problems that may affect their behavior, safety, and health while in prison. Inmates who need further counseling and therapy will be recommended for programs that can help address that need.

For transgender clients wishing to start or continue hormones or other procedures, mental health evaluations for readiness for such care shall follow the most recent version of the WPATH standards, and shall consider the full range of flexibility allowed under those standards.

**Sexual abuse**

In dealing with issues of sexual abuse, the Agency shall attempt to make available a rape crisis center advocate who is familiar with issues and concerns TGI persons face in crisis situations. If no rape crisis center advocate is available, the Agency shall attempt to make available staff from other community-based agencies who are appropriately trained and can provide survivor assistance (28 CFR § 115.21 and 28 CFR § 115.82).

**Personal Items**

**Clothing**

TGI inmates shall be provided with clothing that conforms to their housing assignment the same as anyone else with that housing assignment. As long as it does not disrupt the safe and secure functioning of the facility, TGI inmates shall be permitted to wear the same items as anyone else of their adopted gender (for example, transwomen will be provided with bras and other personal supplies given to other females). Male-identified inmates who have not or are not having chest surgery will upon request be issued shirts that are large enough to fit loosely over the chest area to help the inmate maintain a gender-congruent appearance.

**Cosmetics and Toiletries**

TGI inmates shall be provided with commissary privileges that conform to their housing assignment the same as anyone else with that housing assignment. As long as it does not disrupt the safe and secure functioning of the facility, TGI inmates shall be permitted to use cosmetics, toiletries, and other personal hygiene items the same as anyone else with their gender classification.

Menstrual hygiene supplies shall be available on an as needed basis, regardless of where the inmate is housed or the gender classification determined for the inmate.

**Inmate Services**

TGI inmates shall be provided standard privileges consistent with their housing assignment.

TGI inmates shall have the opportunity to participate in programs and services without exposure to or fear of discrimination. The TGI inmate will have equal access to services that include, but are not limited to, the following: commissary privileges, counseling sessions and groups, mail privileges, telephone privileges, television privileges, visitation, exercise and recreational services.
and facilities, library services, educational programs, medical and healthcare services, pretrial services, religious services and observances, grievance procedures, social services, and inmate work assignments and programs.

TGI persons, and especially transgender persons, may be more likely to be involved in various criminal activities because stigma and discrimination create barriers to obtaining legal employment and accessing traditional healthcare resources (such as resources for transition-related medications). Where problems like inconsistent documentation create barriers to successful participation in society, there shall be a focus on enabling the TGI inmate to access services that may help eliminate such barriers and reduce recidivism. The Agency shall seek partnerships with other organizations that can help them obtain documentation consistent with their gender identity and obtain a GED so they will be more prepared to find employment on release.

**Visitation**

TGI inmates shall be provided visitation privileges consistent with what is allowed for all other inmates. The Agency shall not establish different rules for same-gender and different-gender visitors regarding touching or other interaction.

Agency rules regarding conjugal visits shall be the same regardless of the gender identity or sexual orientation of the inmate and visitor. If legal constraints limit some gender pairings, the Agency shall, to the greatest extent allowed by law, ensure that all inmates are treated equitably regardless of gender identity and sexual orientation.

**Transportation**

During transportation, the Agency shall use the Statement of Preference Form (Appendix B) and shall follow the search preference in selecting escorts for the transfer. At least one escorting officer shall be the same gender as the TGI inmate being transported except in exigent circumstances. If only one officer is escorting the TGI inmate, that officer shall be the same gender as the TGI inmate indicated on the Statement of Preference Form.

**Contractors and Partners**

All Contractors for the Agency shall ensure that their personnel follow the Policy Statement section and all other rules that Agency staff follow in the treatment of TGI inmates. Contractor personnel shall not discriminate against any TGI inmate in provision of their programs or services, and Contractor personnel shall not subject any TGI inmate to verbal or physical harassment or create a hostile environment.

Contractor personnel shall address TGI persons using preferred names and pronouns, regardless of whether or not the TGI person has completed a legal name change, and regardless of whether the gender marker listed on identity documents has been changed.

All Contractor personnel shall recognize that all persons have the right to respect, safety, and healthcare regardless of their gender identity and orientation.
Contractors providing re-entry programs and facilities shall determine a respectful way to address program participants that include use of preferred names or gender neutral forms of address such as the term “Resident” with their last name. The form of address used shall apply to all inmates equally and shall not specifically identify TGI inmates.

**Discipline**

Any individual employed or volunteering for the Agency or any of its Contractors shall be subject to disciplinary action if they engage in inmate abuse or do not follow the guidelines set forth in this policy.

TGI inmates will be subject to the same rules to which all inmates are subject covering discipline for engaging in abuse toward other inmates or employees and volunteers of the Agency or its Contractors.

**Training**

**All Agency Personnel**

Agency personnel shall all receive general cultural sensitivity training about TGI inmates.

Training shall include coverage of all policies that affect TGI inmates, including how to identify violations of policy, how to respond to violations, how policies are enforced, professional boundaries, professional communication, how to work with TGI inmates in a respectful and non-discriminatory manner, confidentiality responsibilities, legal responsibilities, how to prevent harassment and victimization of TGI inmates, and resources available to TGI inmates.

Training shall include information about how to respond when an inmate discloses their previously unknown TGI status without prompting. Instruction will include to whom such information should be reported, general instructions concerning to whom staff should and should not disclose the information, how to respond to the inmate appropriately, and how to refer the disclosing inmate for counseling or other services.

Some staff may be concerned about inmates manipulating the system if Agency policy is to provide for certain operational accommodations for TGI inmates (primarily transgender and gender nonconforming persons). Concerns that heterosexual and gender conforming inmates expressing a self-identification as transgender or gender nonconforming for a temporary period of time for the purpose of acquiring clothing of the opposite sex, or accessing programmatic accommodations only for the purposes of interacting with inmates of a different gender are two examples. While this concern is understandable, it shall not be addressed in such a way that subjects TGI inmates to discrimination or mental and emotional hardship. Agency staff, as well as volunteers and Contractor staff, shall receive training in how to exercise appropriate controls on accommodations so as to minimize the opportunities for manipulation while respecting the status and safety of TGI inmates.
Some Agency personnel may believe that an inmate’s birth name is the inmate’s “true” name, and may view the preferred name as “false” or even “fraudulent.” However, transgender persons who have adopted a new name see that name as a truer reflection of who they are. The preferred name is for this reason more “true” than the name given at birth. Although the birth-assigned name may be necessary in paperwork, using that name in addressing the inmate serves no legitimate administrative or security purpose, and could increase the risk of harm to the inmate. The same is true of the inmate’s preferred pronouns. This policy does not compromise any existing Agency policy prohibiting the use of street or gang names. Contrary to use of preferred names for transgender persons, rules prohibiting the use of street and gang names serve to reduce fraternization and gang activity that can adversely affect the safety and security of inmates, including TGI inmates. Use of such a rationale based on safety and security fails to justify calling a TGI inmate by their birth name as opposed to their preferred name. Agency staff, as well as volunteers and Contractor staff, shall receive training on the proper use of names and pronouns with TGI inmates.

**Security Staff**

The agency shall train security staff in how to conduct cross-gender pat searches, and other searches of TGI inmates, in a professional and respectful manner and in the least intrusive way possible, consistent with security needs. Although cross-gender searches are not generally allowed under this policy, they may be necessary in exigent circumstances (28 CFR § 115.15 and 28 CFR § 115.115).

**Medical Employees**

Agency medical staff shall receive training in this policy and how it applies to the evaluation and counseling process used to determine whether medical interventions should be part of a TGI inmate’s healthcare while incarcerated. This training should include, but not be limited to, the following items:

- **Transgender inmates**—the application of WPATH standards, incorporating the full flexibility therein.
- **Transgender inmates**—continuing or starting counseling related to gender identity.
- **Transgender inmates**—beginning or continuing medically necessary hormone therapy for transgender inmates seeking this medical intervention.
- **Transgender inmates**—providing other medically necessary procedures as appropriate to the inmate.
- **Transgender inmates**—providing medically necessary items such as stints where appropriate.
- **Gender nonconforming inmates**—continuing or starting counseling related to gender identity
- **Intersex inmates**—beginning or continuing medically necessary hormone therapy as appropriate to the inmate.
- **Intersex inmates**—providing other medically necessary procedures as appropriate to the inmate.

**Inmates**

The Agency shall incorporate into inmate information, orientation, and training materials as appropriate the following:
- General information about gender identity and sexual orientation, conveyed to promote respect and to ensure TGI individuals understand their rights and the resources available.
- Policies on Agency, Contractor, and volunteer non-discrimination.
- Rights of the inmate to report discrimination, bullying, violence, or threat of violence.
- Policies regarding housing, clothing, personal hygiene services, and grooming accommodations.
- Policies and rights concerning equal access to inmate services.
- Available medical and mental health services.

**Responsibilities**

All Division Chiefs, Unit Commanders, Unit Managers of any division or unit, and all other management personnel affected by this policy shall:

- Ensure that existing procedures and all newly developed orders are in compliance with this policy document.
- Ensure that all affected personnel are made aware of this policy.
- Ensure this policy is reviewed annually for compliance with all federal, state, and local laws and standards.

All supervisors of any personnel affected by this policy shall ensure that the provisions of this policy are being followed by their staff.

All officers, employees, and staff of the Agency and Contractors shall comply with the provisions of this policy.

All volunteers providing service, assistance, or in any way working with inmates for which the Agency has responsibility shall comply with the provisions of this policy.
Appendix A:
Carry Documentation
<table>
<thead>
<tr>
<th>Field</th>
<th>Description</th>
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<tbody>
<tr>
<td>Booking Number:</td>
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<tr>
<td>Preferred Name:</td>
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<tr>
<td>Preferred Pronoun:</td>
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<td>Search Preference:</td>
<td></td>
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<tr>
<td>Inmate Signature:</td>
<td>Date:</td>
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<tr>
<td>Supervisor Signature:</td>
<td>Date:</td>
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Appendix B:
Statement of Preference Form
Statement of Preference Form

Inmate Name: ________________________________ (please print)

Booking Number: ________________________________

Preferred Name: ________________________________ (please print)

Preferred Pronoun:       He/him/his   _____     She/her/hers   _____

While in the custody of the Agency, I would prefer to be searched by an officer of the gender indicated below whenever possible. I understand that this preference will be respected unless the situation is an emergency, there is no one of that gender available, or the failure to conduct a search will jeopardize the safety of the staff or inmates.

Male       _____     Female       _____     Both       _____

Inmate Signature: ________________________________

Date Signed: ________________________________

Witnessing Officer(s) Signature and Serial Number

Officer 1: ________________________________

Serial Number: ___________     Date Signed: _________________

Officer 2: ________________________________

Serial Number: ___________     Date Signed: _________________
Appendix C:
GRACE Board Report
GRACE Board Report

Inmate identity

Last name: ___________________________ First name: ___________________________ Preferred name: ___________________________

Sex assigned at birth: ☐ male   ☐ female

Intersex condition identified at birth: ☐ yes   ☐ no   ☐ not known

Gender identity: ☐ man   ☐ woman   ☐ transgender   ☐ intersex   ☐

☐ Self-identified at booking (comment) ___________________________

Inmate’s housing preference: ☐ men’s   ☐ women’s   ☐ separate   ☐ ___________________________

Additional comments related to gender and intersex identity: ___________________________

Physical characteristics and health evaluations

Age: ___________________________ Height: ___________________________ Weight: ___________________________

Physical disabilities or impairments: ___________________________

Emotional, cognitive, mental, other development disabilities: ___________________________

Other factors contributing to potential vulnerability: ___________________________

☐ Health screening conducted. Findings: ___________________________

☐ Broad medical exam conducted. Findings: ___________________________

☐ Mental health evaluation conducted. Findings: ___________________________

Other inmate information

Charges: ___________________________

Booking date and time: ___________________________
How adjusting to incarceration: ____________________________

Additional inmate statements about gender or intersex condition: ____________________________

☐ Prior sexual victimization. Comments: ____________________________

Other information indicating heightened need for supervision: ____________________________

GRACE Board meeting and findings

GRACE Board meeting date and time: ____________________________

Reason for assessment: ☐ initial ☐ periodic ☐ violent incident ☐ inmate request

☐ Community representative consulted. Name: ____________________________

☐ Community representative requested by inmate. Name: ____________________________

☐ Community representative at meeting. Name: ____________________________

**Recommended classification:** ☐ male ☐ female
☐ transgender ☐ gender nonconforming ☐ intersex ☐

Concurring: ____________________________ Dissenting: ____________________________

**Recommended housing:**
☐ men’s ☐ women’s ☐ separate ☐

Concurring: ____________________________ Dissenting: ____________________________

**Recommended services and programs:**

Concurring: ____________________________ Dissenting: ____________________________

Next review date (approximately): ____________________________

Additional comments and notes

______________________________

______________________________

______________________________

______________________________

______________________________

______________________________

______________________________

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______________________________