



POLICY TITLE: MANAGEMENT OF TRANSGENDER AND INTERSEX PRISONERS POLICY NUMBER: 23.8 (AF) CHAPTER 23 (AF): CLASSIFICATION		Page 1 of 6
	STATE of MAINE DEPARTMENT OF CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS: See Section VII
	EFFECTIVE DATE: November 16, 2015	LATEST REVISION: November 30, 2015

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403.

II. APPLICABILITY

All Adult Correctional Facilities

III. POLICY

The purpose of the policy is to provide guidelines for assessment, placement, management, and treatment of prisoners who have gender dysphoria or who are transgender or intersex.

IV. CONTENTS

- Procedure A: General Guidelines
- Procedure B: Prisoners Who Identify at Intake
- Procedure C: Prisoners Who Identify after Intake
- Procedure D: Team Recommendations
- Procedure E: Appeals

V. ATTACHMENTS

None

VI. PROCEDURES

Procedure A: General Guidelines

1. A transgender person is a person whose gender identity (internal sense of being male or female) is different from the person's gender assigned at birth.

2. An intersex person is a person who is born with external genitalia, reproductive organs, chromosome patterns and/or endocrine systems that do not fit typical definitions of either male or female.
3. The Department uses the definition of gender dysphoria that is in the current Diagnostic and Statistics Manual. A transgender or intersex person may or may not have gender dysphoria.
4. In general, a prisoner shall be placed in a facility and housing unit in accordance with his or her gender assigned at birth, except as set out below.
5. If a prisoner has fully completed sex reassignment surgery, then that person shall be housed and otherwise managed in accordance with his or her gender as reassigned.
6. The determination whether to assign a transgender or intersex prisoner who has not fully completed sex reassignment surgery to a facility for male or female prisoners and other housing and program assignments shall be done on a case-by-case basis, taking into account the views of the prisoner, and shall be based on protecting the prisoner's safety and mental health and preventing security issues, including, but not limited to, risks to the safety of others.
7. Separate housing dedicated specifically to transgender or intersex prisoners shall not be established.
8. Once the determination is made as to what gender staff will conduct searches of a transgender or intersex prisoner, then, except in an emergency, only staff of that gender shall conduct any pat, strip, or body cavity search. In addition to the staff conducting the search, except in an emergency, there shall be at least one other staff present during the search, who shall not observe a strip or body cavity search unless the staff is of the same gender as staff generally allowed to conduct the search.
9. All searches of transgender or intersex prisoners, whether a pat, strip or body cavity search, shall be documented in the appropriate log.

Procedure B: Prisoners Who Identify at Intake

1. Intake staff at a reception facility shall, as soon as possible, contact the Chief Administrative Officer, or designee, if, any time during intake, a prisoner:
 - a. identifies as transgender or intersex;
 - b. indicates a history of being perceived as transgender or intersex;
 - c. is reported by Department or jail staff, the prosecuting or defense attorney, a guardian, or other credible source to be transgender or intersex; or
 - d. has a condition making gender unclear, is perceived by facility intake staff as having physical features characteristic of a gender different from that

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
23.8 (AF) Management of Transgender and Intersex Prisoners	23 Classification	Page 2 of 6 11/30/15

assigned at birth, or has partially completed sex reassignment surgery, for example, removal or augmentation of breasts, removal of testicles, etc.

2. If the intake strip search has not already been done, the Chief Administrative Officer, or designee, shall determine, based upon information available at the time, including, but not limited to, the expressed preference of the person and risks to safety, what gender staff will conduct the intake strip search and shall document the reasons for the determination in CORIS.
3. The Chief Administrative Officer, or designee, shall also determine, based upon information available at the time, including, but not limited to, risks to safety, the prisoner's immediate housing placement until a further, more in depth assessment can be conducted and shall document the reasons for the determination in CORIS.
4. Once assigned housing, the prisoner shall be searched by staff of the same gender as other prisoners housed in the same unit, unless the Chief Administrative Officer, or designee, determines otherwise and documents the reasons in CORIS.
5. The prisoner shall be given the opportunity to shower and use toilet facilities privately until a further, more in depth assessment can be conducted.
6. A prisoner who at the time of intake to the reception facility is currently being treated with hormonal medications shall be continued on those medications at least until the prisoner has been seen by the facility physician, physician assistant, or nurse practitioner in accordance with the appropriate Department policy, i.e., Adult Facility Policy 18.7, Pharmaceuticals.
7. The Chief Administrative Officer, or designee, shall notify the Health Services Administrator as soon as possible of the admission of the prisoner, and the Health Services Administrator shall expedite the process of confirming through health care records whether the person has received a diagnosis of gender dysphoria, has received hormonal treatment, has received transgender or intersex related cosmetic surgical procedures, has partially completed sex reassignment surgery, or any other relevant factors.
8. Health care staff shall require the prisoner to sign any necessary release of information to obtain the appropriate health care documentation.
9. The Chief Administrative Officer, or designee, in consultation with appropriate health care staff, shall determine whether the prisoner requires an evaluation for gender dysphoria or an expedited medical and/or mental health assessment.
10. If appropriate, the Chief Administrative Officer, or designee, shall also contact adult community corrections to request information as to whether and for how long the person has identified as transgender or intersex or has been perceived

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
23.8 (AF) Management of Transgender and Intersex Prisoners	23 Classification	Page 3 of 6 11/30/15

to be transgender or intersex.

11. If a safety issue arises, whether it is a risk to the safety of the transgender or intersex person or another person, that requires a change from the immediate housing placement made by the Chief Administrative Officer, or designee, facility staff shall follow the appropriate Department policy, e.g., Adult Facility Policy 15.1, Administrative Status, until the housing placement can be reviewed by the Chief Administrative Officer, or designee.
12. If the Chief Administrative Officer, or designee, receives information prior to intake that a person to be admitted to the facility might be transgender or intersex, the Chief Administrative Officer, or designee, may make a determination as to the intake search and the person's immediate housing placement prior to admission to the facility.

Procedure C: Prisoners Who Identify after Intake

1. If, after intake, a prisoner reports to staff that he or she is transgender or intersex, the staff shall contact the Chief Administrative Officer, or designee.
2. The Chief Administrative Officer, or designee, shall notify the Health Services Administrator as soon as possible after the report, and the Health Services Administrator shall expedite the process of confirming through health care records whether the person has received a diagnosis of gender dysphoria, has received hormonal treatment, has received transgender or intersex related cosmetic surgical procedures, has partially completed sex reassignment surgery, or any other relevant factors.
3. Health care staff shall require the prisoner to sign any necessary release of information to obtain the appropriate health care documentation.
4. The Chief Administrative Officer, or designee, in consultation with appropriate health care staff, shall determine whether the prisoner requires an evaluation for gender dysphoria or an expedited medical and/or mental health assessment.
5. The Chief Administrative Officer, or designee, shall also consult with appropriate staff of the facility and staff from other department facilities as to whether and for how long the person has identified as transgender or intersex or has been perceived to be transgender or intersex.
6. If appropriate, the Chief Administrative Officer, or designee, shall also contact adult community corrections to request information as to whether and for how long the person has identified as transgender or intersex or has been perceived to be transgender or intersex.
7. The prisoner shall not be placed in a housing unit with persons of a different gender than the prisoner has been housed with and shall not be given the opportunity for private shower and toilet facilities until the procedures set out

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
23.8 (AF) Management of Transgender and Intersex Prisoners	23 Classification	Page 4 of 6 11/30/15

below have been completed.

Procedure D: Team Recommendations

1. Within thirty (30) working days of the admission to the facility of a prisoner who is described in Procedure B. or within thirty (30) working days of the report to staff by a prisoner who is described in Procedure C., the Chief Administrative Officer, or designee, shall convene a multi-disciplinary team composed of the unit manager where the prisoner has been housed, the Health Services Administrator, or designee, the Department’s medical director, or designee, the Department’s mental health director, or designee, a member of the facility security staff, a member of the facility classification staff, and the facility PREA monitor, as well as any other staff deemed appropriate.
2. If there is a possibility that the prisoner might be recommended for transfer to another facility, the Chief Administrative Officer, or designee, of the facility where the prisoner is currently housed shall contact the Chief Administrative Officer, or designee, of the other facility for inclusion of that facility’s staff on the team. The Department’s Director of Classification, or designee, shall also be included on the team.
3. This team shall make recommendations about the following:
 - a. whether male or female housing is appropriate for the prisoner;
 - b. whether male or female staff will conduct searches;
 - c. property items to be allowed;
 - d. shower and toilet arrangements;
 - e. any safety or security precautions required; and
 - f. any other relevant decisions.
4. The team shall make recommendations based on all information available, including any evaluation for gender dysphoria and any relevant medical and/or mental health assessment. If there has been no evaluation at the facility for gender dysphoria, the team shall make a recommendation as to the need for such an evaluation. The team may also make a recommendation with respect to the need for a further medical and/or mental health assessment.
5. The recommendations shall be based on, but not be limited to, the following:
 - a. the gender of the prisoner assigned at birth;
 - b. the prisoner’s views with respect to his or her own identity and safety and whether or not those views have been consistent;
 - c. the steps or lack of steps taken by the prisoner toward sexual reassignment;
 - d. any relevant characteristics of the prisoner, including physical stature, any tendency toward violence or predatory behavior, and any vulnerability

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
23.8 (AF) Management of Transgender and Intersex Prisoners	23 Classification	Page 5 of 6 11/30/15

- to violence or predatory behavior;
 - e. any relevant characteristics of other prisoners with whom the person might be housed or come into contact;
 - f. correctional history (for example, any previous management problems that impacted on the safety of other persons or the security of the facility);
 - g. any co-occurring mental health issues; and
 - h. any perceived risks to the continuing safety and health of the prisoner or others.
6. The Chief Administrative Officer, or designee, shall make the final decision as to all of the team’s recommendations, except in relation to health care and transfer to another facility.
 7. If there are any legal issues, the Chief Administrative Officer, or designee, shall consult with the Department’s legal representative in the Attorney General’s office prior to making the final decision.
 8. The final decision on the recommendations shall be used in the development of the prisoner’s case plan and classification.
 9. If an evaluation for gender dysphoria or a relevant medical and/or mental health assessment takes place after the team’s meeting, the Chief Administrative Officer, or designee, shall reconvene the team with fifteen (15) working days of the evaluation or assessment to reconsider its prior recommendations in light of any new information.
 10. The Chief Administrative Officer, or designee, may at any other time deemed appropriate reconvene the multi-disciplinary team for further recommendations.
 11. It is the responsibility of the prisoner’s unit management team to reassess all transgender and intersex persons housed at the facility at least every six months, or more frequently as necessary, regarding his or her housing. Specific attention shall be given to any threats to safety experienced by the prisoner.
 12. All multi-disciplinary team meetings and unit team meetings, as well as all recommendations of the teams and decisions by the Chief Administrative Officer, or designee, including reasons, shall be documented in CORIS.

Procedure E: Appeals

1. A decision as to custody level or facility transfer is appealable through the classification appeal process.
2. Any other decision made pursuant to this policy is appealable through the grievance process.

VII. PROFESSIONAL STANDARDS: None

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
23.8 (AF) Management of Transgender and Intersex Prisoners	23 Classification	Page 6 of 6 11/30/15