



Steuben County Sheriff's Office

General Order: GO – 16 Transgender, Intersex, Gender Non-Binary, and Gender, Nonconforming People in Custody

Effective Date: June 1st, 2020 **Standard Number: .**

Amended:

Sheriff: James L. Allard

Reviewed:

I.Purpose

The purpose of this policy is to establish procedures for interactions with members of the transgender, intersex, gender non-binary, and gender nonconforming communities.

II.Policy

It shall be the policy of the Steuben County Sheriff's Office to receive, evaluate, house and provide secure, safe and humane custody of all persons, including transgender, intersex, gender non-binary, or gender nonconforming inmates, who are lawfully committed to its custody. The Steuben County Sheriff's Office shall treat all inmates in a professional, respectful, and courteous manner that is consistent with all of their rights under state and federal law. Any reported violation of this policy as it relates to the treatment of any person housed in the Steuben County Jail will be fully investigated and appropriate action taken to remedy such violation. A summary of this policy will be posted at the A100 and A119 Doors as a statement of expected behavior by all visitors to the Steuben County Jail (see Addendum 1) and the policy will be distributed to all contractors prior to entering the facility whenever practical.

III.Definitions and Terms

1. "Assigned sex": The sex-based classification of an infant, usually based solely on external genitalia, that occurs when they are born. This is generally the sex that is originally recorded on an infant's birth certificate.
2. "Affirmed sex": The self-reported sex-based classification of an individual that aligns most closely with their gender identity.
3. "Gender identity": A person's internal knowledge of being male, female, or something else.
4. "Transgender" or "Trans": An adjective describing a person whose sex assigned at birth does not match their affirmed sex. For example, a person who was assigned male at birth but is female. She may describe herself as a "transgender woman," "trans woman," or "woman."

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5. "Cisgender" or "Cis": An adjective describing a person whose sex was accurately assigned at birth, that is, their sex assigned at birth matches their affirmed sex. For example, a person who was assigned male at birth and who identifies as male. He may describe himself as a "cisgender man," "cis man," or "man."
6. "Gender non-binary" (GNB): An adjective describing a person whose gender identity does not conform to the binary ("one or the other") categories of male or female. This person may self-identify as "non-binary."
7. "Gender nonconforming" (GNC): An adjective describing a person whose gender expression is outside of sex-based societal assumptions about how they should look or behave. For example, a woman who dresses and cuts her hair in a manner that is stereotypically associated with men.
8. "Intersex": A general term used to describe people who are born with variations in chromosomes, genitals, or reproductive organs that do not align with typical definitions of male or female.
9. "Gender expression": A person's outward manifestation of their sex or gender, often through behavior, clothing, hairstyles, name, or pronouns.

IV. Procedures

A. Employee Conduct:

1. All employees of the Steuben County Sheriff's Office shall comply with the provisions of this policy.
2. Any substantiated claim of misconduct by a staff member towards an inmate may result in discipline up to and including termination of the staff member's employment, and/or referral for criminal charges.
3. All members of the Steuben County Sheriff's Office shall attend training concerning the implementation and enforcement of the provisions of this policy, including yearly refresher training.
4. Staff interactions with transgender, intersex, gender non-binary, and gender nonconforming people shall be conducted in a professional and respectful manner. Staff shall not make derogatory or disrespectful remarks related to a person's actual or perceived sex, gender identity or gender expression.
5. Staff shall not engage in any harassment or discrimination based on actual or perceived sex, gender identity, or gender expression. A person's access to any rights, privileges, or opportunities available to other people in custody,

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including the right to seek protection or report instances of harassment or intimidation, shall not be denied or restricted due to that person's actual or perceived sex, gender identity, or gender expression. A person who makes a complaint or seeks staff assistance about harassment, intimidation, threats, or violence shall not be denied such assistance and any such complaint shall not be deemed unfounded due to that person's actual or perceived sex, gender identity, or gender expression.

6. A person's self-identification as transgender, gender non-binary, gender non-conforming, or intersex, at any point before or during their time in custody, is sufficient to trigger the protections and procedures described in this policy. Documentation of a medical diagnosis or legal documentation concerning a person's self-identification is not required for staff to respect or confirm a person's gender identity, absent specific evidence that a person has asserted a gender identity falsely. The fact that a person has not obtained a legal name change or has not obtained government-issued identification that reflects their affirmed sex and gender identity does *not* constitute such specific evidence. The inmate shall upon admission or upon any change in self-identification complete and sign an inmate preference form, a copy of which is attached to this policy.
7. During the admissions process, if a person being admitted has not made clear what their gender identity is, the Booking Officer will respectfully ask the person if they would like to self-identify their gender identity. In so asking, the Booking Officer will make clear that this information will be kept confidential from others, except for members of the staff on a need-to-know basis.
8. If a person indicates that they are transgender, gender non-binary, gender nonconforming, or intersex, they will be provided a medical assessment pursuant to the facility's medical provider regarding appropriate medical care to which they may be entitled. The individual in custody will also be provided a copy of the Policy, along with a plain-language summary of its protections (see Addendum 2). If the person does not understand English, these materials will be provided in a language that the person does understand.
9. Safety risks due to a person's sex, sexual orientation, or gender identity or expression are not a normal or acceptable part of their time in custody and will not be tolerated. This facility will immediately address and investigate any complaint of sexual assault, sexual harassment, or other threats to safety directed at any person in custody by any member of the staff or other person in custody and will take appropriate action to ensure the safety of the person making the complaint.

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B. Names, Pronouns, and Identifying Records

1. Staff shall address people in custody as “Inmate [Last Name].”
2. Whenever pronouns or titles of respect are also used, staff shall address and refer to people in a manner that is appropriate to the person’s self-identified gender identity. For example, if a person states that she uses “she/her” pronouns, staff shall refer to her as “her” or “Ms.,” not “him” or “Mr.” If a person states that they use “they/them” pronouns, staff shall refer to them as “them,” not “him” or “her.”
3. If a person states that, in order to be consistent with their gender identity, they use a name that is different from the name listed on their government-issued identification, staff shall address and refer to that person by their requested name. Nevertheless, jail staff shall use the inmate’s name on a government issued identification or other formal document when communicating with courts or other public agencies.
 - a. The person’s requested name shall be entered into the person’s booking form in the box marked “alias.” Because this designation could be misunderstood, staff shall be made aware that the name a person uses in order to be consistent with their gender identity is not in fact an “alias,” is not false in any way, and is not anything other than the proper name by which to refer to that person.
 - b. After the person’s name is entered in the “alias” box, staff will type, handwrite, or memorialize in another manner the following: “(CHOSEN NAME, TO BE USED BY STAFF)”.
 - c. If a person states that they are neither a man nor a woman—i.e., that they are non-binary or otherwise do not identify as male or female—but a required form limits the options for designating that person’s sex to MALE or FEMALE, then staff shall enter the sex designation that the person indicates. Unless a form is limited by the State to the options MALE or FEMALE, the person may request an “X” or “NONBINARY” sex designation.
 - d. Pertinent information regarding a person’s gender identity or transgender, intersex, or nonbinary status shall be shared only with appropriate staff on a need-to-know basis, and not at all with other people in custody. To the extent a person wishes to speak openly about such information, though, they may not be prohibited from doing so.

C. Toiletry Items, Clothing, and Programming

1. Toiletry items and clothing shall be available to people in custody in a manner that does not discriminate based on sex, gender identity, or gender expression. For example, a transgender woman shall have access to the same toiletry, clothing, and commissary items (e.g., women’s undergarments, hair products, etc.) as a cisgender woman consistent with Admissions and Discharges Policy (Section 08, Subject 01) Procedures E3-E5.

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2. Grooming standards shall not be applied differently based on sex, gender identity, or gender expression. For example, if cisgender women are permitted to wear their hair at a certain length or in a certain style (e.g., in a ponytail), people who are not cisgender women shall be permitted to do the same.

3. Permission to access specific items, including prosthetics, wigs, hair extensions, chest binders, or similar items that are used by individuals to have an appearance consistent with their gender identity, may be requested during the person's initial medical assessment performed during the booking process. A person shall be given the opportunity to request that certain items that would otherwise be prohibited—including wigs and hair extensions—be used as medically-prescribed treatment for gender dysphoria, and these requests will be evaluated in a way that is consistent with other requests for accommodations pursuant to medical need.

4. Programs, educational materials, and recreation activities shall not be denied due to actual or perceived sex or gender identity. For example, group activities, resources, or classes made available to cisgender people in a particular housing unit shall also be available to transgender, gender non-binary, or intersex people in that housing unit.

5. Transgender people shall be permitted to shower separately or at separate times from other people in the unit if they so desire in order to address safety concerns. However, a person who does not wish to do so shall not be forced to shower separately based solely on their actual or perceived sex, gender identity, or gender expression.

D. Searches

1. Whenever practical, all searches (including strip and pat searches) of transgender, gender non-binary, or intersex people shall be performed by staff of the gender requested by the person being searched. For example, except in exigent circumstances, a transgender woman shall have the right to request to be searched by a female staff member consistent with **Admissions and Discharges Policy (Section 08, Subject 01) Procedure A9**. If a search is conducted that deviates from this procedure, the reasons for that deviation shall be documented.

2. If a person's search preference cannot be determined, the search shall be conducted in a manner consistent with a person's gender identity.

3. No search shall be conducted for the sole purpose of observing or determining a transgender, gender non-binary, or intersex person's genital characteristics.

4. Searches shall be conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

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E. Housing

1. Housing determinations shall be individually tailored and based upon classification factors and an evaluation of the inmate's emotional and physical well-being and in compliance with NYS Commission of Correction regulations.
2. A person taken into custody shall, if that person so desires, have the right to request placement in a sex-segregated unit (i.e., a men's or women's unit) that is consistent with that person's gender identity and affirmed sex. The Sheriff and jail staff shall make a reasonable effort to grant such a request if in accordance with the security requirements of the facility, as set forth in paragraph (3) of this section.
3. If the Sheriff, Jail Superintendent, medical staff, or mental health staff have significant safety, security or health concerns related to a person's stated housing preference pursuant to paragraph (1) above, the Sheriff or designee may, on a case-by-case basis, deny that person's housing placement request. However, any such denial shall be made as soon as possible and:
 - a. Shall be documented in the jail record management system;
 - b. Shall be based on a specific and articulable safety, security or health concern;
 - c. Shall not be based on any discriminatory reason, including but not limited to
 - (i) the anatomy or genitalia of the person whose housing placement is at issue,
 - (ii) the sexual orientation of the person whose housing placement is at issue,
 - (iii) the complaints of cisgender people who do not wish to be housed with a non-cisgender person due to that person's gender identity, or
 - (iv) a factor present among other people in the requested housing unit.
4. Any denial made pursuant to paragraph (2) above shall be made available to the person whose housing request has been denied. Any inmate may grieve such denial.
5. Any request for a housing unit change during an inmate's incarceration due to concerns related to their housing placement and their health and safety shall be assessed at that time. Any subsequent denial shall be able to be grieved by the inmate.
6. Should a transgender, intersex, gender non-binary, or gender nonconforming inmate report a concern for their safety, the housing unit officer shall immediately notify their supervisor, who will in turn notify the Sheriff via the chain of command. A representative of administration

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shall meet with the concerned inmate to formulate a mutually agreed upon safety plan. As stated in Jail Policy and Procedure 6.01, "Code of Conduct and Disciplinary Procedures," Procedure F, segregation shall only be used in response to behavior which threatens the safety, security and good order of the facility.

F. Access to Medical and Mental Health Care

1. Medical care is presently provided to the Jail by contracted entity PrimeCare Medical of New York, Inc., which maintains its own policy entitled "Patients with Gender Dysphoria."
2. Mental health care is provided to the Jail by Steuben County Mental Health.
3. PrimeCare, Steuben County Mental Health, and/or any present or future medical care or mental health care provider shall be required to comply with the Policy. Any future provider of health care in the Jail shall have internal policies in place for addressing treatment of patients with gender dysphoria so as to be consistent with the Policy before commencing service.
4. No person shall be denied medical or mental health care or have their access to such care restricted in any way because of their actual or perceived sex, gender identity, gender expression, or sexual orientation. For example, when a transgender person expresses a need for medical attention, staff shall handle the situation with the same urgency and respect they would offer to any other individual who sought assistance with a medical need.
5. Healthcare services, medical devices, and medications for the treatment of gender dysphoria, including prescription hormones and dilation devices for care after certain forms of gender-affirming surgery, shall be treated like any other healthcare services, medical devices, and/or medications necessary for a person in custody's health and wellbeing. Such services or treatments shall be provided as prescribed by medical staff and as deemed medically necessary.
6. Likewise, actual or perceived sex or gender identity shall not be used to justify the denial of otherwise appropriate medical care when such care is stereotypically associated with a particular assigned sex. For example, a transgender woman may need both gynecological care and treatment for a prostate condition, and her transgender status shall not be used to justify the denial of such medically necessary care.
7. PrimeCare's current policy indicates that it will provide "appropriate care for transgender patients" and that the medical professionals it employs will be fully qualified and able to provide the types of medically-necessary care listed in its "Patients With Gender Dysphoria."

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G. Compliance with NYS Commission of Corrections Regulations:

Nothing contained in this policy shall require the Sheriff or jail staff to be in non-compliance with any New York State Law or regulation made by the New York State Commission of Correction, including any changes to state law or regulations which may be made in the future.

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Addendum 1

Policy of the Steuben County Sheriff's Office regarding transgender, intersex, gender non-binary, or gender nonconforming inmate interactions:

The following actions will not be tolerated by any persons entering the Steuben County Jail, for any reason:

- **DISCRIMINATION:** You will not discriminate against, harass or bully any person based on who they are, including their gender identity.
- **NAMES/PRONOUNS:** People should not use the wrong name or pronouns when talking to an inmate, even if the inmate hasn't gotten a legal name change or gender marker change on their ID.

Any complaint of any such action by a visitor will be promptly investigated and confirmed violations could result in the removal of visitation rights, or in a criminal investigation.

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Addendum 2

Plain Language Policy Statement regarding transgender, intersex, gender non-binary, or gender nonconforming inmate interactions

This policy means that:

- **DISCRIMINATION:** You should not be harassed or bullied based on who you are, including your gender identity.
- **NAMES/PRONOUNS:** People should not use the wrong name or pronouns when talking to you, even if you haven't gotten a legal name change or gender marker change on your ID.
- **SEARCHES:** You can request to be searched by a woman if you're a trans woman, or a man if you're a trans man.
- **HOUSING:** You can request to be housed in the unit that is consistent with your gender identity.
- **CLOTHES/APPEARANCE:** You can dress consistent with your gender identity, and you can request commissary items and other things that affect the way you look and your gender expression.
- **MEDICAL CARE:** You can request medical and mental health care related to your gender identity, including hormones, no matter whether you had access to that same health care outside the jail.

If you think that you're being denied any of the things listed above, you can file a **GRIEVANCE** with the housing unit officer, on duty supervisor or the Jail Superintendent.

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Addendum 3

STEUBEN COUNTY JAIL INMATE PREFERENCE FORM

PART I (to be completed by Booking staff):

The below inmate has self-identified as being transgender, intersex, gender non-binary, or gender nonconforming

Inmate's legal name: _____
SCSO JID #: _____

PART II (to be completed by the inmate):

1. I identify myself as a transgender, intersex, gender non-binary, or gender nonconforming individual in the community.
2. My preferred pronoun is [CHECK ONE]: male (mister/he/him/his) female (Miss/ she/her/hers) nonbinary (thy/them/theirs) other (please fill in): _____
3. I normally use my legal name in the community; or I *do not* normally use my legal name in the community and, for purposes of gender identity, wish to be called the following while in custody: PREFERRED NAME: _____
4. Whenever reasonably possible, I would prefer to be searched by an officer of the below indicated sex.
I understand that the SCSO will make reasonable attempts to respect my preference while also understanding that the safety and security of staff and others takes precedent.
Male: _____ Female: _____ No Preference: _____
5. I would prefer to be housed with Male: _____ Female: _____ inmates.
I understand that my housing preference will be taken into consideration, but is only part of the overall assessment on where I shall be housed.

PART III (to be completed as noted):

Inmate Signature: _____ Date: _____

Booking Officer: _____ Shield # _____

Supervisor Signature: _____ Shield # _____

Entered in Sallyport : Yes _____ No _____

Copy e-mailed to Jail Supt.: Yes _____ No _____

Copy e-mailed to Sheriff Yes _____ No _____

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