

# **BUTTE COUNTY SHERIFF'S OFFICE**

## **DEPARTMENTAL ORDER**

**FILE KEY: 5075**  
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**TO:** ALL PERSONNEL

**FROM:** SHERIFF-CORONER

**SUBJECT:** LESBIAN, GAY, BISEXUAL, TRANSGENDER AND INTERSEX (L.G.B.T.I)

**DATE:** May 9, 2018

**PURPOSE:** This Order provides guidelines for the Butte County Sheriff's Office (BCSO) to follow in order to meet federal statutes and regulations, National Commission on Correctional Health Care (NCCHC) standards, Prison Rape Elimination Act (PREA), and other California standards, statutes, regulations, guidelines, directives, or requirements that:

- a. Facilitate the elimination of discrimination against; and
- b. Address the appropriate classification, housing and treatment of; and
- c. Provide for the specific safety, security and medical needs of Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) inmates in a humane and respectful manner while maintaining the safety, security and good order of all BCSO facilities; and
- d. Establish sanctions for any violation of this policy.

**POLICY:** It is the policy of the Butte County Sheriff Office (BCSO) to receive, evaluate, house and provide secure, safe and humane custody of all persons, including transgender and gender-variant inmates, who are lawfully committed or held for confinement by the BCSO until their lawful and appropriate release or transfer to another authority.

**ATTACHMENTS:**

**Appendix A - Statement of Preference Form**  
**Appendix B - Transgender/Gender non-conforming/ Intersex Medical Examination Consent Form**

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**SHERIFF-CORONER**  
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## DEFINITIONS:

**Androgyny** - Having high levels of both masculine and feminine characteristics.

**Bisexual** - A person who is attracted to multiple sexes and/or genders

**Crossdresser** - Individuals who regularly or occasionally wear clothing socially associated with a gender not their own.

**Gay** - Predominantly used to describe men who are attracted to other men.

**Gender Binary** - A way of classifying genders that divides people into two groups—male and female, or masculine and feminine.

**Gender Dysphoria** - a condition in which a person does not feel that their sex or gender assigned at birth is congruent with their gender identity.

**Gender Identity** - A person's inner sense of being male or female. The gender identity may not match the biological sex of the individual.

**Gender Identity Disorder** -This diagnosis was replaced by the diagnosis of gender dysphoria.

**Gender Non-Conforming** – Displaying gender expressions that society does not associate with their sex assigned at birth.

**Gender Spectrum** - A way of understanding gender that includes a continuum of possibilities of biological gender, gender identity, gender expression.

**Homosexual** - Man or woman who is attracted to members of the same sex.

**Intersex** - A person with a physical condition of sexual development, such that the person has gonads (testes or ovaries) of one sex but, often, ambiguous external genitalia.

**Lesbian** - A woman who is attracted to other women.

**LGBTI** – An acronym that refers to Lesbian, Gay, Bi-sexual, Transgender and Intersex.

**Personal "Pat" or "Frisk" Search** - A search of an inmate's clothed person, including the frisking of their body, the examination of their pockets and any hand-carried items (i.e. legal papers, prayer books, etc.), shoes and head covering. Frisking is defined as a cursory search of the outer clothing to discover weapons and/or contraband.

**Sexual Orientation** - The gender(s) that a person is attracted to emotionally, physically, sexually, and romantically.

**Strip Search** – A visual search in which the inmate is required to remove all or part of his/her clothing, to expose the genitalia, breasts and other parts of the body; and may include a visual inspection of body cavities.

**Transgender (“Trans”)** - A term referring to people who identify or express their gender in a variety of different ways, typically in opposition to their sex assigned at birth.

**Transman** - A term describing a person who was assigned female at birth who identifies as male.

**Transexual** - Transexual identity refers to a person who experiences a mismatch of the sex they were assigned at birth and the sex with which they identify. Transsexual identity usually denotes someone who has undergone gender affirming procedures to change the sex they were assigned at birth to match their sex/gender identity through hormone treatments and/or surgery.

**Transwoman** - A term describing a person who was assigned male at birth who identifies as female.

**ACTION:** Effective immediately, the following actions and procedures shall be implemented:

## **I. Implementation and Procedural Guidelines:**

Transgender/gender non-conforming/intersex prisoners will be pre-booked and processed according to defined procedures.

### **A. Intake and Initial Classification**

1. Identifying transgender, gender non-conforming and intersex prisoners. When determining whether prisoners are transgender/gender non-conforming/intersex, the following should be taken into consideration:
  - a. Prisoner's appearance or behavior does not match the gender marked on the prisoners arresting/transportation paperwork or identification.
  - b. Prisoner self-reports. If there is doubt or a question concerning the validity of the self-report the BCSO deputy shall consult a supervisor, and if necessary medical staff.
  - c. Arresting/transporting agency has alerted the BCSO staff to the prisoner's transgender or intersex status.
  - d. Prisoner's past history, if known.
  - e. The intake search deputy will be responsible for notifying the medical staff that a transgender/intersex inmate has been identified.

### **B. Searches**

1. Pat Searches
  - a. If there is prior knowledge that an inmate is transgender/gender non-conforming/intersex, and a pat search as defined in Department Order 5048 is required, the deputy performing the search should be of the same gender as identified by the inmate's transgender/gender non-conforming/intersex search preference form.
  - b. The prisoner shall sign the Statement of Preference Form, indicating initial preference, preferred name, and preferred pronoun (*see Appendix A*).
2. Strip Searches
  - a. When a strip search is required for a transgender/gender non-conforming/intersex prisoner, the search will be conducted by a deputy in accordance with Department Order 5048. All searches of transgender/gender non-conforming/intersex inmates will be documented on an incident report.

- b. The deputy will be of the same gender that is listed on the inmate's Statement of Preference Form (*see Appendix A*) unless otherwise directed by the supervisor.
- c. Strip searches shall not be performed as a punitive measure.
- d. Strip searches or physical examinations of a transgender/gender non-conforming/intersex inmate shall not be done for the sole purpose of determining the inmate's genital status. If the inmate's genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
- e. If the anatomical sex of the prisoner cannot be determined, for safety and security purposes, the transgender/gender non-conforming/intersex inmate shall be pat-searched and searched with a metal detector prior to temporarily being housed in administrative segregation. The inmate will be housed in one of the facility's unisex cells, i.e., P, Q or T sections. This temporary housing shall be for no longer than is necessary to identify the inmate's long term housing needs, to maintain facility security, inmate safety and determine proper classification.
  - 1) If the gender of the prisoner cannot be determined, or a prisoner refuses to complete the Statement of Preference Form, the Health Services staff may be consulted to assist in making a determination. Health Services may attempt to communicate to the inmate the need for their cooperation in determining gender for the purposes of housing and additional inmate services without resorting to a physical examination.
- f. In considering an inmate's classification needs, the Administrative Lieutenant may request that a medical examination be performed by a licensed medical provider.
  - 1) If the inmate consents to the medical examination, the inmate will indicate such consent on the Transgender/Gender non-conforming/Intersex Medical Examination Consent Form (*see Appendix B*).
  - 2) If the inmate refuses the medical examination, the inmate will indicate such refusal on the Transgender/Gender non-conforming/Intersex Medical Examination Consent Form (*see Appendix B*).

## C. Long-term Housing and Classification

- 1. The Classification Unit will classify all inmates in accordance with Departmental Order 5010 and Classification Post Orders. Final decision for long-term housing and classification decisions will be made by the Classification Unit after considering all relevant information available.
- 2. Classification and placement of transgender/gender non-conforming/intersex inmates should not be determined solely based on the inmate's sex assigned at birth, identity documents, or physical anatomy. Classification and placement of transgender/gender non-conforming/intersex inmates should be made to maximize the health and safety of the individual.

3. Transgender/gender non-conforming/intersex inmates must be housed safely and in the least restrictive setting possible.
  - a. Requests from a transgender/gender non-conforming/intersex inmate to be placed in the same cell /housing unit with another transgender/gender non-conforming/intersex inmate will be considered on a case-by-case basis, and will be subject to sound classification practices.
4. Classification staff shall document in the Jail Management System (JMS) the reasons regarding housing and any needed additional safety precautions for all transgender/gender non-conforming/intersex inmates.
5. While in the custody of the BCSO, or while housed at the Butte County Jail, BSCO staff:
  - a. Shall not discriminate against transgender/gender non-conforming/intersex inmates.
  - b. Shall not subject transgender/gender non-conforming/intersex inmates to verbal or physical harassment or create a hostile environment.
  - c. Should address transgender/gender non-conforming/intersex inmates using their last name and pronouns as indicated on the Statement of Preference Form.
  - d. Last name and preferred pronouns should be used regardless of whether or not the inmate has completed a legal name change, and regardless of whether the gender listed on the inmate's identity documents has changed.
6. Transgender/gender non-conforming/intersex inmates who are placed in administrative segregation or other special management housing for the safety and security of the transgender/gender non-conforming/intersex inmate shall have the same access to the provisions of services and programs as any other inmate housed in the Butte County Jail facility.
7. Transgender/gender non-conforming/intersex inmates shall have the right to request that their housing assignment be re-evaluated as per Departmental Order 5010.

## **D. Medical Assessment and Treatment**

1. The intake deputy will be responsible for notifying the medical staff that a transgender/gender non-conforming/intersex inmate has been identified.
2. The medical staff will follow all standards of care specified by the California Forensic Medical Group's (CFMG) transgender treatment protocol for transgender, transsexual, and gender nonconforming individuals as outlined in CFMG policy: G02.2, TRANSGENDER, TRANSSEXUAL, AND GENDER NONCONFORMING INMATES.
3. CFMG does not determine housing for transgender/gender non-conforming/intersex patients unless the determination is for medical reasons.
4. If necessary for the safety and security of the inmate, a medical examination may be requested by a lieutenant or higher authority. Only a licensed medical provider will conduct a medical examination and it will be conducted in a private setting.

**APPENDIX A – DEPARTMENT ORDER: 5075**

**Statement of Preference Form**

Name on inmate record: \_\_\_\_\_  
(please print)

Identification (IID) # : \_\_\_\_\_

Pronouns used: \_\_\_\_\_ (i.e., he/she, they, other as specified)

Name used: \_\_\_\_\_  
(please print)

While in custody of the Butte County Sheriff's Office, I would prefer to be pat-searched and strip-searched by a deputy of the below indicated gender 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.

Pat-Search Preference: Female \_\_\_\_ Male \_\_\_\_ Either \_\_\_\_

Strip-Search Preference: Female \_\_\_\_ Male \_\_\_\_ Either \_\_\_\_

Inmate Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Witnessing Officer(s) Signature and Badge Number:

Officer 1: \_\_\_\_\_ Badge # \_\_\_\_\_

Date Signed: \_\_\_\_/\_\_\_\_/\_\_\_\_

Officer 2: \_\_\_\_\_ Badge # \_\_\_\_\_

Date Signed: \_\_\_\_/\_\_\_\_/\_\_\_\_

**APPENDIX B- DEPARTMENT ORDER: 5075**

**Transgender/Gender non-conforming/Intersex Medical Examination  
Consent Form**

Name on inmate record: \_\_\_\_\_  
(please print)

Identification (IID) #: \_\_\_\_\_

While in custody of the Butte County Sheriff Office (BCSO), I am indicating below if I choose to consent or refuse to a broad medical examination to determine my medical and classification needs while in BCSO. I understand that this examination will be conducted in a private setting by a licensed medical professional. I also understand, for my safety, the physical anatomy determination of the examination will be provided to the Classification unit to determine my long term housing needs.

**Consent** \_\_\_\_\_

**Refuse** \_\_\_\_\_

Inmate Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Medical Signature

Medical (MD): \_\_\_\_\_ Date \_\_\_\_\_